

# HOUSE BILL REPORT

## SB 6338

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to stolen merchandise pallets.

**Brief Description:** Creating an affirmative defense from theft and possession of stolen merchandise pallets.

**Sponsors:** Senators Johnson and Kline.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/24/04, 2/25/04 [DP].

#### Brief Summary of Bill

- Provides that it is a sufficient defense to theft or possessing stolen property that the property was merchandise pallets that were received by a pallet recycler or repairer in the ordinary course of its business.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Pearson and Veloria.

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

### Background:

#### I. Theft

A person is guilty of 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 theft generally depends on the value of the property or service stolen. However, the degree and punishment of the theft may also depend on the type of property stolen. For example, it is theft in the third degree to steal 10 or more merchandise pallets regardless of the value of the pallets. Theft in the third degree is a gross misdemeanor.

## II. Possession of Stolen Property

A person is guilty of possessing stolen property if he or she knowingly receives, retains, possesses, conceals, or disposes of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner. When a person has in his or her possession 10 or more merchandise pallets, it raises a rebuttable presumption that the person knows they are stolen.

The degree and punishment of possessing stolen property generally depends on the value of the property or service stolen. However, the degree and punishment of the crime may also depend on the type of property involved. For example, it is possessing stolen property in the third degree to possess 10 or more merchandise pallets regardless of the value of the pallets. Possessing stolen property in the third degree is a gross misdemeanor.

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### **Summary of Bill:**

It is a sufficient defense to theft or possessing stolen property that the property was merchandise pallets that were received by a pallet recycler or repairer in the ordinary course of its business.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill is merely a housecleaning bill. Pallet recycling is a big business in this state. Pallet recyclers buy and sell used pallets. Pallet recyclers receive thousands of pallets, some of which have a name of origin printed on them. Under the current law, pallet recyclers could be subject to liability under the theft statutes for possession of these pallets. This bill gives protection to pallet recyclers from such liability.

**Testimony Against:** None.

**Persons Testifying:** (In support) Senator Johnson, prime sponsor.

(Neutral) Denton Sherry, Nepo Pallet and Contari.

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