

AMENDED IN SENATE JUNE 29, 2024

AMENDED IN SENATE JUNE 20, 2024

AMENDED IN ASSEMBLY APRIL 1, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 1802

Introduced by Assembly Member Jones-Sawyer
(~~Coauthors: Assembly Members Cervantes and Lackey~~)
(*Coauthor: Assembly Member Cervantes*)

January 8, 2024

An act to amend Section 490.4 of, and to repeal and add Section 13899.1 of, the Penal Code, relating to ~~crimes, and declaring the urgency thereof, to take effect immediately.~~ *crimes.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1802, as amended, Jones-Sawyer. Crimes: organized theft.

Existing law, until January 1, 2026, makes a person guilty of organized retail theft, punishable as a misdemeanor or a felony, as specified, if the person acts in concert with one or more persons to steal merchandise from one or more merchant's premises or online marketplaces with the intent to sell or return the merchandise for value, acts in concert with 2 or more persons to receive, purchase, or possess merchandise knowing or believing it to have been stolen, acts as an agent of another to steal merchandise from one or more merchant's premises or online marketplaces as part of an organized plan to commit theft, or recruits, coordinates, organizes, supervises, directs, manages, or finances another to undertake acts of theft.

This bill would extend the operation of the crime of organized retail theft indefinitely, ~~unless a specified initiative is approved by the voters.~~

indefinitely. By extending the operation of an existing crime, this bill would create a state-mandated local program.

Existing law, until January 1, 2026, requires the Department of the California Highway Patrol to coordinate with the Department of Justice 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.

The bill would extend the operation of the regional property crimes task force ~~indefinitely, unless a specified initiative is approved by the voters~~; *indefinitely*.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 490.4 of the Penal Code is amended to
- 2 read:
- 3 490.4. (a) A person who commits any of the following acts is
- 4 guilty of organized retail theft, and shall be punished pursuant to
- 5 subdivision (b):
- 6 (1) Acts in concert with one or more persons to steal
- 7 merchandise from one or more merchant's premises or online
- 8 marketplace with the intent to sell, exchange, or return the
- 9 merchandise for value.
- 10 (2) Acts in concert with two or more persons to receive,
- 11 purchase, or possess merchandise described in paragraph (1),
- 12 knowing or believing it to have been stolen.
- 13 (3) Acts as an agent of another individual or group of individuals
- 14 to steal merchandise from one or more merchant's premises or
- 15 online marketplaces as part of an organized plan to commit theft.
- 16 (4) Recruits, coordinates, organizes, supervises, directs,
- 17 manages, or finances another to undertake any of the acts described

1 in paragraph (1) or (2) or any other statute defining theft of
2 merchandise.

3 (b) Organized retail theft is punishable as follows:

4 (1) If violations of paragraph (1), (2), or (3) of subdivision (a)
5 are committed on two or more separate occasions within a
6 12-month period, and if the aggregated value of the merchandise
7 stolen, received, purchased, or possessed within that 12-month
8 period exceeds nine hundred fifty dollars (\$950), the offense is
9 punishable by imprisonment in a county jail not exceeding one
10 year or pursuant to subdivision (h) of Section 1170.

11 (2) Any other violation of paragraph (1), (2), or (3) of
12 subdivision (a) that is not described in paragraph (1) of this
13 subdivision is punishable by imprisonment in a county jail not
14 exceeding one year.

15 (3) A violation of paragraph (4) of subdivision (a) is punishable
16 by imprisonment in a county jail not exceeding one year or
17 pursuant to subdivision (h) of Section 1170.

18 (c) For the purpose of determining whether the defendant acted
19 in concert with another person or persons in any proceeding, the
20 trier of fact may consider any competent evidence, including, but
21 not limited to, all of the following:

22 (1) The defendant has previously acted in concert with another
23 person or persons in committing acts constituting theft, or any
24 related offense, including any conduct that occurred in counties
25 other than the county of the current offense, if relevant to
26 demonstrate a fact other than the defendant's disposition to commit
27 the act.

28 (2) That the defendant used or possessed an artifice, instrument,
29 container, device, or other article capable of facilitating the removal
30 of merchandise from a retail establishment without paying the
31 purchase price and use of the artifice, instrument, container, or
32 device or other article is part of an organized plan to commit theft.

33 (3) The property involved in the offense is of a type or quantity
34 that would not normally be purchased for personal use or
35 consumption and the property is intended for resale.

36 (d) In a prosecution under this section, the prosecutor shall not
37 be required to charge any other coparticipant of the organized retail
38 theft.

39 (e) Upon conviction of an offense under this section, the court
40 shall consider ordering, as a condition of probation, that the

1 defendant stay away from retail establishments with a reasonable
2 nexus to the crime committed.

3 ~~(f) If the proposed initiative measure titled “The Homelessness,~~
4 ~~Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)~~
5 ~~is approved by the voters at the statewide general election on~~
6 ~~November 5, 2024, this section shall become inoperative on~~
7 ~~January 1, 2026, and as of that date is repealed.~~

8 SEC. 2. Section 13899.1 of the Penal Code is repealed.

9 SEC. 3. ~~Section 13899.1 is added to the Penal Code, to read:~~

10 ~~13899.1. If the proposed initiative measure titled “The~~
11 ~~Homelessness, Drug Addiction, and Theft Reduction Act”~~
12 ~~(Initiative 23-0017A1) is approved by the voters at the statewide~~
13 ~~general election on November 5, 2024, this chapter shall become~~
14 ~~inoperative on January 1, 2026, and as of that date is repealed.~~

15 SEC. 4.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

25 SEC. 5. ~~This act is an urgency statute necessary for the~~
26 ~~immediate preservation of the public peace, health, or safety within~~
27 ~~the meaning of Article IV of the California Constitution and shall~~
28 ~~go into immediate effect. The facts constituting the necessity are:~~

29 ~~To address the increase in community-based crime and retail~~
30 ~~theft and to provide broader public safety, it is necessary that this~~
31 ~~act take effect immediately.~~