

Organized Retail Theft

This Act creates three crimes. One addresses theft of property with a value of at least \$250 from a mercantile establishment with intent to resell. Another makes it a crime to possess stolen property from a mercantile establishment with a value of at least \$250. The third addresses theft of property from a mercantile establishment when the person leaves through an emergency exit, uses a device designed to overcome security systems, or commits theft at 3 or more mercantile establishments within 180 days. Finally, this Act adds theft with intent to resell and organized retail theft to a list of offenses that can be “criminal profiteering” when punishable as a felony and by imprisonment for more than one year.

Submitted as:

Washington

Chapter 277, Laws of 2006

Status: Enacted into law in 2006.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act can be entitled “An Act Relating to Organized Retail
2 Theft.”

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 Section 2. [*Theft With Intent to Resell.*]

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 (1) A person is guilty of theft with the intent to resell if he or she commits theft of
6 property with a value of at least [two hundred fifty dollars] from a mercantile establishment with
7 the intent to resell the property for monetary or other gain.

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 (2) The person is guilty of theft with the intent to resell in the first degree if the property
9 has a value of [one thousand five hundred dollars] or more. Theft with the intent to resell in the
10 first degree is a [class B felony].

11

 (3) The person is guilty of theft with the intent to resell in the second degree if the
12 property has a value of at least [two hundred fifty dollars, but less than one thousand five hundred
13 dollars]. Theft with the intent to resell in the second degree is a [class C felony].

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 (4) For purposes of this section, a series of thefts committed by the same person from one
15 or more mercantile establishments over a period of [one hundred eighty days] may be aggregated
16 in one count and the sum of the value of all the property shall be the value considered in
17 determining the degree of the theft with the intent to resell involved. Theft committed by the
18 same person in different counties that have been aggregated in one county may be prosecuted in
19 any county in which one of the thefts occurred.

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 Section 3. [*Organized Retail Theft.*]

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 (1) A person is guilty of organized retail theft if he or she:

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 (a) Commits theft of property with a value of at least [two hundred fifty dollars]
24 from a mercantile establishment with an accomplice; or

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 (b) Possesses stolen property, with a value of at least [two hundred fifty dollars]
26 from a mercantile establishment with an accomplice. “Stolen” means obtained by theft, robbery,
27 or extortion.

28 (2) A person is guilty of organized retail theft in the first degree if the property stolen or
29 possessed has a value of one thousand five hundred dollars or more. Organized retail theft in the
30 first degree is a [class B felony].

31 (3) A person is guilty of organized retail theft in the second degree if the property stolen
32 or possessed has a value of [at least two hundred fifty dollars, but less than one thousand five
33 hundred dollars].

34 (4) Organized retail theft in the second degree is a [class C felony].

35 (5) For purposes of this section, a series of thefts committed by the same person from one
36 or more mercantile establishments over a period of [one hundred eighty days] may be aggregated
37 in one count and the sum of the value of all the property shall be the value considered in
38 determining the degree of the organized retail theft involved. Theft committed by the same
39 person in different counties that have been aggregated in one county may be prosecuted in any
40 county in which one of the thefts occurred.

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42 Section 4. [*Retail Theft with Extenuating Circumstances.*]

43 (1) A person commits retail theft with extenuating circumstances if he or she commits
44 theft of property from a mercantile establishment with one of the following extenuating
45 circumstances:

46 (a) To facilitate the theft, the person leaves the mercantile establishment through a
47 designated emergency exit;

48 (b) The person was, at the time of the theft, in possession of an item, article,
49 implement, or device designed to overcome security systems including, but not limited to, lined
50 bags or tag removers; or

51 (c) The person committed theft at [three or more] separate and distinct mercantile
52 establishments within a [one hundred eighty-day period].

53 (2) A person is guilty of retail theft with extenuating circumstances in the first degree if
54 the theft involved constitutes theft in the first degree. Retail theft with extenuating circumstances
55 in the first degree is a [class B felony].

56 (3) A person is guilty of retail theft with extenuating circumstances in the second degree if
57 the theft involved constitutes theft in the second degree. Retail theft with extenuating
58 circumstances in the second degree is a [class C felony].

59 (4) A person is guilty of retail theft with extenuating circumstances in the third degree if
60 the theft involved constitutes theft in the third degree. Retail theft with extenuating circumstances
61 in the third degree is a [class C felony].

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63 Section 5. [*Criminal Profiteering.*] As used in this Act,

64 (1) “Criminal profiteering” means any act, including any anticipatory or completed
65 offense, committed for financial gain, that is chargeable or indictable under the laws of the state
66 in which the act occurred and, if the act occurred in a state other than this state, would be
67 chargeable or indictable under the laws of this state had the act occurred in this state and
68 punishable as a felony and by imprisonment for more than one year, regardless of whether the act
69 is charged or indicted, and includes theft with the intent to resell, as defined in section 2 of this
70 Act or organized retail theft, as defined in section 3 of this Act.

71 (2) “Pattern of criminal profiteering activity” means engaging in at least [three] acts of
72 criminal profiteering, one of which occurred after [July 1, 1985], and the last of which occurred
73 within [five years], excluding any period of imprisonment, after the commission of the earliest act
74 of criminal profiteering. In order to constitute a pattern, the [three] acts must have the same or
75 similar intent, results, accomplices, principals, victims, or methods of commission, or be
76 otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise,
77 and must not be isolated events.

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Section 6. [*Severability.*] [Insert severability clause.]

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Section 7. [*Repealer.*] [Insert repealer clause.]

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Section 8. [*Effective Date.*] [Insert effective date.]