

SENATE BILL REPORT

SB 5037

As Reported by Senate Committee On:
Law & Justice, February 3, 2015

Title: An act relating to organized retail theft.

Brief Description: Modifying organized retail theft provisions.

Sponsors: Senators O'Ban and Sheldon.

Brief History:

Committee Activity: Law & Justice: 1/19/15, 2/03/15 [DPS, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5037 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Darneille and Kohl-Welles.

Staff: Tim Ford (786-7423)

Background: A new form of theft, commonly referred to as a flash mob or flash rob, is becoming more prevalent across the United States. When this occurs, a large group of people flood a retail store and steal goods. Because of the mass number of people that enter the store at once, the retail staff usually cannot do anything to prevent or stop the theft. Many businesses have suffered monetary loss and property damage as a result of this type of organized retail theft. These stores include kiosks, convenient stores, grocery stores, high-end boutiques, and large department stores. Social media and other forms of electronic communication are a way in which people organize this type of theft.

Under current law, a person can be charged with organized retail theft if the person: (1) commits theft of property with a value of at least \$750 from a mercantile establishment with an accomplice; (2) possesses stolen property with a value of at least \$750 from a mercantile establishment with an accomplice; or (3) commits theft of property with a cumulative value of at least \$750 from one or more mercantile establishments within a period of 180 days.

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.

Organized retail theft in the first degree, which is a class B felony, requires that the property stolen or possessed has a value of \$5,000 or more. Organized retail theft in the second degree, which is a class C felony, requires that the property stolen or possessed has a value of at least \$750, but less than \$5,000. A series of organized retail thefts from one or more mercantile establishments committed by the same person over a period of 180 days may be aggregated into one count, and the sum of the value of all the property must be the value considered in determining the degree of the organized retail theft involved. The mercantile establishment whose property was stolen can request that the charge is aggregated with other thefts of property.

Summary of Bill (Recommended Substitute): A person can be charged with organized retail theft if the person commits theft of property with a cumulative value of at least \$750 from a mercantile establishment with at least six accomplices and the person makes or receives at least one electronic communication seeking participation in the theft in the course of planning or committing the theft. Electronic communication is defined as the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. This includes, but is not limited to, electronic mail, internet-based communication, pager service, and electronic text messaging.

When this type of organized retail theft occurs, thefts committed by the principal and accomplices may be aggregated into one count and the value of all the property must be the value considered in determining the degree of organized retail theft involved.

A first offense of organized retail theft in which the person 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 or the course of planning or committing the theft constitutes a gross misdemeanor. A second or subsequent offense of organized retail theft in which the person 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 or in the course of planning or committing the theft constitutes a class C felony.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): Separates the offenses into different subsections to allow proper coding in the judicial information system.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Flash mobs are prevalent, dangerous, and have done a lot of damage to mercantile establishments. These have occurred in Portland and also in Federal Way this last summer. This is an important and growing issue

for the retail association. This criminal activity often involves not only theft, but violence against employees and property damage. Washington needs to send a strong message to criminals. This bill will be a helpful tool to combat this type of criminal activity. Organized retail theft is the main cause of loss for retail establishments.

Persons Testifying: PRO: Senator O'Ban, prime sponsor; Larry Haskell, Spokane County Prosecutor; Mark Johnson, WA Retail Assn.