

## Property Crimes

### Higher Maximum for Misdemeanors Fuels Big Hike in Serial Petty Crimes

#### Background

Property crime is on the rise, according to California retailers. Between 2014 and 2016, California had the second highest increase in theft and property crimes in the United States, while most states have seen a steady decline. According to the California Department of Justice, the value of property stolen in 2015 was \$2.5 billion, with an increase of 13% since 2014, the largest single-year increase in at least 10 years. Recent changes to California law due to Proposition 47 have increased threshold amounts for theft to be tried as felonies to \$950 per incident. Another of the changes also reduced judges' ability to order drug-addicted individuals convicted of repeated theft crimes into effective drug treatment programs.

Retailers report significant losses since the passage of Proposition 47. Individual companies report an increase of thefts ranging from 40% to 70% compared to their stores in other states and previous years. Organized retail crime rings have made use of the new law. The rings often recruit low-level drug offenders, homeless or street people, and professional boosters. One of the main recruitment lures now is that retailers don't usually prosecute a shoplifter, and if they do, the crime is a misdemeanor, not a felony, if the theft is less than \$950. Thieves are back on the streets the same day, sometimes robbing the same store.

#### Proposition 47 – Safe Neighborhood and Schools Act

Passed in 2014 and taking effect in 2015, Proposition 47 makes the theft of money, labor or property, petty theft, receiving stolen property, and forging/writing bad checks punishable as a misdemeanor whenever the value of the property taken does not exceed \$950. It requires shoplifting, defined as entering a commercial establishment with the intent to commit larceny where the property taken does not exceed \$950, to be punished as a misdemeanor. It also requires that the act of shoplifting be charged as shoplifting and prohibits a person who is charged with shoplifting to also be charged with burglary or theft of the same property. Proposition 47 reduces certain drug possession offenses to misdemeanors and limits judicial sentencing. The proposition contains other issues not relevant to this report.

#### California Legislative Activity

Two bills were introduced in 2017 to address fixes to Proposition 47. Neither progressed very far, but their introduction is an indication that the problem of repeated retail thefts and organized theft rings is becoming more prominent.

- **AB 1065 (Jones-Sawyer; D-South Los Angeles) Shoplifting: Organized Retail Theft: Arrests.** As amended June 22, 2017, the bill makes it a misdemeanor or a felony to commit organized retail theft, defined as conspiring with two or more persons to commit theft of merchandise with the intent to sell the stolen property or to place the stolen property in the control of a retail property fence. The bill is in the Senate Public Safety Committee and could be heard in January 2018.

- **AB 1326 (Cooper; D-Elk Grove, et al.) Petty Theft: Subsequent Convictions.** As amended April 17, 2017, the bill provides that a person convicted of three or more offenses related to theft is subject to up to a year in county jail. It restores the courts' authority to require a felon to complete a licensed drug rehabilitation program in lieu of part or all of a jail term. The court also may require the felon to pay all or part of the program costs. The bill is in the Assembly Public Safety Committee and could be heard in January 2018.

#### Initiative

An initiative to make changes to Proposition 47 has received its title and summary from the Attorney General and has been cleared to be circulated for signatures.

The Reducing Crime and Keeping California Safe Act of 2018 initiative fixes three related problems created by recent laws that have threatened the public safety of Californians and their children from violent criminals.

- Reforms the parole system so violent felons are not released early from prison, strengthens oversight of parolees, and tightens penalties for violations of terms of parole;
- Reforms theft laws to restore accountability for serial thieves and organized theft rings; and

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- Expands DNA collection from persons convicted of drug, theft and domestic violence-related crimes to help solve violent crimes and exonerate the innocent.

Of interest to the retail community is the second point. The initiative provides that after two or more petty thefts or shoplifting where the value of the money, labor, or real or personal property taken exceeds \$250, the crime shall be punished by imprisonment in the county jail not exceeding one year, or one year in state prison based on prior record. The initiative also defines organized retail thefts and the punishment is the same as above.

### **Anticipated Activity in 2018**

It is likely that one or more of the bills introduced in 2017 will move forward. If the initiative qualifies for the November ballot, however, it may affect the need for amendments to the bills in their current form. Both retail businesses and law enforcement are interested in changes to Proposition 47.

### **CalChamber Position**

The California Chamber of Commerce believes that additional law enforcement and prosecutorial support, plus increased penalties for criminals, are necessary to curb the problem of serial thefts and organized retail crime. The CalChamber opposed Proposition 47. Ever since the enactment of the proposition, businesses across the state have experienced dramatic increases in theft. The value of merchandise stolen has increased right up to \$950, the maximum amount chargeable for misdemeanors.

Businesses are now dealing with an emboldened criminal base that doesn't conceal its intentions of serial thefts. These thefts are a significant burden to businesses, reducing their profits and ultimately driving up costs to consumers.

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