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H.12

Introduced by Representatives LaLonde of South Burlington and Colburn of
Burlington

Referred to Committee on

Date:

Subject: Crimes and criminal procedure; larceny and embezzlement; organized
retail theft

Statement of purpose of bill as introduced: This bill proposes to amend the
monetary thresholds applicable to larceny and certain theft related crimes and
to create a new crime of organized retail theft.

An act relating to the monetary thresholds applicable to theft related crimes
and prohibiting organized retail theft

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 15 is added to read:

§ 15. MONETARY THRESHOLD; MISDEMEANORS AND FELONIES

Whenever a section of Vermont Statute contains a provision referring to this
section for purposes of establishing a monetary threshold for determining the
appropriate penalty for the violation, the monetary threshold shall be:

(1) \$2,000.00; or

(2) \$3,000.00.

1 Sec. 2. 13 V.S.A. § 2501 is amended to read:

2 § 2501. GRAND LARCENY

3 A person who steals from the actual or constructive possession of another,
4 other than from his or her person, money, goods, chattels, bank notes, bonds,
5 promissory notes, bills of exchange or other bills, orders, or certificates, or a
6 book of accounts for or concerning money, or goods due or to become due or
7 to be delivered, or a deed or writing containing a conveyance of land, or any
8 other valuable contract in force, or a receipt, release or defeasance, writ,
9 process, or public record, shall be imprisoned for not more than 10 years or
10 fined not more than \$5,000.00, or both, if the value of the money or other
11 property stolen ~~exceeds \$900.00 in value~~ is equal to or greater than the
12 monetary threshold set forth in subdivision 15(1) of this title.

13 Sec. 3. 13 V.S.A. § 2502 is amended to read:

14 § 2502. PETIT LARCENY

15 For offenses mentioned in section 2501 of this title where the value of the
16 money or other property stolen ~~does not exceed \$900.00 in value~~ is less than
17 the monetary threshold set forth in subdivision 15(1) of this title, the court may
18 sentence the person convicted to imprisonment for not more than one year or to
19 pay a fine of not more than \$1,000.00, or both.

1 Sec. 4. 13 V.S.A. § 2577 is amended to read:

2 § 2577. PENALTY

3 (a) A person convicted of the offense of retail theft of merchandise having
4 a retail value ~~not in excess of \$900.00~~ that is less than the monetary threshold
5 set forth in subdivision 15(1) of this title shall be punished by a fine of not
6 more than \$500.00 or imprisonment for not more than six months, or both.

7 (b) A person convicted of the offense of retail theft of merchandise having
8 a retail value ~~in excess of \$900.00~~ that is equal to or greater than the monetary
9 threshold set forth in subdivision 15(2) of this title shall be punished by a fine
10 of not more than \$1,000.00 or imprisonment for not more than 10 years,
11 or both.

12 * * *

13 Sec. 5. 13 V.S.A. § 2582 is amended to read:

14 § 2582. THEFT OF SERVICES

15 (a) A person who purposely obtains services that he or she knows are
16 available only for compensation, by deception, ~~or~~ threat, ~~or by~~ false token, or
17 other means to avoid payment for the service shall:

18 (1) if the value of the services exceed \$900.00 in value is equal to or
19 greater than the monetary threshold set forth in subdivision 15(1) of this title,
20 be imprisoned for not more than 10 years or fined not more than \$5,000.00,
21 or both;

1 ~~(2) Otherwise, a person who violates a provision of this subsection shall~~
2 if the value of the services is less than the monetary threshold set forth in
3 subdivision 15(1) of this title, be imprisoned for not more than one year or
4 fined not more than \$1,000.00, or both.

5 **(b)** ~~Where~~ For the purposes of subsection (a) of this section, if
6 compensation for service is ordinarily paid immediately upon the rendering of
7 such service, as in the case of hotels, restaurants, and transportation, refusal to
8 pay or absconding without payment or offer to pay gives rise to a rebuttable
9 presumption that the service was obtained by deception as to intention to pay.

10 ~~(b)(c)~~ A person who, having control over the disposition of services of
11 others, to which he or she is not entitled, knowingly diverts such services to the
12 person's own benefit or to the benefit of another not entitled thereto shall:

13 (1) if the value of the services exceed \$900.00 in value is equal to or
14 greater than the monetary threshold set forth in subdivision 15(1) of this title,
15 be imprisoned for not more than 10 years or fined not more than \$5,000.00,
16 or both;

17 ~~(2) Otherwise a person who violates a provision of this subsection shall~~
18 if the value of the services is less than the monetary threshold set forth in
19 subdivision 15(1) of this title, be imprisoned for not more than one year or
20 fined not more than \$1,000.00, or both.

1 Sec. 6. 13 V.S.A. § 2591 is amended to read:

2 § 2591. THEFT OF RENTED PROPERTY

3 (a) A person who converts to his or her own use any personal property,
4 other than a motor vehicle leased or rented pursuant to a written agreement that
5 has been entrusted to the person under an agreement in writing that provides
6 for the delivery of that personal property to a particular person or place or at a
7 particular time, abandons it, or refuses or neglects to deliver it to the person or
8 place and at the time specified in the written agreement, or who destroys,
9 secretes, appropriates, converts, sells, or attempts to sell all or any part of it, or
10 who removes or permits or causes it to be removed from this State, without the
11 consent of its owner, shall be:

12 (1) if the value of the property involved ~~is \$900.00 or less~~ is less than
13 the monetary threshold set forth in subdivision 15(1) of this title, imprisoned
14 for not more than six months or fined not more than \$500.00, or both; or

15 (2) if the value of the property involved ~~exceeds \$900.00 in value~~ is
16 equal to or greater than the monetary threshold set forth in subdivision 15(1) of
17 this title:

18 (A) imprisoned for not more than two years or fined not more than
19 \$1,000.00, or both; or

1 (B) imprisoned for not more than five years or fined not more than
2 \$5,000.00 if the person has been previously convicted of a violation of this
3 subdivision (a)(2) of this section.

4 * * *

5 Sec. 7. 13 V.S.A. § 3110 is amended to read:

6 § 3110. RAILROAD VANDALISM

7 * * *

8 (d) Penalty for vandalism of railroad property.

9 (1) A person who violates subsection (c) of this section shall be fined
10 not more than \$500.00 or imprisoned for not more than six months, or both, if
11 the violation results in property damage ~~of \$900.00 or less~~ that is less than the
12 monetary threshold set forth in subdivision 15(1) of this title.

13 (2) A person who violates subsection (c) of this section shall be fined
14 not more than \$1,000.00 or imprisoned for not more than one year, or both, if
15 the violation results in bodily injury to another person or property damage ~~of~~
16 ~~greater than \$900.00~~ that is equal to or greater than the monetary threshold set
17 forth in subdivision 15(1) of this title.

18 (3) A person who violates subsection (c) of this section shall be fined
19 not more than \$20,000.00 or imprisoned for not more than 15 years, or both, if
20 the violation results in death or serious bodily injury to another person.

21 * * *

1 Sec. 8. 13 V.S.A. § 3701 is amended to read:

2 § 3701. UNLAWFUL MISCHIEF

3 (a) A person who, with intent to damage property, and having no right to
4 do so or any reasonable ground to believe that he or she has such a right, does
5 any damage to any property ~~which~~ that is valued in an amount ~~exceeding~~
6 ~~\$1,000.00~~ equal to or greater than the monetary threshold set forth in
7 subdivision 15(1) of this title shall be imprisoned for not more than five years
8 or fined not more than \$5,000.00, or both.

9 (b) A person who, with intent to damage property, and having no right to
10 do so or any reasonable ground to believe that he or she has such a right, does
11 any damage to any property ~~which~~ that is valued in an amount exceeding
12 \$250.00 but less than the monetary threshold set forth in subdivision 15(1) of
13 this title shall be imprisoned for not more than one year or fined not more than
14 \$1,000.00, or both.

15 * * *

16 Sec. 9. 13 V.S.A. § 5201 is amended to read:

17 § 5201. DEFINITIONS

18 * * *

19 (5) “Serious crime” does not include the following misdemeanor
20 offenses unless the judge at arraignment but before the entry of a plea

1 determines and states on the record that a sentence of imprisonment or a fine
2 over \$1,000.00 may be imposed on conviction:

3 (A) [Repealed.]

4 (B) Big game violations (10 V.S.A. § 4518)

5 (C) Simple assault by mutual consent (13 V.S.A. § 1023(b))

6 (D) Bad checks (13 V.S.A. § 2022)

7 (E) Petit larceny (13 V.S.A. § 2502)

8 (F) Theft of services ~~under \$500.00~~ less than the monetary threshold
9 set forth in subdivision 15(1) of this title (13 V.S.A. § 2582)

10 (G) Retail theft ~~under \$900.00~~ less than the monetary threshold set
11 forth in subdivision 15(1) of this title (13 V.S.A. § 2577)

12 (H) Unlawful mischief (13 V.S.A. § 3701(c))

13 (I) Unlawful trespass (13 V.S.A. § 3705(a))

14 (J) Disorderly conduct (13 V.S.A. § 1026)

15 (K) Possession of marijuana—first offense (18 V.S.A. § 4230(a)(1))

16 (L) Violation of municipal ordinances.

17 Sec. 10. 13 V.S.A. § 2575a is added to read:

18 § 2575a. ORGANIZED RETAIL THEFT

19 (a) A person commits the offense of organized retail theft when he or she
20 commits the offense of retail theft pursuant to section 2575 of this title and:

1 (1) he or she acts in concert with one or more persons on one or more
2 occasions within a period of 180 days; and

3 (2) the aggregate value of the merchandise obtained has a retail value of
4 not less than \$2,000.00.

5 (b) A person convicted of organized retail theft of merchandise having an
6 aggregate retail value of not less than \$2,000.00 and not more than \$4,000.00
7 shall be imprisoned for not more than three years or fined not more than
8 \$1,000.00, or both. A person convicted of organized retail theft of
9 merchandise having an aggregate retail value greater than \$4,000.00 shall be
10 imprisoned for not more than five years or fined not more than \$5,000.00,
11 or both.

12 Sec. 12. EFFECTIVE DATE

13 This act shall take effect on July 1, 2019.