

House Bill 2525

Sponsored by Representative MANNIX (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates crime of retail theft in the second degree. Punishes by maximum of six months' imprisonment, \$2,500 fine, or both. Requires court to impose mandatory sentence of seven days' imprisonment upon first offense and 90 days' imprisonment upon second and subsequent offense.

Creates crime of retail theft in the first degree. Punishes by maximum of 364 days' imprisonment, \$6,250 fine, or both. Requires court to impose mandatory sentence of 14 days' imprisonment upon first offense and 180 days' imprisonment upon second and subsequent offense.

Creates crime of aggravated retail theft. Punishes by maximum of five years' imprisonment, \$125,000 fine, or both. Requires court to impose mandatory sentence of 12 months' imprisonment.

Modifies when venue is proper for certain retail theft offenses.

Requires Oregon Department of Administrative Services to reimburse counties for costs of incarcerating persons serving sentences for certain retail theft offenses. Appropriates moneys to department for reimbursement.

Provides that state shall indemnify owner or employee of mercantile establishment against claim in civil action for false imprisonment or unlawful detention or arrest if owner or employee believed plaintiff was engaging in retail theft.

A BILL FOR AN ACT

1
2 Relating to retail theft; creating new provisions; and amending ORS 131.315, 164.098 and 164.115.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) Sections 2 to 5 of this 2023 Act are added to and made a part of ORS**
5 **164.015 to 164.135.**

6 **(2) ORS 164.098 is added to and made a part of sections 2 to 5 of this 2023 Act.**

7 **SECTION 2. As used in sections 2 to 5 of this 2023 Act:**

8 **(1) "Mercantile establishment" has the meaning given that term in ORS 30.870.**

9 **(2) "Merchandise" has the meaning given that term in ORS 30.870.**

10 **SECTION 3. (1) A person commits the crime of retail theft in the second degree if, by**
11 **means other than extortion, the person commits theft as described in ORS 164.015 of mer-**
12 **chandise from a mercantile establishment and the total value of the merchandise in a single**
13 **or aggregate transaction is less than \$500.**

14 **(2) Retail theft in the second degree is a Class B misdemeanor.**

15 **(3)(a) In addition to any other sentence imposed, the court shall sentence a person con-**
16 **victed under this section to a mandatory minimum term of imprisonment of seven days.**

17 **(b) If, at the time of the offense, a person has one or more previous convictions under**
18 **this section or under section 4 of this 2023 Act or has been convicted of any felony, the court**
19 **shall sentence the person to a mandatory minimum term of imprisonment of 90 days.**

20 **SECTION 4. (1) A person commits the crime of retail theft in the first degree if, by**
21 **means other than extortion, the person commits theft as described in ORS 164.015 of mer-**
22 **chandise from a mercantile establishment and the total value of the merchandise in a single**
23 **or aggregate transaction is at least \$500 and less than \$1,000.**

24 **(2) Retail theft in the first degree is a Class A misdemeanor.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (3)(a) In addition to any other sentence imposed, the court shall sentence a person con-
 2 victed under this section to a mandatory minimum term of imprisonment of 14 days.

3 (b) If, at the time of the offense, a person has one or more previous convictions under
 4 this section or under section 3 of this 2023 Act or has been convicted of any felony, the court
 5 shall sentence the person to a mandatory minimum term of imprisonment of 180 days.

6 **SECTION 5.** (1) A person commits the crime of aggravated retail theft if, by means other
 7 than extortion, the person commits theft as described in ORS 164.015 of merchandise from
 8 a mercantile establishment and the total value of the merchandise in a single or aggregate
 9 transaction is \$1,000 or more.

10 (2) Aggravated retail theft is a Class C felony.

11 (3) In addition to any other sentence imposed, the court shall sentence a person con-
 12 victed under this section to a mandatory minimum term of imprisonment of 12 months.

13 **SECTION 6.** ORS 164.098 is amended to read:

14 164.098. (1) A person commits the crime of organized retail theft if, acting in concert with an-
 15 other person:

16 (a) The person violates ORS 164.015 or aids or abets the other person to violate ORS 164.015;

17 (b) The subject of the theft is merchandise and the merchandise is taken from a mercantile es-
 18 tablishment; and

19 (c) The aggregate value of the merchandise taken within any 90-day period exceeds \$5,000.

20 [(2) As used in this section:]

21 [(a) "Merchandise" has the meaning given that term in ORS 30.870.]

22 [(b) "Mercantile establishment" has the meaning given that term in ORS 30.870.]

23 [(3)] (2) Organized retail theft is a Class B felony.

24 **SECTION 7.** ORS 164.115, as amended by section 7, chapter 9, Oregon Laws 2022, is amended
 25 to read:

26 164.115. For the purposes of chapter 743, Oregon Laws 1971, the value of property shall be as-
 27 certained as follows:

28 (1) Except as otherwise specified in this section, value means the market value of the property
 29 at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of re-
 30 placement of the property within a reasonable time after the crime.

31 (2) Whether or not they have been issued or delivered, certain written instruments, not including
 32 those having a readily ascertainable market value, shall be evaluated as follows:

33 (a) The value of an instrument constituting an evidence of debt, including, but not limited to, a
 34 check, draft or promissory note, shall be considered the amount due or collectible thereon or
 35 thereby.

36 (b) The value of any other instrument which creates, releases, discharges or otherwise affects
 37 any valuable legal right, privilege or obligation shall be considered the greatest amount of economic
 38 loss which the owner might reasonably suffer because of the loss of the instrument.

39 (3) The value of a gambling chip, token, imitation currency or similar device is its face value.

40 (4)(a) The value of the wildlife listed in ORS 496.705 is the amount of damages as specified in
 41 ORS 496.705.

42 (b) The value of the wildlife listed on the list of prohibited species, as defined in section 3,
 43 chapter 9, Oregon Laws 2022, is the amount of damages as specified in section 4, chapter 9, Oregon
 44 Laws 2022.

45 (5) When the value of property cannot reasonably be ascertained, it shall be presumed to be an

1 amount less than \$100 in a case of theft, and less than \$500 in any other case.

2 (6) The value of single theft transactions may be added together if the thefts were committed:

3 (a) Against multiple victims by similar means within a 30-day period; *[or]*

4 **(b) Against multiple victims within a 60-day period for offenses described in section 3, 4**
 5 **or 5 of this 2023 Act; or**

6 *[(b)]* (c) Against the same victim, or two or more persons who are joint owners, within a 180-day
 7 period.

8 **SECTION 8.** ORS 131.315 is amended to read:

9 131.315. (1) If conduct constituting elements of an offense or results constituting elements of an
 10 offense occur in two or more counties, trial of the offense may be held in any of the counties con-
 11 cerned.

12 (2) If a cause of death is inflicted on a person in one county and the person dies therefrom in
 13 another county, trial of the offense may be held in either county.

14 (3) If the commission of an offense commenced outside this state is consummated within this
 15 state, trial of the offense shall be held in the county in which the offense is consummated or the
 16 interest protected by the criminal statute in question is impaired.

17 (4) If an offense is committed on any body of water located in, or adjacent to, two or more
 18 counties or forming the boundary between two or more counties, trial of the offense may be held in
 19 any nearby county bordering on the body of water.

20 (5) If an offense is committed in or upon any railroad car, vehicle, aircraft, boat or other
 21 conveyance in transit and it cannot readily be determined in which county the offense was com-
 22 mitted, trial of the offense may be held in any county through or over which the conveyance passed.

23 (6) If an offense is committed on the boundary of two or more counties or within one mile
 24 thereof, trial of the offense may be held in any of the counties concerned.

25 (7) A person who commits theft, burglary or robbery may be tried in any county in which the
 26 person exerts control over the property that is the subject of the crime.

27 (8) If the offense is an attempt or solicitation to commit a crime, trial of the offense may be held
 28 in any county in which any act that is an element of the offense is committed.

29 (9) If the offense is criminal conspiracy, trial of the offense may be held in any county in which
 30 any act or agreement that is an element of the offense occurs.

31 (10) A person who in one county commits an inchoate offense that results in the commission of
 32 an offense by another person in another county, or who commits the crime of hindering prosecution
 33 of the principal offense, may be tried in either county.

34 (11) A criminal nonsupport action may be tried in any county in which the dependent child is
 35 found, irrespective of the domicile of the parent, guardian or other person lawfully charged with
 36 support of the child.

37 (12)(a) If the offense is theft, forgery or identity theft and the offense consists of an aggregate
 38 transaction involving more than one county, trial of the offense may be held in any county in which
 39 one of the acts of theft, forgery or identity theft was committed.

40 **(b) Notwithstanding paragraph (a) of this subsection, if the offense is retail theft in the**
 41 **second degree, retail theft in the first degree or aggravated retail theft, the merchandise**
 42 **that was the subject of the theft is sold, and the district attorneys of all counties in which**
 43 **trial may be held under paragraph (a) of this subsection decline to prosecute, trial may be**
 44 **held in any county in which an item of the merchandise was sold.**

45 (13) When a prosecution is for violation of the Oregon Securities Law, the trial of the offense

1 may be held in the county in which:

2 (a) The offer to purchase or sell securities took place or where the sale or purchase of securities
3 took place; or

4 (b) Any act that is an element of the offense occurred.

5 (14) When a prosecution under ORS 165.692 and 165.990 or 411.675 and 411.990 (2) and (3) in-
6 volves Medicaid funds, the trial of the offense may be held in the county in which the claim was
7 submitted for payment or in the county in which the claim was paid.

8 (15)(a) If the offense is stalking under ORS 163.732 and involves contacts as defined in ORS
9 163.730 in more than one county, trial of the offense may be held in any county in which a contact
10 occurred.

11 (b) If the offense is violating a court's stalking protective order under ORS 163.750, trial of the
12 offense may be held in the county in which the defendant engaged in conduct prohibited by the order
13 or in the county in which the order was issued.

14 **SECTION 9. (1) The state shall reimburse each county as provided in this section for the**
15 **costs of incarcerating persons sentenced to a term of imprisonment for retail theft in the**
16 **second degree under section 3 of this 2023 Act, retail theft in the first degree under section**
17 **4 of this 2023 Act or aggravated retail theft under section 5 of this 2023 Act who are com-**
18 **mitted under ORS 137.124 to the custody of the supervisory authority of the county in which**
19 **the crime of conviction occurred.**

20 (2) At the end of each month, the county shall submit to the Oregon Department of Ad-
21 ministrative Services a written request for reimbursement for the cost of incarcerating
22 persons described in subsection (1) of this section.

23 (3) The department shall reimburse a county that submits a request under subsection (2)
24 of this section within seven days of receiving the request. The reimbursement shall occur
25 at the rate of \$100 per person per day of incarceration or the actual daily cost of
26 incarcerating a person, whichever is higher.

27 (4) The circuit court has jurisdiction over any dispute involving the reimbursement of
28 incarceration costs under this section.

29 **SECTION 10.** In addition to and not in lieu of any other appropriation, there is appro-
30 priated to the Oregon Department of Administrative Services, for the biennium beginning
31 July 1, 2023, out of the General Fund, the amount of \$_____, for distribution to
32 counties for incarceration costs under section 9 of this 2023 Act.

33 **SECTION 11.** The state shall indemnify an owner or employee of a mercantile establish-
34 ment as defined in ORS 30.870 against a claim in a civil action for false imprisonment or
35 unlawful detention or arrest if, at the time of engaging in the conduct giving rise to the civil
36 action, the owner or employee believed the plaintiff was committing an offense described in
37 sections 2 to 5 of this 2023 Act.

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