

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 16

BY SENATOR OJEDA

[Introduced January 10, 2018; Referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-3A-3 of the Code of West Virginia, 1931, as amended, relating
2 to increasing the penalties for shoplifting offenses.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3A. SHOPLIFTING.

§61-3A-3. Penalties.

1 A person convicted of shoplifting shall be punished as follows:

2 (a) First offense conviction. -- Upon a first shoplifting conviction:

3 (1) When the value of the merchandise is less than or equal to \$500, the person is guilty
4 of a misdemeanor and, shall be fined not less than \$500 nor more than \$250 \$1,000.

5 (2) When the value of the merchandise exceeds \$500, the person is guilty of a
6 misdemeanor and, shall be fined not less than \$100 \$1,000 nor more than \$500 \$2,500, and such
7 fine shall not be suspended, or the person shall be confined in jail not more than sixty days, or
8 both.

9 (b) Second offense conviction. -- ~~Upon a second shoplifting conviction:~~

10 ~~(1) When the value of the merchandise is less than or equal to \$500, the person is guilty~~
11 ~~of a misdemeanor and, shall be fined not less than \$100 nor more than \$500, and such fine shall~~
12 ~~not be suspended, or the person shall be confined in jail not more than six months or both.~~

13 ~~(2) When the value of the merchandise exceeds \$500, the person is guilty of a~~
14 ~~misdemeanor and, shall be fined not less than \$500 and shall be confined in jail for not less than~~
15 ~~six months nor more than one year.~~

16 ~~(c) Third offense conviction.--~~ Upon a third second or subsequent shoplifting conviction,
17 regardless of the value of the merchandise, the person is guilty of a felony and, shall be fined not
18 less than \$500 ~~nor more than \$500~~ \$5,000, and shall be imprisoned in the ~~penitentiary~~ a
19 correctional facility for not less than one year nor more than ten years. At least one year shall
20 actually be spent in confinement and not subject to probation: *Provided*, That an order for home
21 detention by the court pursuant to the provisions of §62-11B-1 *et seq.* of this code may be used

22 as an alternative sentence to the incarceration required by this subsection.

23 ~~(d)~~ (c) Mandatory penalty. -- In addition to the fines and imprisonment imposed by this
24 section, in all cases of conviction for the offense of shoplifting, the court shall order the defendant
25 to pay a penalty to the mercantile establishment involved in the amount of \$50, or double the
26 value of the merchandise involved, whichever is higher. The mercantile establishment shall be
27 entitled to collect such mandatory penalty as in the case of a civil judgment. This penalty shall be
28 in addition to the mercantile establishment's rights to recover the stolen merchandise.

29 ~~(e)~~ (d) In determining the number of prior shoplifting convictions for purposes of imposing
30 punishment under this section, the court shall disregard all such convictions occurring more than
31 seven years prior to the shoplifting offense in question.

NOTE: The purpose of this bill is to increase the penalties for shoplifting.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.