

1-1 By: Pena, et al. (Senate Sponsor - Williams) H.B. No. 2482  
1-2 (In the Senate - Received from the House April 28, 2011;  
1-3 April 28, 2011, read first time and referred to Committee on  
1-4 Criminal Justice; May 12, 2011, reported favorably by the  
1-5 following vote: Yeas 7, Nays 0; May 12, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the prosecution of and punishment for certain offenses  
1-9 involving theft.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 31.01, Penal Code, is amended by adding  
1-12 Subdivisions (11) through (14) to read as follows:

1-13 (11) "Retail merchandise" means one or more items of  
1-14 tangible personal property displayed, held, stored, or offered for  
1-15 sale in a retail establishment.

1-16 (12) "Retail theft detector" means an electrical,  
1-17 mechanical, electronic, or magnetic device used to prevent or  
1-18 detect shoplifting and includes any article or component part  
1-19 essential to the proper operation of the device.

1-20 (13) "Shielding or deactivation instrument" means any  
1-21 item or tool designed, made, or adapted for the purpose of  
1-22 preventing the detection of stolen merchandise by a retail theft  
1-23 detector. The term includes a metal-lined or foil-lined shopping  
1-24 bag and any item used to remove a security tag affixed to retail  
1-25 merchandise.

1-26 (14) "Fire exit alarm" has the meaning assigned by  
1-27 Section 793.001, Health and Safety Code.

1-28 SECTION 2. Section 31.03(f), Penal Code, is amended to read  
1-29 as follows:

1-30 (f) An offense described for purposes of punishment by  
1-31 Subsections (e)(1)-(6) is increased to the next higher category of  
1-32 offense if it is shown on the trial of the offense that:

1-33 (1) the actor was a public servant at the time of the  
1-34 offense and the property appropriated came into the actor's  
1-35 custody, possession, or control by virtue of his status as a public  
1-36 servant;

1-37 (2) the actor was in a contractual relationship with  
1-38 government at the time of the offense and the property appropriated  
1-39 came into the actor's custody, possession, or control by virtue of  
1-40 the contractual relationship;

1-41 (3) the owner of the property appropriated was at the  
1-42 time of the offense:

1-43 (A) an elderly individual; or

1-44 (B) a nonprofit organization; ~~[or]~~

1-45 (4) the actor was a Medicare provider in a contractual  
1-46 relationship with the federal government at the time of the offense  
1-47 and the property appropriated came into the actor's custody,  
1-48 possession, or control by virtue of the contractual relationship;  
1-49 or

1-50 (5) during the commission of the offense, the actor  
1-51 intentionally, knowingly, or recklessly:

1-52 (A) caused a fire exit alarm to sound or  
1-53 otherwise become activated;

1-54 (B) deactivated or otherwise prevented a fire  
1-55 exit alarm or retail theft detector from sounding; or

1-56 (C) used a shielding or deactivation instrument  
1-57 to prevent or attempt to prevent detection of the offense by a  
1-58 retail theft detector.

1-59 SECTION 3. Sections 31.16(b), (c), and (d), Penal Code, are  
1-60 amended to read as follows:

1-61 (b) A person commits an offense if the person intentionally  
1-62 conducts, promotes, or facilitates an activity in which the person  
1-63 receives, possesses, conceals, stores, barter, sells, or disposes  
1-64 of ~~[a total value of not less than \$1,500 of]~~:

2-1 (1) stolen retail merchandise; or  
 2-2 (2) merchandise explicitly represented to the person  
 2-3 as being stolen retail merchandise.

2-4 (c) An offense under this section is:

2-5 (1) a Class B misdemeanor if the total value of the  
 2-6 merchandise involved in the activity is less than \$50;

2-7 (2) a Class A misdemeanor if the total value of the  
 2-8 merchandise involved in the activity is \$50 or more but less than  
 2-9 \$500;

2-10 (3) a state jail felony if the total value of the  
 2-11 merchandise involved in the activity is \$500 [~~\$1,500~~] or more but  
 2-12 less than \$1,500 [~~\$20,000~~];

2-13 (4) ~~[(2)]~~ a felony of the third degree if the total  
 2-14 value of the merchandise involved in the activity is \$1,500  
 2-15 [~~\$20,000~~] or more but less than \$20,000 [~~\$100,000~~];

2-16 (5) ~~[(3)]~~ a felony of the second degree if the total  
 2-17 value of the merchandise involved in the activity is \$20,000  
 2-18 [~~\$100,000~~] or more but less than \$100,000 [~~\$200,000~~]; or

2-19 (6) ~~[(4)]~~ a felony of the first degree if the total  
 2-20 value of the merchandise involved in the activity is \$100,000  
 2-21 [~~\$200,000~~] or more.

2-22 (d) An offense described for purposes of punishment by  
 2-23 Subsections (c)(1)-(5) ~~[(c)(1)-(3)]~~ is increased to the next higher  
 2-24 category of offense if it is shown on the trial of the offense that:

2-25 (1) the person organized, supervised, financed, or  
 2-26 managed one or more other persons engaged in an activity described  
 2-27 by Subsection (b); or

2-28 (2) during the commission of the offense, a person  
 2-29 engaged in an activity described by Subsection (b) intentionally,  
 2-30 knowingly, or recklessly;

2-31 (A) caused a fire exit alarm to sound or  
 2-32 otherwise become activated;

2-33 (B) deactivated or otherwise prevented a fire  
 2-34 exit alarm or retail theft detector from sounding; or

2-35 (C) used a shielding or deactivation instrument  
 2-36 to prevent or attempt to prevent detection of the offense by a  
 2-37 retail theft detector.

2-38 SECTION 4. Sections 31.15(a) and 31.16(a) and (e), Penal  
 2-39 Code, are repealed.

2-40 SECTION 5. The changes in law made by this Act apply only to  
 2-41 an offense committed on or after the effective date of this Act. An  
 2-42 offense committed before the effective date of this Act is governed  
 2-43 by the law in effect when the offense was committed, and the former  
 2-44 law is continued in effect for that purpose. For purposes of this  
 2-45 section, an offense was committed before the effective date of this  
 2-46 Act if any element of the offense occurred before that date.

2-47 SECTION 6. This Act takes effect September 1, 2011.

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