

By: Pena, Gallego, Guillen, et al.

H.B. No. 2482

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for certain offenses involving theft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.01, Penal Code, is amended by adding Subdivisions (11) through (14) to read as follows:

(11) "Retail merchandise" means one or more items of tangible personal property displayed, held, stored, or offered for sale in a retail establishment.

(12) "Retail theft detector" means an electrical, mechanical, electronic, or magnetic device used to prevent or detect shoplifting and includes any article or component part essential to the proper operation of the device.

(13) "Shielding or deactivation instrument" means any item or tool designed, made, or adapted for the purpose of preventing the detection of stolen merchandise by a retail theft detector. The term includes a metal-lined or foil-lined shopping bag and any item used to remove a security tag affixed to retail merchandise.

(14) "Fire exit alarm" has the meaning assigned by Section 793.001, Health and Safety Code.

SECTION 2. Section 31.03(f), Penal Code, is amended to read as follows:

(f) An offense described for purposes of punishment by

Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant;

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship;

(3) the owner of the property appropriated was at the time of the offense:

(A) an elderly individual; or

(B) a nonprofit organization; ~~or~~

(4) the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship; or

(5) during the commission of the offense, the actor intentionally, knowingly, or recklessly:

(A) caused a fire exit alarm to sound or otherwise become activated;

(B) deactivated or otherwise prevented a fire exit alarm or retail theft detector from sounding; or

(C) used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a

1 retail theft detector.

2 SECTION 3. Sections 31.16(b), (c), and (d), Penal Code, are
3 amended to read as follows:

4 (b) A person commits an offense if the person intentionally
5 conducts, promotes, or facilitates an activity in which the person
6 receives, possesses, conceals, stores, barter, sells, or disposes
7 of ~~[a total value of not less than \$1,500 of]~~:

8 (1) stolen retail merchandise; or

9 (2) merchandise explicitly represented to the person
10 as being stolen retail merchandise.

11 (c) An offense under this section is:

12 (1) a Class B misdemeanor if the total value of the
13 merchandise involved in the activity is less than \$50;

14 (2) a Class A misdemeanor if the total value of the
15 merchandise involved in the activity is \$50 or more but less than
16 \$500;

17 (3) a state jail felony if the total value of the
18 merchandise involved in the activity is \$500 ~~[\$1,500]~~ or more but
19 less than \$1,500 ~~[\$20,000]~~;

20 (4) ~~[(2)]~~ a felony of the third degree if the total
21 value of the merchandise involved in the activity is \$1,500
22 ~~[\$20,000]~~ or more but less than \$20,000 ~~[\$100,000]~~;

23 (5) ~~[(3)]~~ a felony of the second degree if the total
24 value of the merchandise involved in the activity is \$20,000
25 ~~[\$100,000]~~ or more but less than \$100,000 ~~[\$200,000]~~; or

26 (6) ~~[(4)]~~ a felony of the first degree if the total
27 value of the merchandise involved in the activity is \$100,000

1 [~~\$200,000~~] or more.

2 (d) An offense described for purposes of punishment by
3 Subsections (c)(1)-(5) [~~(c)(1)-(3)~~] is increased to the next higher
4 category of offense if it is shown on the trial of the offense that:

5 (1) the person organized, supervised, financed, or
6 managed one or more other persons engaged in an activity described
7 by Subsection (b); or

8 (2) during the commission of the offense, a person
9 engaged in an activity described by Subsection (b) intentionally,
10 knowingly, or recklessly:

11 (A) caused a fire exit alarm to sound or
12 otherwise become activated;

13 (B) deactivated or otherwise prevented a fire
14 exit alarm or retail theft detector from sounding; or

15 (C) used a shielding or deactivation instrument
16 to prevent or attempt to prevent detection of the offense by a
17 retail theft detector.

18 SECTION 4. Sections 31.15(a) and 31.16(a) and (e), Penal
19 Code, are repealed.

20 SECTION 5. The changes in law made by this Act apply only to
21 an offense committed on or after the effective date of this Act. An
22 offense committed before the effective date of this Act is governed
23 by the law in effect when the offense was committed, and the former
24 law is continued in effect for that purpose. For purposes of this
25 section, an offense was committed before the effective date of this
26 Act if any element of the offense occurred before that date.

27 SECTION 6. This Act takes effect September 1, 2011.