

**ASSEMBLY BILL**

**No. 1603**

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**Introduced by Assembly Member Salas**

January 3, 2022

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An act to amend Sections 459.5, 487, and 490.2 of the Penal Code, relating to theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 1603, as introduced, Salas. Theft: shoplifting: amount.

Existing law, the Safe Neighborhoods and Schools Act, enacted as an initiative statute by Proposition 47, as approved by the electors at the November 4, 2014, statewide general election, makes the theft of money, labor, or property petty theft punishable as a misdemeanor, whenever the value of the property taken does not exceed \$950. Under existing law, if the value of the property taken exceeds \$950, the theft is grand theft, punishable as a misdemeanor or a felony.

Proposition 47 requires shoplifting, defined as entering a commercial establishment with the intent to commit larceny if the value of the property taken does not exceed \$950, to be punished as a misdemeanor. Under existing law, entering a commercial establishment with the intent to take property exceeding \$950 is burglary, punishable as a misdemeanor or a felony.

This bill would amend Proposition 47 by reducing the threshold amount for petty theft and shoplifting from \$950 to \$400. The bill would provide that it shall become effective only when submitted to, and approved by, the voters of California.

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

3 459.5. (a) Notwithstanding Section 459, shoplifting is defined  
4 as entering a commercial establishment with intent to commit  
5 larceny while that establishment is open during regular business  
6 hours, where the value of the property that is taken or intended to  
7 be taken does not exceed ~~nine hundred fifty dollars (\$950)~~; *four*  
8 *hundred dollars (\$400)*. Any other entry into a commercial  
9 establishment with intent to commit larceny is burglary. Shoplifting  
10 shall be punished as a misdemeanor, except that a person with one  
11 or more prior convictions for an offense specified in clause (iv) of  
12 subparagraph (C) of paragraph (2) of subdivision (e) of Section  
13 667 or for an offense requiring registration pursuant to subdivision  
14 (c) of Section 290 may be punished pursuant to subdivision (h) of  
15 Section 1170.

16 (b) Any act of shoplifting as defined in subdivision (a) shall be  
17 charged as shoplifting. ~~No~~ A person who is charged with shoplifting  
18 ~~may shall not~~ also be charged with burglary or theft of the same  
19 property.

20 SEC. 2. Section 487 of the Penal Code is amended to read:  
21 487. Grand theft is theft committed in any of the following  
22 cases:

23 (a) When the money, labor, or real or personal property taken  
24 is of a value exceeding ~~nine hundred fifty dollars (\$950)~~; *four*  
25 *hundred dollars (\$400)*, except as provided in subdivision (b).

26 (b) Notwithstanding subdivision (a), grand theft is committed  
27 in any of the following cases:

28 (1) (A) When domestic fowls, avocados, olives, citrus or  
29 deciduous fruits, other fruits, vegetables, nuts, artichokes, or other  
30 farm crops are taken of a value exceeding two hundred fifty dollars  
31 (\$250).

32 (B) For the purposes of establishing that the value of domestic  
33 fowls, avocados, olives, citrus or deciduous fruits, other fruits,  
34 vegetables, nuts, artichokes, or other farm crops under this  
35 paragraph exceeds two hundred fifty dollars (\$250), that value  
36 may be shown by the presentation of credible evidence which  
37 establishes that on the day of the theft domestic fowls, avocados,  
38 olives, citrus or deciduous fruits, other fruits, vegetables, nuts,

1 artichokes, or other farm crops of the same variety and weight  
2 exceeded two hundred fifty dollars (\$250) in wholesale value.

3 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or  
4 other aquacultural products are taken from a commercial or  
5 research operation which is producing that product, of a value  
6 exceeding two hundred fifty dollars (\$250).

7 (3) Where the money, labor, or real or personal property is taken  
8 by a servant, agent, or employee from ~~his or her~~ *their* principal or  
9 employer and aggregates ~~nine hundred fifty dollars (\$950)~~ *four*  
10 *hundred dollars (\$400)* or more in any ~~12 consecutive month~~  
11 *12-consecutive-month* period.

12 (c) When the property is taken from the person of another.

13 (d) When the property taken is any of the following:

14 (1) An automobile.

15 (2) A firearm.

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

17 490.2. (a) Notwithstanding Section 487 or any other provision  
18 of law defining grand theft, obtaining any property by theft where  
19 the value of the money, labor, real or personal property taken does  
20 not exceed ~~nine hundred fifty dollars (\$950)~~ *four hundred dollars*  
21 *(\$400)* shall be considered petty theft and shall be punished as a  
22 misdemeanor, except that such person may instead be punished  
23 pursuant to subdivision (h) of Section 1170 if that person has one  
24 or more prior convictions for an offense specified in clause (iv) of  
25 subparagraph (C) of paragraph (2) of subdivision (e) of Section  
26 667 or for an offense requiring registration pursuant to subdivision  
27 (c) of Section 290.

28 (b) This section shall not be applicable to any theft that may be  
29 charged as an infraction pursuant to any other provision of law.

30 (c) This section shall not apply to theft of a firearm.

31 SEC. 4. The provisions of this bill affect an initiative statute  
32 and shall become effective only when submitted to, and approved  
33 by, the voters of California, pursuant to subdivision (c) of Section  
34 10 of Article II of the California Constitution.