

# HOUSE BILL REPORT

## HB 1159

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**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:** Representatives Griffey, Goodman, Klippert, Lovick, Springer, Orwall, Irwin, Stokesbary, Blake, Pellicciotti and Van Werven.

**Brief History:**

**Committee Activity:**

Public Safety: 1/21/19, 2/7/19 [DP].

**Brief Summary of Bill**

- 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.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

**Staff:** Omeara Harrington (786-7136).

**Background:**

Theft.

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

- 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;

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- 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.

The severity and sentence for general theft offenses depend upon 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 definition of "theft" is used to establish a number of additional crimes. These include, for example, 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. For example, Theft in the second degree is a class C felony, but Attempt to commit Theft in the second degree is a gross misdemeanor.

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#### **Summary of 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.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** 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 is important because of the millions of dollars retailers lose annually. There is an annual national study on this, finding that billions of dollars of property was stolen last year, resulting in millions of dollars in unrealized state sales tax. The target of this legislation is not petty theft, but organized retail crime rings. Often, these enterprises will hire people addicted to drugs to steal items from stores, then they sell those items for pennies

on the dollar. People are becoming more brazen, often working in teams with a getaway driver, and incidents are getting more dangerous. Loss prevention officers are not armed and cannot use force to defend themselves. Some people have warrants for their arrest and will do anything to escape. One person ran over an officer who responded to one of these incidents. Many cases involve theft of alcohol. One individual went into a store in a trench coat with internal pockets sewn into it so that the bottles would not clang against each other. That theft amounted to close to a thousand dollars in five minutes.

Thirty-six other states have concealment as part of their theft laws, and it is commonly utilized. In Washington, a person has to physically leave the store before the intervention can take place. When someone gets to the door, it is too late to stop them. Suspects know this and take advantage of it. Loss prevention officers try to use a de-escalation technique and attempt to get shoplifters to sign a trespass form, but it would be best to be able to call the police once they witness concealment and not have to engage with the person.

When this bill was considered last year, there were concerns about inclusion of the phrase "permanently deprive," which could make theft offenses crimes of moral turpitude. That phrase has been removed in the current version of the bill.

(Opposed) None.

**Persons Testifying:** Representative Griffey, prime sponsor; Mark Johnson, Washington Retail Association; Carolyn Logue, Michael Latham, and Christina Valadez, Washington Food Industry Association; and Vicki Baker, Yakima Grocery Outlet and Washington Food Industry Association.

**Persons Signed In To Testify But Not Testifying:** None.