

**ASSEMBLY BILL**

**No. 1772**

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**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

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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.