

# FINAL BILL REPORT

## SB 6167

---

---

C 431 L 09  
Synopsis as Enacted

**Brief Description:** Concerning crimes against property.

**Sponsors:** Senators Kline, Regala and Hargrove.

**Senate Committee on Ways & Means**

**House Committee on Ways & Means**

**Background:** The monetary amounts differentiating the various degrees of property crimes in this state were established in 1975 when the Washington Criminal Code was adopted. They have never been adjusted. For comparison purposes, \$250 in 1975 is equivalent to approximately \$954 in 2007, and \$1,500 in 1975 is equivalent to approximately \$5,721 in 2007. The consumer price index calculator currently contains data up to 2007.

A person is guilty of malicious mischief in the first degree, a class B felony, if that person knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$1,500. Malicious mischief in the second degree, a class C felony, is committed when a person knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$250. Malicious mischief in the third degree is a gross misdemeanor if the damage to the property is more than \$50 and it is a misdemeanor if the damage is \$50 or less. Theft in the first degree is committed when a person commits theft of property or services which exceed \$1,500 in value. Theft in the first degree is a class B felony. A person is guilty of theft in the second degree if that person commits theft of property or services which exceed \$250 in value but does not exceed \$1,500. Theft in the second degree is a class C felony. Theft in the third degree is committed when a person commits theft of property or services which does not exceed \$250 in value. Theft in the third degree is a gross misdemeanor.

A person is guilty of organized retail theft if that person, with an accomplice, commits theft of property from a mercantile establishment and the value of the property is at least \$250. It is organized retail theft in the first degree, a class B felony, if the property stolen has a value of at least \$1,500. It is organized retail theft in the second degree, a class C felony, if the value of the stolen property is at least \$250 but less than \$1,500.

A person who takes possession of goods that are offered for sale by any store without the consent of the owner or seller and with the intention of converting the goods to that person's own use without having paid a purchase price is liable, in addition to actual damages, for a

---

*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.*

penalty in the amount of the retail value of the goods, not to exceed \$1,000; plus an additional penalty of not less than \$100 nor more than \$200.

A court may impose a sentence above or below the standard range based upon aggravating or mitigating factors. Aggravating factors posing questions of fact must be submitted to a jury and proved beyond a reasonable doubt.

**Summary:** The monetary thresholds for property crimes are increased as follows:

	Degree	Class	Monetary Thresholds	
			Current	SSB 6167
Possession of Stolen Property, Theft	1st	B Felony	>\$1,000	>\$5,000
	2nd	C Felony	\$250 to \$1,000	\$750 to \$5,000
	3rd	Gross Misdemeanor	<\$250	<\$750
Malicious Mischief	1st	B Felony	>\$1,000	>\$5,000
	2nd	C Felony	>\$250	>\$750
	3rd	Gross Misdemeanor	>\$50	not 1st or 2nd Degree
Organized Retail Theft	1st	B Felony	>\$1,500	>\$5,000
	2nd	C Felony	\$250 to \$1,000	\$750 to \$5,000

A mercantile establishment that has property alleged to have been stolen may request that the charge be aggregated with other thefts of property about which the mercantile is aware. If the prosecuting jurisdiction declines the request to aggregate, it must promptly advise the mercantile establishment and provide the reasons for such decision. Merchants who create a database of individuals who have been apprehended, assessed a civil penalty, or convicted, are not subject to civil fines or penalties for sharing the database with other merchants, law enforcement officials, or legal professionals.

An organized retail crime task force is created to monitor the effects of raising the monetary threshold amounts used to define the various degrees of property crimes in Washington. The task force will examine the following: (1) the impact of raising the monetary values differentiating property crimes on the retail industry, the district and municipal courts, and the county and city offices of the prosecuting attorney; (2) whether civil immunity should be granted for retailers who create a database of individuals suspected of theft and deliver the database to law enforcement; and (3) policies or procedures which would enhance investigation and prosecution of property crimes in Washington. The membership of the task force is specified in the act and the members are not reimbursed for travel expenses. The task force is subject to the Open Public Meetings Act. The task force findings and recommendations are to be reported to the appropriate committees of the Legislature.

The Sentencing Guidelines Commission is directed to review the monetary threshold amounts differentiating the various degrees of property crimes in Washington to determine whether such amounts should be modified. It will report its recommendations to the Legislature by November 1, 2014, and every five years thereafter.

In addition to actual damages, the maximum penalty to the owner or seller of goods that are possessed by a person with the intention of converting the goods to that person's own use without payment of a purchase price is \$2,850 plus an additional penalty of not less than \$100 nor more than \$638.

**Votes on Final Passage:**

Senate	25	21
House	53	41

**Effective:** July 26, 2009