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SENATE BILL 5635

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AS AMENDED BY THE HOUSE

Passed Legislature - 2017 Regular Session

State of Washington                      65th Legislature                      2017 Regular Session

By Senators Padden, Pedersen, Angel, Palumbo, O'Ban, Wilson, Rossi,  
and Zeiger

Read first time 02/01/17. Referred to Committee on Law & Justice.

1            AN ACT Relating to retail theft with special circumstances;  
2 amending RCW 9A.56.360; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 9A.56.360 and 2013 c 153 s 1 are each amended to  
5 read as follows:

6            (1) A person commits retail theft with special circumstances if  
7 he or she commits theft of property from a mercantile establishment  
8 with one of the following special circumstances:

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

11            (b) The person was, at the time of the theft, in possession of an  
12 item, article, implement, or device used, under circumstances  
13 evincing an intent to use or employ, or designed to overcome security  
14 systems including, but not limited to, lined bags or tag removers; or

15            (c) The person committed theft at three or more separate and  
16 distinct mercantile establishments within a one hundred eighty-day  
17 period.

18            (2) A person is guilty of retail theft with special circumstances  
19 in the first degree if the theft involved constitutes theft in the  
20 first degree. Retail theft with special circumstances in the first  
21 degree is a class B felony.

1 (3) A person is guilty of retail theft with special circumstances  
2 in the second degree if the theft involved constitutes theft in the  
3 second degree. Retail theft with special circumstances in the second  
4 degree is a class C felony.

5 (4) A person is guilty of retail theft with special circumstances  
6 in the third degree if the theft involved constitutes theft in the  
7 third degree. Retail theft with special circumstances in the third  
8 degree is a class C felony.

9 (5) For the purposes of this section, "special circumstances"  
10 means the particular aggravating circumstances described in  
11 subsection (1)(a) through (c) of this section.

12 (6)(a) A series of thefts committed by the same person from one  
13 or more mercantile establishments over a period of one hundred eighty  
14 days may be aggregated in one count and the sum of the value of all  
15 the property shall be the value considered in determining the degree  
16 of the retail theft with special circumstances involved. Thefts  
17 committed by the same person in different counties that have been  
18 aggregated in one county may be prosecuted in any county in which any  
19 one of the thefts occurred. In no case may an aggregated series of  
20 thefts, or a single theft that has been aggregated in one county, be  
21 prosecuted in more than one county.

22 (b) The mercantile establishment or establishments whose property  
23 is alleged to have been stolen may request that the charge be  
24 aggregated with other thefts of property about which the mercantile  
25 establishment or establishments is aware. In the event a request to  
26 aggregate the prosecution is declined, the mercantile establishment  
27 or establishments shall be promptly advised by the prosecuting  
28 jurisdiction making the decision to decline aggregating the  
29 prosecution of the decision and the reasons for the decision.

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