

SB 5635 - H COMM AMD
By Committee on Public Safety

ADOPTED 04/10/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.56.360 and 2013 c 153 s 1 are each amended to
4 read as follows:

5 (1) A person commits retail theft with special circumstances if
6 he or she commits theft of property from a mercantile establishment
7 with one of the following special circumstances:

8 (a) To facilitate the theft, the person leaves the mercantile
9 establishment through a designated emergency exit;

10 (b) The person was, at the time of the theft, in possession of an
11 item, article, implement, or device used, under circumstances
12 evincing an intent to use or employ, or designed to overcome security
13 systems including, but not limited to, lined bags or tag removers; or

14 (c) The person committed theft at three or more separate and
15 distinct mercantile establishments within a one hundred eighty-day
16 period.

17 (2) A person is guilty of retail theft with special circumstances
18 in the first degree if the theft involved constitutes theft in the
19 first degree. Retail theft with special circumstances in the first
20 degree is a class B felony.

21 (3) A person is guilty of retail theft with special circumstances
22 in the second degree if the theft involved constitutes theft in the
23 second degree. Retail theft with special circumstances in the second
24 degree is a class C felony.

25 (4) A person is guilty of retail theft with special circumstances
26 in the third degree if the theft involved constitutes theft in the
27 third degree. Retail theft with special circumstances in the third
28 degree is a class C felony.

29 (5) For the purposes of this section, "special circumstances"
30 means the particular aggravating circumstances described in
31 subsection (1)(a) through (c) of this section.

1 (6)(a) A series of thefts committed by the same person from one
2 or more mercantile establishments over a period of one hundred eighty
3 days may be aggregated in one count and the sum of the value of all
4 the property shall be the value considered in determining the degree
5 of the retail theft with special circumstances involved. Thefts
6 committed by the same person in different counties that have been
7 aggregated in one county may be prosecuted in any county in which any
8 one of the thefts occurred. In no case may an aggregated series of
9 thefts, or a single theft that has been aggregated in one county, be
10 prosecuted in more than one county.

11 (b) The mercantile establishment or establishments whose property
12 is alleged to have been stolen may request that the charge be
13 aggregated with other thefts of property about which the mercantile
14 establishment or establishments is aware. In the event a request to
15 aggregate the prosecution is declined, the mercantile establishment
16 or establishments shall be promptly advised by the prosecuting
17 jurisdiction making the decision to decline aggregating the
18 prosecution of the decision and the reasons for the decision."

19 Correct the title.

EFFECT: Authorizes a prosecutor to aggregate multiple violations of Retail Theft with Special Circumstances committed within 180 days into a single unit of prosecution with the combined value of the property determining the degree of the offense. Specifies that an aggregated offense may be prosecuted in any county in which any one of the transactions occurred. Allows a mercantile establishment to request that a charge be aggregated with other thefts of property. Requires a prosecutor to promptly notify the mercantile establishment if he or she declines to aggregate the offense and specify the reasons for the decision.

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