

SENATE BILL REPORT

SB 5407

As of January 17, 2022

Title: An act relating to firearm theft.

Brief Description: Concerning firearm theft.

Sponsors: Senators Wilson, L., Brown, Fortunato, Honeyford, King, McCune, Padden, Rivers, Schoesler and Warnick.

Brief History:

Committee Activity: Law & Justice: 1/17/22.

Brief Summary of Bill

- Creates the crime of theft of a firearm from a residence, store, shop, sales outlet, or vehicle.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: Theft. A person may commit the crime of theft by the following means:

- the person wrongfully obtains or exerts unauthorized control over the property or services of another, or the value thereof, with the intent to deprive that person of such property or services;
- the person uses deception to obtain control over the property or services of another, or the value thereof, with the intent to deprive that person of such property or services;
- or
- the person appropriates lost or misdelivered property or services of another or the value thereof, with the intent to deprive that person of such property or services.

It is a defense to theft if the property or service was appropriated openly and avowedly under a good faith claim of title even though the claim is untenable, or the property consists

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of merchandise pallets received by a pallet recycler or repairer in the ordinary course of business.

Theft is classified as first, second, or third degree depending on the value of the property or services or the number or type of stolen property or services. Current law also lists other specific theft crimes, for example, theft of a motor vehicle, theft of livestock, and theft of rental, leased, or loaned property.

Theft of a Firearm. The crime of theft of a firearm was first enacted in 1994 as part of legislation focusing on violence reduction programs. It was amended to its current form in 1995 by Initiative 159, called the Hard Time for Armed Crime initiative. The initiative's amendments made each firearm taken a separate offense, applicable regardless of the firearm's value, and used the same elements and applied the definition of firearm to mean a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder. Firearm does not mean a flare gun or other pyrotechnic visual distress signaling device, or a powder-actuated tool or other device designed solely for use in construction. The crime of theft of a firearm was reclassified from a class C felony to a class B felony.

A class B felony carries a maximum penalty of up to ten years in prison, or a fine up to \$20,000, or both. The sentencing grid places theft of a firearm at seriousness level VI. The standard sentence for level VI crimes ranges from 1 year plus 1 day, to 14 months in prison.

Summary of Bill: The crime of theft of a firearm from a residence, store, shop, sales outlet, or vehicle is created.

A person is guilty of the class B felony crime of theft of a firearm from a residence, store, shop, sales outlet, or vehicle if they commit the crime of theft of a firearm as described above from a residence, store, shop, sales outlet where firearms are sold, or from any vehicle. Each firearm taken is a separate offense, and the value of the firearm is immaterial.

Theft of a firearm from a residence, store, shop, sales outlet, or vehicle is classified on the sentencing grid as seriousness level VII crime and carries a standard sentence range from 15 to 116 months in prison.

Appropriation: None.

Fiscal Note: Requested on January 10, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: The process of legally obtaining a firearm is

extremely complex. The vast majority of crimes involving firearms involve stolen firearms. Crime is on the rise, and this makes the punishment so severe that criminals will not consider the crime in the first place. Firearms used in crimes are often stolen from cars, homes, gun stores, and other citizens. Homicide rates have greatly increased over the past year, only by increasing penalties will criminals think twice before stealing a gun. This is the first step in decreasing crimes involving guns. This bill will hold criminals accountable for their actions. This bill squarely addresses the issue of gun violence in Washington. In order to address the rise in crime in Washington, we must address the root cause, criminal activity.

The vast majority of criminals who use firearms do not acquire them legally. This bill goes after the root of the problem, the criminals. This bill will help stop criminals from committing these crimes before they do so. We need to be responsible about keeping guns out of the hands of criminals, and anything we can do in that regard is a good thing. Part of the problem is so many people are being let out of prison, and rates of violent crimes have increased dramatically. I would like to see criminal penalties substantially increased against people who steal firearms.

CON: Increasing sentencing ranges does not deter crime. The bill would cost cities and counties in paying for trials and legal representatives, and it would increase the costs of the Department of Corrections in housing individuals convicted under this law. The subject of this bill is already address through Washington Theft of a Firearm statute, and this bill would decrease incentives to plea bargain for those accused of this crime.

Persons Testifying: PRO: Senator Lynda Wilson, Prime Sponsor; Ronald Hardy; Danna Baxter; Robin Ball; Aoibheann Cline, National Rifle Association; Carter McKaughan, Montlake Investigations Group.

CON: Duncan Clark; Kari Reardon, Washington Defender Association/Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying:

CON: James Erdman.