

HOUSE BILL REPORT

ESSB 5178

As Reported by House Committee On:
Public Safety

Title: An act relating to organized retail theft.

Brief Description: Modifying organized retail theft provisions.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Carrell, Rolfes, Roach, Becker, Padden, Pearson and Conway).

Brief History:

Committee Activity:

Public Safety: 3/26/13, 4/3/13 [DPA].

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

- Expands the offense of Organized Retail Theft to include theft from a store of property worth at least \$750 with six or more accomplices, in which electronic communication is used to seek participation in the offense.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Sarah Koster (786-7303).

Background:

Under current law, a person can be charged with Organized Retail Theft if a person:

- commits the theft of property with a value of at least \$750 from a mercantile establishment with an accomplice;
- possesses stolen property with a value of at least \$750 from a mercantile establishment with an accomplice; or

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- commits theft of property with a cumulative value of at least \$750 from one or more mercantile establishments within a period of up to 180 days.

Organized Retail Theft in the first degree, which is a class B felony, requires that the property stolen or possessed has a value of \$5,000 or more. Organized Retail Theft in the second degree, which is a class C felony, requires that the property stolen or possessed has a value of at least \$750, but less than \$5,000. A series of organized retail thefts committed by the same person from one or more mercantile establishments over a period of 180 days may be aggregated in one count and the sum of the value of all the property must be the value considered in determining the degree of the organized retail theft involved. The mercantile establishment whose property was stolen can request that the charge is aggregated with other thefts of property.

Summary of Amended Bill:

A person can be charged with Organized Retail Theft if the person:

- commits the theft of property with a value of at least \$750 from a mercantile establishment with an accomplice;
- possesses stolen property with a value of at least \$750 from a mercantile establishment with an accomplice;
- commits theft of property with a cumulative value of at least \$750 from one or more mercantile establishments within a period of up to 180 days; or
- commits theft of property with a cumulative value of at least \$750 from a mercantile establishment with at least six accomplices and makes or receives at least one electronic communication seeking participation in the theft in the course of planning or commission of the theft.

The thefts committed by the principal and accomplices can be aggregated into one count and the value of all the property must be the value considered in determining the degree of organized retail theft involved.

Electronic communication means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. Electronic communication includes, but is not limited to, electronic mail, Internet-based communications, pager service, and electronic text messaging.

A first offense of Organized Retail Theft in which the person commits theft of property with a cumulative value of at least \$750 from a mercantile establishment with no less than six accomplices and makes or receives at least one electronic communication seeking participation in the theft in the course of planning or commission of the theft is a gross misdemeanor.

A second or subsequent offense of Organized Retail Theft in which the person commits theft of property with a cumulative value of at least \$750 from a mercantile establishment with no less than six accomplices and makes or receives at least one electronic communication

seeking participation in the theft in the course of planning or commission of the theft is a class C felony.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill increases the property value threshold from \$500 to \$750 for the new offense of Organized Retail Theft with at least six accomplices and in which electronic communication facilitates the commission of the offense, to match the rest of the Organized Retail Theft statute.

Appropriation: None.

Fiscal Note: Available on substitute bill.

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) In organized retail theft rings, certain products are stolen, but that is not the case in this scenario. This type of offense is different because a group coming through the store frightens the customers and clerks. The loss of product is one thing, but the safety of our customers and store workers is paramount. Six is an arbitrary number, so the offense requires more than two kids who steal candy bars on their way home from school but less than 30 or 40 kids. The amount is \$500, not \$750, because of the electronic nature of this offense.

(Opposed) None.

Persons Testifying: Mark Johnson, Washington Retail Association.

Persons Signed In To Testify But Not Testifying: None.