

HOUSE BILL REPORT

SSB 5633

As Reported by House Committee On:
Public Safety

Title: An act relating to changing the definition of theft.

Brief Description: Changing the definition of theft.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Palumbo, Rossi, Angel, Pedersen, O'Ban, Wilson, Zeiger and Padden).

Brief History:

Committee Activity:

Public Safety: 3/23/17, 3/28/17 [DP], 2/15/18, 2/20/18 [DPA].

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

- Amends the definition of "theft" for purposes of theft-related offenses to include concealing the property of another intending to deprive the other person of its use or benefit.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Staff: Omeara Harrington (786-7136).

Background:

Theft.

For purposes of the chapter in the criminal code relating to crimes of Theft and related offenses, "theft" includes any of the following conduct:

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- wrongfully obtaining or exerting unauthorized control over the property or services of another, or the value thereof, with intent to deprive the other person of the property or services;
- by color or aid of deception, obtaining control over the property or services of another, or the value thereof, with intent to deprive the other person of the property or services; or
- appropriating lost or misdelivered property or services of another, or the value thereof, with intent to deprive the other person of the property or services.

Generally, the punishment for Theft offenses is in accordance with the value of the property or services at issue. Theft in the first degree, a class B felony offense, occurs when a person commits Theft of property or services valued in excess of \$5,000. Theft in the second degree, a class C felony offense, occurs when a person commits theft of property or services valued in excess of \$750, but not exceeding \$5,000. Theft in the third degree, a gross misdemeanor offense, occurs when a person commits Theft of property or services valued at \$750 or less.

The statutory definition of "theft" is used to establish a number of additional crimes. Examples of other crimes that rely on the statutory definition of theft include, but are not limited to: Theft of a Motor Vehicle, Theft of a Firearm, Possessing Stolen Property, Theft with Intent to Resell, and Organized Retail Theft.

Attempt.

A person may be found guilty of the separate crime of Attempt if, with intent to commit a specific crime, he or she does any act which is a substantial step toward the commission of that crime. An attempt to commit a crime is generally classified at one level lower than a completed offense.

Summary of Amended Bill:

In addition to the existing definition of "theft," theft also includes concealing property of another intending that the concealment will deprive the other person of its use or benefit.

Amended Bill Compared to Substitute Bill:

In order to meet the definition of "theft" through concealment of property, the concealment must be with the intent to deprive, rather than "permanently" deprive, another of the property's use or benefit.

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 bill was originally brought forward by two police officers who previously worked in states that include concealment in their theft statutes. Currently, 36 states include concealment in the definition of "theft." Nationally, \$45.2 billion has been stolen from retail establishments, and concealment contributes to this. A lot of criminals are professionals. Theft is also tied to the opioid crisis, as people with drug addictions commit theft in order to support those addictions. This change will help loss prevention personnel address shoplifting; these personnel are very well trained to make determinations as to whether someone is in the process of attempting to shoplift. There will also be a reduction in violent interactions in stores. For example, a store clerk was recently punched in the chest while trying to stop someone who ran out of the store.

When this bill was proposed last year, some immigration concerns arose over the addition of the word "permanently" to the theft statute. Removing that word to match the current law definitions, which reference only an intent to deprive, is an agreeable change.

(Opposed) None.

(Other) There is a problem using the word "permanently" in the theft statute, and last year the Governor vetoed a bill with similar language. It is not necessary to include this word in order to add concealment to the definition of "theft."

Persons Testifying: (In support) Mark Johnson, Washington Retail Association; and Carolyn Logue, Washington Food Industry Association.

(Other) D'Adre Cunningham, Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.