

ASSEMBLY BILL

No. 1772

Introduced by Assembly Member ~~Ramos~~ Members *Ramos, Mathis, and Valencia*
(Coauthors: Assembly Members *Alanis, Cervantes, Dixon, Hoover, Lackey, Pacheco, Jim Patterson, Joe Patterson, Rodriguez, Soria, and Ta*)
(Coauthors: Senators *Dodd, Niello, Roth, Seyarto, and Wilk*)

January 3, 2024

An act to amend Sections 459.5 and 490.2 of, and to add Section 666.1 to, the Penal Code, relating to theft.

legislative counsel's digest

AB 1772, as amended, Ramos. Theft.

Existing law, the Safe Neighborhoods and Schools Act, enacted by Proposition 47, as approved by the voters at the November 4, 2014, statewide general election, defines and prohibits an act of shoplifting and prohibits prosecution for an act of shoplifting under any other law. Existing law defines shoplifting as entering a commercial establishment with intent to commit larceny while the establishment is open during regular business hours.

This bill would revise the definition of shoplifting to require an intent to steal retail property or merchandise.

Existing law provides that a person with a prior conviction for specified sex offenses may be charged with a felony for shoplifting or for theft of property not exceeding \$950 in value.

This bill would require a person convicted of petty theft or shoplifting, if the person has 2 or more prior convictions for specified theft-related

offenses, to be punished by imprisonment in the county jail for up to one year, or for 16 months, or 2 or 3 years, and would make conforming changes.

Existing law authorizes a person to be charged with grand theft if the property taken exceeds \$950 over the course of distinct but related acts.

This bill would state the findings of the Legislature that if the value of property taken exceeds \$950 over the course of distinct but related acts, the thefts may properly be aggregated to charge a defendant with grand theft.

This bill would provide that its provisions would become effective only upon approval of the voters, and would provide for the submission of its provisions to the voters for approval at the next statewide general election.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares that pursuant*
2 *to subdivision (e) of Section 487 of the Penal Code, if the value of*
3 *property taken exceeds nine hundred fifty dollars (\$950) over the*
4 *course of distinct but related acts, the thefts may properly be*
5 *aggregated to charge a defendant with grand theft.*

6 ~~SECTION 1.~~

7 *SEC. 2.* Section 459.5 of the Penal Code is amended to read:

8 459.5. (a) Notwithstanding Section 459, shoplifting is defined
9 as entering a commercial establishment while that establishment
10 is open during regular business hours, with the intent to steal retail
11 property or merchandise, where the value of the property that is
12 taken or intended to be taken does not exceed nine hundred fifty
13 dollars (\$950). Any other entry into a commercial establishment
14 with intent to commit larceny is burglary. Shoplifting shall be
15 punished as a misdemeanor, except as follows:

16 (1) A person with one or more prior convictions for an offense
17 specified in clause (iv) of subparagraph (C) of paragraph (2) of
18 subdivision (e) of Section 667 or for an offense requiring
19 registration pursuant to subdivision (c) of Section 290 may be
20 punished pursuant to subdivision (h) of Section 1170.

1 (2) A person who meets the requirements of Section 666.1 may
2 be punished pursuant to that section.

3 (b) Any act of shoplifting as defined in subdivision (a) shall be
4 charged as shoplifting. A person who is charged with shoplifting
5 shall not also be charged with burglary or theft of the same
6 property.

7 (c) As used in this section, the following terms have the
8 following meanings:

9 (1) "Retail property or merchandise" means any article, product,
10 commodity, item, or component intended to be sold in retail
11 commerce.

12 (2) "Value" means the retail value of an item as advertised by
13 the affected retail establishment, including applicable taxes.

14 ~~SEC. 2.~~

15 *SEC. 3.* Section 490.2 of the Penal Code is amended to read:

16 490.2. (a) Notwithstanding Section 487 or any other provision
17 of law defining grand theft, obtaining any property by theft where
18 the value of the money, labor, real or personal property taken does
19 not exceed nine hundred fifty dollars (\$950) shall be considered
20 petty theft and shall be punished as a misdemeanor, except as
21 follows:

22 (1) A person may instead be punished pursuant to subdivision
23 (h) of Section 1170 if that person has one or more prior convictions
24 for an offense specified in clause (iv) of subparagraph (C) of
25 paragraph (2) of subdivision (e) of Section 667 or for an offense
26 requiring registration pursuant to subdivision (c) of Section 290.

27 (2) A person who meets the requirements of Section 666.1 may
28 be punished pursuant to that section.

29 (b) This section does not apply to any theft that may be charged
30 as an infraction pursuant to any other law.

31 (c) This section does not apply to theft of a firearm.

32 ~~SEC. 3.~~

33 *SEC. 4.* Section 666.1 is added to the Penal Code, to read:

34 666.1. (a) (1) Notwithstanding any other law, a person who,
35 having two or more convictions for any of the offenses listed in
36 paragraph (2), and who is subsequently convicted of petty theft or
37 shoplifting, is punishable by imprisonment in the county jail not
38 exceeding one year, or pursuant to subdivision (h) of Section 1170.

39 (2) This section applies to the following offenses:

40 (A) Petty theft, as described in Section 488.

1 (B) Grand theft, as described in Section 487.

2 (C) Theft from an elder or dependent adult in violation of
3 subdivision (e) of Section 368.

4 (D) The theft or unauthorized use of a vehicle, as described in
5 Section 10851 of the Vehicle Code.

6 (E) Burglary, as described in Section 459.

7 (F) Carjacking, as described in Section 215.

8 (G) Robbery, as described in Section 211.

9 (H) Receiving stolen property, as described in Section 496.

10 (I) Shoplifting, as described in Section 459.5.

11 (J) Mail theft, as described in subdivision (e) of Section 530.5.

12 (b) This section does not preclude prosecution or punishment
13 pursuant to any other law.

14 ~~SEC. 4.~~

15 *SEC. 5.* This act amends the Safe Neighborhoods and Schools
16 Act, an initiative statute approved by the voters at the November
17 4, 2014, statewide general election as Proposition 47, and shall
18 become effective only when submitted to and approved by the
19 voters. The Secretary of State shall submit this act for approval by
20 the voters at a statewide election in accordance with Section 9040
21 of the Elections Code.