

AMENDED IN SENATE JUNE 15, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2287

Introduced by Assembly Member ~~Members~~ Lackey and Wilk

February 18, 2016

~~An act to amend Section 19596.3 of the Business and Professions Code, relating to horse racing. An act to amend Sections 182, 459.5, 487, and 490.2 of the Penal Code, relating to theft, and calling an election, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2287, as amended, ~~Wilk Lackey. Horse racing: satellite wagering: out-of-country thoroughbred races. Theft: shoplifting.~~

(1) The existing Safe Neighborhoods and Schools Act, enacted as an initiative statute by Proposition 47, as approved by the electors at the November 4, 2014, statewide general election, makes the theft of property that does not exceed \$950 in value petty theft, and makes that crime punishable as a misdemeanor, with certain exceptions. The initiative statute defines shoplifting as entering a commercial establishment with the intent to commit larceny while that establishment is open during regular hours, where the value of the property that is taken or intended to be taken does not exceed \$950. The initiative statute requires that shoplifting be punished as a misdemeanor.

The California Constitution authorizes the Legislature to amend or repeal an initiative statute by another statute that becomes effective when approved by the electors.

This bill would amend that initiative statute by making it grand theft, which is punishable as a misdemeanor or a felony, to commit shoplifting if the aggregate value of the property taken from a single commercial establishment is nine hundred fifty dollars (\$950) or more in any 180-day period.

(2) Existing law makes it a crime, punishable as a misdemeanor or a felony, for 2 or more persons to conspire to commit any crime.

This bill would specify that the crime of conspiracy occurs when 2 or more persons conspire to commit shoplifting.

(3) This bill would call a special election to be consolidated with the November 8, 2016, statewide general election. This bill would require the Secretary of State to submit the provisions of the bill that amend the initiative statute to the electors for their approval at the November 8, 2016, consolidated election.

This bill would declare that it is to take effect immediately as an act calling an election.

~~Existing law authorizes a thoroughbred racing association or fair to distribute the audiovisual signal and accept wagers on the results of out-of-country thoroughbred races during the calendar period the association or fair is conducting a race meeting, without the consent of the participating horsemen’s and horsewomen’s organization. These imported races are subject to specified conditions, including the condition that a thoroughbred racing association or fair may not accept wagers on out-of-country races commencing after 5:30 p.m., Pacific standard time, without the consent of the harness or quarter horse racing association that is then conducting a live racing meeting.~~

~~This bill would authorize a thoroughbred racing association or fair to accept wagers on out-of-country races up to 6:30 p.m., Pacific standard time, on the first Saturday in November, without the consent of the harness or quarter horse racing association that is then conducting a live racing meeting.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 182 of the Penal Code is amended to
- 2 read:
- 3 182. (a) (1) If two or more persons conspire:
- 4 (1)

1 (A) To commit any crime.

2 ~~(2)~~

3 (B) Falsely and maliciously to indict another for any crime, or
4 to procure another to be charged or arrested for any crime.

5 ~~(3)~~

6 (C) Falsely to move or maintain any suit, action, or proceeding.

7 ~~(4)~~

8 (D) To cheat and defraud any person of any property, by any
9 means which are in themselves criminal, or to obtain money or
10 property by false pretenses or by false promises with fraudulent
11 intent not to perform those promises.

12 ~~(5)~~

13 (E) To commit any act injurious to the public health, to public
14 morals, or to pervert or obstruct justice, or the due administration
15 of the laws.

16 ~~(6)~~

17 (F) To commit any crime against the person of the President or
18 Vice President of the United States, the Governor of any state or
19 territory, any United States justice or judge, or the secretary of any
20 of the executive departments of the United States.

21 (G) *To commit shoplifting in violation of Section 459.5.*

22 ~~They~~

23 (2) *They* are punishable as follows:

24 ~~When~~

25 (A) *When* they conspire to commit any crime against the person
26 of any official specified in *subparagraph (F) of paragraph (6); (1)*
27 *they* are guilty of a felony and are punishable by imprisonment
28 pursuant to subdivision (h) of Section 1170 for five, seven, or nine
29 years.

30 ~~When~~

31 (B) *When* they conspire to commit any other felony, they shall
32 be punishable in the same manner and to the same extent as is
33 provided for the punishment of that felony. If the felony is one for
34 which different punishments are prescribed for different degrees,
35 the jury or court which finds the defendant guilty thereof shall
36 determine the degree of the felony the defendant conspired to
37 commit. If the degree is not so determined, the punishment for
38 conspiracy to commit the felony shall be that prescribed for the
39 lesser degree, except in the case of conspiracy to commit murder,

1 in which case the punishment shall be that prescribed for murder
2 in the first degree.

3 ~~¶~~

4 (C) If the felony is conspiracy to commit two or more felonies
5 which have different punishments and the commission of those
6 felonies constitute but one offense of conspiracy, the penalty shall
7 be that prescribed for the felony which has the greater maximum
8 term.

9 ~~When~~

10 (D) When they conspire to do an act described in *subparagraph*
11 (D) of paragraph (4); (I) they shall be punishable by imprisonment
12 in a county jail for not more than one year, or by imprisonment
13 pursuant to subdivision (h) of Section 1170, or by a fine not
14 exceeding ten thousand dollars (\$10,000), or by both that
15 imprisonment and fine.

16 ~~When~~

17 (E) When they conspire to do any of the other acts described in
18 this section, they shall be punishable by imprisonment in a county
19 jail for not more than one year, or pursuant to subdivision (h) of
20 Section 1170, or by a fine not exceeding ten thousand dollars
21 (\$10,000), or by both that imprisonment and fine. When they
22 receive a felony conviction for conspiring to commit identity theft,
23 as defined in Section 530.5, the court may impose a fine of up to
24 twenty-five thousand dollars (\$25,000).

25 ~~All~~

26 (3) All cases of conspiracy may be prosecuted and tried in the
27 superior court of any county in which any overt act tending to
28 effect the conspiracy ~~shall be~~ was done.

29 (b) Upon a trial for conspiracy, in a case where an overt act is
30 necessary to constitute the offense, the defendant cannot be
31 convicted unless one or more overt acts are expressly alleged in
32 the indictment or information, nor unless one of the acts alleged
33 is proved; but other overt acts not alleged may be given in
34 evidence.

35 SEC. 2. Section 459.5 of the Penal Code is amended to read:

36 459.5. (a) Notwithstanding Section 459, shoplifting is defined
37 as entering a commercial establishment with intent to commit
38 larceny while that establishment is open during regular business
39 hours, where the value of the property that is taken or intended to
40 be taken does not exceed nine hundred fifty dollars (\$950). Any

1 other entry into a commercial establishment with intent to commit
2 larceny is burglary. ~~Shoplifting~~ *Except as provided in paragraph*
3 *(4) of subdivision (b) of Section 487, shoplifting shall be punished*
4 *as a misdemeanor, except that a person with one or more prior*
5 *convictions for an offense specified in clause (iv) of subparagraph*
6 *(C) of paragraph (2) of subdivision (e) of Section 667 or for an*
7 *offense requiring registration pursuant to subdivision (c) of Section*
8 *290 may be punished pursuant to subdivision (h) of Section 1170.*

9 (b) ~~Any~~ *Except as provided in paragraph (4) of subdivision (b)*
10 *of Section 487, an act of shoplifting as defined in subdivision (a)*
11 *shall be charged as shoplifting. No person who is charged with*
12 *shoplifting may also be charged with burglary or theft of the same*
13 *property.*

14 *SEC. 3. Section 487 of the Penal Code is amended to read:*

15 487. Grand theft is theft committed in any of the following
16 cases:

17 (a) When the money, labor, or real or personal property taken
18 is of a value exceeding nine hundred fifty dollars (\$950), except
19 as provided in subdivision (b).

20 (b) Notwithstanding subdivision (a), grand theft is committed
21 in any of the following cases:

22 (1) (A) When domestic fowls, avocados, olives, citrus or
23 deciduous fruits, other fruits, vegetables, nuts, artichokes, or other
24 farm crops are taken of a value exceeding two hundred fifty dollars
25 (\$250).

26 (B) For the purposes of establishing that the value of domestic
27 fowls, avocados, olives, citrus or deciduous fruits, other fruits,
28 vegetables, nuts, artichokes, or other farm crops under this
29 paragraph exceeds two hundred fifty dollars (\$250), that value
30 may be shown by the presentation of credible evidence which
31 establishes that on the day of the theft domestic fowls, avocados,
32 olives, citrus or deciduous fruits, other fruits, vegetables, nuts,
33 artichokes, or other farm crops of the same variety and weight
34 exceeded two hundred fifty dollars (\$250) in wholesale value.

35 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
36 other aquacultural products are taken from a commercial or
37 research operation which is producing that product, of a value
38 exceeding two hundred fifty dollars (\$250).

39 (3) Where the money, labor, or real or personal property is taken
40 by a servant, agent, or employee from his or her principal or

1 employer and aggregates nine hundred fifty dollars (\$950) or more
2 in any 12 consecutive month period.

3 (4) *Where shoplifting, as defined in Section 459.5, involves*
4 *larceny and the aggregate value of the property taken from a single*
5 *commercial establishment is nine hundred fifty dollars (\$950) or*
6 *more in any 180-day period.*

7 (c) When the property is taken from the person of another.

8 (d) When the property taken is any of the following:

9 (1) An automobile.

10 (2) A firearm.

11 *SEC. 4. Section 490.2 of the Penal Code is amended to read:*

12 *490.2. (a) ~~Notwithstanding~~ Except as specified in paragraph*
13 *(4) of subdivision (b) of Section 487, notwithstanding the remainder*
14 *of Section 487 or any other provision of law defining grand theft,*
15 *obtaining any property by theft where the value of the money,*
16 *labor, real or personal property taken does not exceed nine hundred*
17 *fifty dollars (\$950) shall be considered petty theft and shall be*
18 *punished as a misdemeanor, except that such person may instead*
19 *be punished pursuant to subdivision (h) of Section 1170 if that*
20 *person has one or more prior convictions for an offense specified*
21 *in clause (iv) of subparagraph (C) of paragraph (2) of subdivision*
22 *(e) of Section 667 or for an offense requiring registration pursuant*
23 *to subdivision (c) of Section 290.*

24 (b) This section shall not be applicable to any theft that may be
25 charged as an infraction pursuant to any other provision of law.

26 *SEC. 5. (a) Sections 2, 3, and 4 of this act amend the Safe*
27 *Neighborhoods and Schools Act, Proposition 47, an initiative*
28 *statute, and shall become effective only when submitted to and*
29 *approved by the voters at a statewide election.*

30 (b) *A special election is hereby called, to be held throughout*
31 *the state on November 8, 2016, for approval by the voters of*
32 *Sections 2, 3, and 4 of this act. The special election shall be*
33 *consolidated with the statewide general election to be held on that*
34 *date. The consolidated election shall be held and conducted in all*
35 *respects as if there were only one election, and only one form of*
36 *ballot shall be used.*

37 (c) *Notwithstanding the requirements of Sections 9040, 9043,*
38 *9044, 9061, 9082, and 9094 of the Elections Code, or any other*
39 *law, the Secretary of State shall submit Sections 2, 3, and 4 of this*

1 act to the voters for their approval at the November 8, 2016,
2 statewide general election.

3 *SEC. 6. This act calls an election within the meaning of Article*
4 *IV of the Constitution and shall go into immediate effect.*

5 SECTION 1. Section 19596.3 of the Business and Professions
6 Code is amended to read:

7 19596.3. Notwithstanding any other law, a thoroughbred racing
8 association or fair may distribute the audiovisual signal and accept
9 wagers on the results of out-of-country thoroughbred races during
10 the calendar period the association or fair is conducting a race
11 meeting, without the consent of the organization that represents
12 horsemen and horsewomen participating in the race meeting.
13 Out-of-country races shall be imported under the following
14 conditions:

15 (a) A thoroughbred racing association or fair shall conduct the
16 wagering in accordance with the applicable provisions of Sections
17 19601, 19616, 19616.1, and 19616.2.

18 (b) A thoroughbred racing association or fair shall not accept
19 wagers pursuant to this section on out-of-country races
20 commencing after 5:30 p.m., Pacific standard time, except for the
21 first Saturday in November when this time shall be 6:30 p.m.,
22 Pacific standard time, without the consent of the harness or quarter
23 horse racing association that is then conducting a live racing
24 meeting.

25 (c) A thoroughbred racing association or fair distributing the
26 audiovisual signal and accepting wagers on the results of
27 out-of-country races pursuant to this section may execute an
28 agreement with an association that conducts thoroughbred races
29 in the southern zone to allow that association to distribute the signal
30 and accept wagers on the results of out-of-country thoroughbred
31 races, except that the license fees paid to the state shall be double
32 the amount paid by a quarter horse racing association specified in
33 subdivision (b) of Section 19605.7.