

# HOUSE BILL REPORT

## SSB 5037

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to organized retail theft.

**Brief Description:** Modifying organized retail theft provisions.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators O'Ban and Sheldon).

**Brief History:**

**Committee Activity:**

Public Safety: 3/25/15, 3/26/15 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by Committee)**

- Expands the crime of Organized Retail Theft to include circumstances where a person commits the crime with the aid of six accomplices and makes or receives an electronic communication in the planning or commission of the theft.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

**Staff:** Cassie Jones (786-7303).

**Background:**

A person commits the crime of Organized Retail Theft if he or she:

- commits Theft of property with a value of at least \$750 from a mercantile establishment with an accomplice;
- possesses stolen property with a value of at least \$750 from a mercantile establishment with an accomplice; or

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- commits Theft of property with a cumulative value of at least \$750 from one or more mercantile establishments within a period of up to 180 days.

The crime of Organized Retail Theft is separated into a first and a second degree. A person is guilty of Organized Retail Theft in the first degree, a class B felony, if the property stolen or possessed has a value of \$5,000 or more. A person is guilty of Organized Retail Theft in the second degree, a class C felony, if the property stolen or possessed has a value of at least \$750, but less than \$5,000.

A class B felony is punishable by up to 10 years in prison and a fine of \$20,000. A class C felony is punishable by up to five years in prison and a \$10,000 fine.

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**Summary of Amended Bill:**

In addition to the three existing ways a person commits the crime of Organized Retail Theft, a person also commits this crime if he or she commits Theft of property with a cumulative value of at least \$750 from a mercantile establishment with at least six accomplices and makes or receives at least one electronic communication seeking participation in the theft in the course of planning or commission of the theft.

An electronic communication means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. It includes, but is not limited to, electronic mail, Internet-based communications, pager service, and electronic text messaging.

The thefts committed by the principal and accomplices may be aggregated into one count and the value of all the property is the value considered in determining the degree of Organized Retail Theft involved.

**Amended Bill Compared to Substitute Bill:**

In the amended bill, the provision is removed that makes a conviction for Organized Retail Theft under the new means (with six accomplices and an electronic communication) a gross misdemeanor on the first offense and a class C felony on the second or subsequent offense. All means of committing the crime of Organized Retail Theft, including the new means (with six accomplices and an electronic communication), are separated into first and second degree, depending on the value of the property stolen or possessed.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This type of flash mob crime was a problem in other states and it is now a problem in this state. There have been occurrences of flash mob offenses in Washington. These crimes are devastating to the retailers, not only in terms of property stolen, but in the terrifying nature of the crime. A strong message needs to be sent that flash mob robberies will not be tolerated. This bill will help to deter these crimes. A 7-Eleven store was the first in Washington to be a flash mob robbery victim. Fifteen people went into the store and terrorized the employee and left the store in shambles. It was a frightening and emotional experience for the business owner. A message needs to be sent that use of social media to organize these crimes will lead to serious consequences.

(Opposed) This bill is duplicative of existing laws and is unnecessary. The current law of accomplice liability covers the intentions of this bill in regards to holding accomplices accountable and aggregating the value of the property stolen.

**Persons Testifying:** (In support) Senator O'Ban, prime sponsor; Mark Johnson, Washington Retail Association; and Amy Rhodes, 7-Eleven.

(Opposed) Emily Gause, Washington Association of Criminal Defense Lawyers.

**Persons Signed In To Testify But Not Testifying:** None.