
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 1381 **Hearing Date:** April 9, 2024
Author: McGuire
Version: March 20, 2024
Urgency: No **Fiscal:** No
Consultant: SC

Subject: *Property crimes: regional property crimes task force*

HISTORY

Source: Author

Prior Legislation: AB 1653 (Patterson), Ch. 105, Stats. 2022
AB 331 (Jones-Sawyer), Ch. 113, Stats. 2021
SB 985 (Portantino), held in Senate Public Safety, 2020
AB 94 (Comm. on Budget and Fiscal Rev.), Ch. 25, Stats. 2019
AB 1065 (Jones-Sawyer), Ch. 803, Stats. 2018

Support: Unknown

Opposition: None known

PURPOSE

The purpose of this bill is to include the sale of stolen goods as a property crime to be considered in the identification of geographic areas experiencing increased levels of property crimes for purposes of the property crimes task force.

Existing law, until January 1, 2026, requires the Department of Highway Patrol (CHP) to convene a regional property crimes task force to assist local law enforcement in counties identified by CHP as having elevated levels of property crime, including but not limited to organized retail theft, vehicle burglary and theft of vehicle parts and accessories. (Pen. Code, § 13899.)

Existing law, until January 1, 2026, states that the task force shall provide local law enforcement in the identified region with logistical support and other law enforcement resources, including, but not limited to, personnel and equipment, as determined to be appropriate by the Commissioner of CHP in consultation with task force members. (Pen. Code, § 13899.)

This bill includes the sale of stolen goods as property crime to be considered in the identification of geographic areas experiencing increased levels of property crime for purposes of the property crimes task force.

COMMENTS

1. Need for This Bill

According to the author of this bill:

The State of California has made more than \$100 million dollars of investments to help law enforcement tackle retail theft in our community, including \$85 million for local police, \$6 million for the California Highway Patrol, and \$10 million for prosecutors.

This year, the California State Senate has unveiled a bipartisan package, the Safer California Plan, aimed at cracking down on professional thieves, making it harder to sell stolen goods online, strengthening tools for law enforcement to make arrests and prosecute brazen criminal activity, and disrupting the cycle of crime that's caused by addiction.

Of the 14 bills authored by Democratic and Republican Senators aimed at addressing community-based crimes, there is a consistent theme in how we're tackling retail theft: curbing the sale of stolen goods.

SB 1381 specifically includes the sale of stolen goods in the mission of the regional property task force convened by the California Highway Patrol in coordination with the Department of Justice.

2. Background: Organized Retail Theft Law

Proposition 47, also known as the Safe Neighborhoods and Schools Act, was approved by the voters in November 2014. Proposition 47 reduced the penalties for certain drug and property crimes and directed that the resulting state savings be directed to mental health and substance abuse treatment, truancy and dropout prevention, and victims' services. Specifically, the initiative reduced the penalties for possession for personal use of most illegal drugs to misdemeanors. The initiative also reduced the penalties for theft, shoplifting, receiving stolen property, writing bad checks, and check forgery valued at \$950 or less from alternate felony-misdemeanors to straight misdemeanors. Among the crimes reduced to misdemeanors by Proposition 47 "are certain second degree burglaries where the defendant enters a commercial establishment with the intent to steal. Such offense is now characterized as shoplifting as defined in new [Penal Code] section 459.5." (*People v. Sherow* (2015) 239 Cal.App.4th 875, 879.) The measure limited the reduced penalties to offenders who do not have designated prior convictions for serious or violent felonies and who are not required to register as sex offenders. (See Legislative Analyst's Office analysis of Proposition 47 <<http://www.lao.ca.gov/ballot/2014/prop-47-110414.pdf>>.)

Prior to Proposition 47, most theft offenses had to meet the \$950 threshold in order to be charged as a felony. However, this threshold did not apply to certain offenses such as receiving stolen property, fraud and forgery which were punishable as either a felony or misdemeanor, also known as "wobblers." Also, in cases of retail theft, prosecutors had the option of charging a person with second degree burglary, which was punishable as a wobbler without having to reach the \$950 threshold. However, the provisions of Proposition 47 specifically required that the crime of "shoplifting" be punished as a misdemeanor. "Shoplifting" was defined by the initiative

as “entering a commercial establishment with intent to commit larceny while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed \$950.” (Pen. Code, § 459.5; Proposition 47, approved by California voters on Nov. 4, 2014.)

Because Proposition 47 reduced the number of crimes that can be punished as felonies, it reduced the number of people that could be sentenced to state prison. Proposition 47 requires that the estimated annual savings to the state resulting from Proposition 47’s sentencing changes be spent on mental health and substance use services, truancy and dropout prevention, and victim services. According to the Legislative Analyst’s Office, last year, the estimated state savings was about \$113 million. (<https://lao.ca.gov/ballot/2023/230474.pdf> [as of Mar. 27, 2024].)

After the passage of Proposition 47, opponents of the measure argued that because shoplifting had to be charged as a misdemeanor unless the amount stolen exceeds \$950, repeat offenders and those who work in concert with others in an organized retail theft ring were not being appropriately punished. (*Grocery stores are pushing California to be tougher on crime*, LA Times < <https://www.latimes.com/business/story/2020-09-16/california-grocery-industry-supports-tougher-crime-laws> > [as of Mar. 27, 2024].)

In 2018, a coalition of law enforcement and victims’ advocate groups started gathering signatures to put a new initiative on the ballot that would undo some of the changes made by Proposition 47. That measure, Proposition 20, would have allowed thefts of property worth \$250 or more to be punished as felonies and would have created the crime of serial theft and organized retail theft. Proposition 20 qualified to be placed on the ballot for the November 2020 general election and was ultimately rejected by California voters.

Also in 2018, the Legislature passed AB 1065 (Jones-Sawyer), Ch. 803, Stats. 2018, which created the crime of organized retail theft and allowed the crime to be punished as a wobbler, along with several other provisions related to the prosecution of the new crime and the creation of the CHP property crimes task force to assist local efforts to combat organized property crimes. That law contained a sunset date of January 1, 2021. Since the passage of the organized retail theft law, the sunset has been extended several times. (See AB 94 (Committee on Budget and Fiscal Rev.), Ch. 25, Stats. 2019 and AB 331 (Jones-Sawyer), Ch. 113, Stats. 2021.)

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3. CHP Task Force

The Regional Property Crimes Task Force was enacted by AB 1065 (Jones-Sawyer), Chapter 803, Statutes of 2018. That bill required CHP, until July 1, 2021, to coordinate with Department of Justice (DOJ) to convene a regional property crimes task force to identify geographic areas experiencing increased levels of property crimes and assist local law enforcement with resources, such as personnel and equipment. AB 331 (Jones-Sawyer), Chapter 113, Statutes of 2021, extended the operation of the regional property crimes task force until January 1, 2026.

According to CHP's website:

As reported by the National Retail Federation, organized retail theft accounts for nearly \$30 billion in economic loss per year. This loss is carried by retailers on several levels but is ultimately passed on to consumers through price inflation to offset economic loss. While the problem is most commonly associated with shoplifting, it extends well beyond into associated organized criminal activity. Commercial burglary, vehicle burglary, identity theft, credit card fraud, forgery, and fencing (selling or distribution of) stolen property are part of a bigger picture that finance ongoing criminal operations.

In response to AB 1065, the CHP, in consultation with the DOJ, developed a task force concept to work with allied agencies to combat organized retail theft. Three regional task forces, known as Organized Retail Crime Task Forces (ORCTF), were established by the CHP in three field Divisions with the greatest need for immediate action: Golden Gate Division (encompassing the greater Bay Area), Southern Division (encompassing the greater Los Angeles region), and Border Division (encompassing Orange and San Diego counties).

(See <https://www.chp.ca.gov/notify-chp/organized-retail-theft-program> [as of Mar. 27, 2024].)

As of August 2023, since the inception of the ORCTF, there have been more than 1,850 investigations into retail crimes in California that have resulted in over 1,250 arrests. One key to the ORCTF's success is the partnership with retailers, local law enforcement, and district attorneys, to effectively disrupt organized retail theft rings and prosecute organized retail crimes. (<https://www.chp.ca.gov/PressReleases/Pages/CHP-RAMPS-UP-EFFORTS-TO-DISRUPT-RETAIL-THEFT-RINGS-STATEWIDE.aspx> [as of Mar. 27, 2024].)

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4. Renewed Efforts to Combat Property Crimes

“The Homelessness, Drug Addition, and Theft Reduction Act” is a new initiative that would make specific changes to laws enacted by Proposition 47. Specifically, the initiative would reenact felony sentencing for petty theft with two prior thefts, allow multiple petty thefts to be aggregated to meet the \$950 threshold without a showing that the acts were connected, and create new enhancements depending on the amount of property stolen or damaged. The initiative would also increase penalties for certain drug crimes, mandate treatment for certain offenders, and require courts to warn people convicted of drug distribution that they may be charged with murder in the future if someone dies after taking an illegal drug provided by that person. ([https://ballotpedia.org/California_Drug_and_Theft_Crime_Penalties_and_Treatment-Mandated_Felonies_Initiative_\(2024\)](https://ballotpedia.org/California_Drug_and_Theft_Crime_Penalties_and_Treatment-Mandated_Felonies_Initiative_(2024)) [as of Mar. 27, 2024].) The initiative is supported by various law enforcement, public officials, district attorneys, and retail corporations. (*Id.*) To qualify for the November 2024 ballot, the law requires 546,651 valid signatures by June 27, 2024; as of January 25, 2024, the campaign had notified the Secretary of State that 25% of the required signatures had been collected. (*Id.*)

On January 9, 2024, Governor Newsom called for legislation to crack down on large scale property crimes committed by organized groups who profit from resale of stolen goods. (<https://www.gov.ca.gov/2024/01/09/property-crime-framework/> [as of Mar. 27, 2024].) The proposals include: 1) creating new penalties targeting those engaged in retail theft to resell, and those that resell the stolen property; 2) clarifying existing arrest authority so that police can arrest suspects of retail theft, even if they didn't witness the crime in progress; 3) clarifying that theft amounts may be aggregated to reach the grand theft threshold; 4) creating new penalties for professional auto burglary, increasing penalties for the possession of items stolen from a vehicle with intent to resell, regardless of whether the vehicle was locked; 5) eliminating the sunset date for the organized retail crime statute; and 6) increasing penalties for large-scale resellers of stolen goods.

Both houses of the Legislature have announced legislative packages that include parts of the Governor's proposals. (See <https://www.latimes.com/california/story/2024-02-26/senate-leaders-respond-to-states-fentanyl-crisis-and-organized-retail-theft-problem-with-new-legislation> [as of Mar. 27, 2024] and <https://www.latimes.com/california/story/2024-02-15/democratic-lawmakers-introduce-legislation-to-target-organized-retail-theft-online-resellers#:~:text=If%20passed%2C%20the%20bill%20would,if%20there%20were%20separate%20victims> [as of Mar. 27, 2024].)

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