

# HOUSE BILL REPORT

## HB 2605

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to aggregating value for purposes of determining the degree of theft.

**Brief Description:** Changing provisions relating to aggregating value for purposes of determining the degree of theft.

**Sponsors:** Representatives O'Brien, Morell, Jackley and Lovick.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/5/02, 2/6/02 [DP].

#### Brief Summary of Bill

- Allows the value of separate third degree thefts to be aggregated if part of a criminal episode.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

**Staff:** Jim Morishima (786-7191).

### Background:

A person commits theft if he or she:

- Wrongfully obtains or exerts unauthorized control over the property or services of another with the intent to deprive the other person of the property or services;
- By color or aid of deception, obtains control over the property or services of another with the intent to deprive the other person of the property or services; or
- Appropriates lost or misdelivered property or services of another with the intent to deprive the other person of the property or services.

The degree and punishment of the theft can depend on the type of property or service

stolen or the circumstances under which the property or service was stolen. The degree and punishment of theft can also depend on the value of the property or service stolen.

- If the property or service stolen has a value of over \$1,500, the crime is theft in the first degree. Theft in the first degree is a class B felony with a seriousness level of II.
- If the property or service stolen has a value of over \$250, but not exceeding \$1,500, the crime is theft in the second degree. Theft in the second degree is a class C felony with a seriousness level of I.
- If the property or service stolen has a value of \$250 or less, the crime is theft in the third degree. Theft in the third degree is a gross misdemeanor.

If a series of thefts in a common scheme or plan would be considered third degree thefts separately, the thefts can be aggregated to determine the value of the theft. Courts have allowed aggregation when the thefts were from the same victim over a period of time or when the thefts were from different victims at the same time and place. See, State v. Meyer, 26 Wn.App. 119, 124 (1980). However, thefts involving different victims in different places cannot be statutorily aggregated. State v. Atterton, 81 Wn.App. 470, 472-473 (1996).

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**Summary of Bill:**

A series of separate third degree thefts can be aggregated if they are part of a criminal episode. A criminal episode occurs if the three or more thefts are committed by the same person from one or more mercantile establishments within a five-day period.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 2002.

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

**Testimony For:** Repeat offenses for shoplifting are increasing in Washington. Because of lax penalties for shoplifting, the risk is minimal for professional shoplifters. Professional shoplifters can be unpredictable and dangerous. This bill removes the loophole in the current law that allows offenders to keep on reoffending. The threat of a felony charge will make shoplifting not worth the risk for many professional shoplifters. Since retail security does most of the groundwork in these cases, the bill's impact to law enforcement will be minimal.

**Testimony Against:** None.

**Testified:** Jan Gee, Washington Retailers Association; Kacey MacClendon, TARGET

Stores; and Ron Conlin, 7-11 Stores.