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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 79 - 219

and insert:

~~4. A will, codicil, or other testamentary instrument.~~

4.5. A firearm.

~~5.6.~~ A motor vehicle, except as provided in paragraph (a).

~~6.7.~~ Any commercially farmed animal, including any animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture



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11 species raised at a certified aquaculture facility. If the
12 property stolen is a commercially farmed animal, including an
13 animal of the equine, avian, bovine, or swine class or other
14 grazing animal; a bee colony of a registered beekeeper; or an
15 aquaculture species raised at a certified aquaculture facility,
16 a \$10,000 fine shall be imposed.

17 ~~8. Any fire extinguisher.~~

18 ~~7.9.~~ Any amount of citrus fruit consisting of 2,000 or more
19 individual pieces of fruit.

20 ~~10. Taken from a designated construction site identified by~~
21 ~~the posting of a sign as provided for in s. 810.09(2)(d).~~

22 ~~11. Any stop sign.~~

23 ~~8.12.~~ Anhydrous ammonia.

24 ~~9.13.~~ Any amount of a controlled substance as defined in s.
25 893.02. Notwithstanding any other law, separate judgments and
26 sentences for theft of a controlled substance under this
27 subparagraph and for any applicable possession of controlled
28 substance offense under s. 893.13 or trafficking in controlled
29 substance offense under s. 893.135 may be imposed when all such
30 offenses involve the same amount or amounts of a controlled
31 substance.

32

33 However, if the property is stolen within a county that is
34 subject to a state of emergency declared by the Governor under
35 chapter 252, the property is stolen after the declaration of
36 emergency is made, and the perpetration of the theft is
37 facilitated by conditions arising from the emergency, the
38 offender commits a felony of the second degree, punishable as
39 provided in s. 775.082, s. 775.083, or s. 775.084, if the



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40 property is valued at \$5,000 or more, but less than \$10,000, as
41 provided under subparagraph 2., or if the property is valued at
42 \$10,000 or more, but less than \$20,000, as provided under
43 subparagraph 3. As used in this paragraph, the term "conditions
44 arising from the emergency" means civil unrest, power outages,
45 curfews, voluntary or mandatory evacuations, or a reduction in
46 the presence of or the response time for first responders or
47 homeland security personnel. For purposes of sentencing under
48 chapter 921, a felony offense that is reclassified under this
49 paragraph is ranked one level above the ranking under s.
50 921.0022 or s. 921.0023 of the offense committed.

51 (d) It is grand theft of the third degree and a felony of
52 the third degree, punishable as provided in s. 775.082, s.
53 775.083, or s. 775.084, if the property stolen is valued at
54 \$1,500 ~~\$100~~ or more, but less than \$5,000 ~~\$300~~, and is taken
55 from a dwelling as defined in s. 810.011(2) or from the
56 unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

57 (e) Except as provided in paragraph (d), if the property
58 stolen is valued at \$500 ~~\$100~~ or more, but less than \$1,500
59 ~~\$300~~, the offender commits petit theft of the first degree,
60 punishable as a misdemeanor of the first degree, as provided in
61 s. 775.082 or s. 775.083.

62 (3) (a) Theft of any property not specified in subsection
63 (2) is petit theft of the second degree and a misdemeanor of the
64 second degree, punishable as provided in s. 775.082 or s.
65 775.083, and as provided in subsection (5), as applicable.

66 (b) A person who commits petit theft and who has previously
67 been convicted of any theft commits a misdemeanor of the first
68 degree, punishable as provided in s. 775.082 or s. 775.083.



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69 (c) A person who commits petit theft in the first degree
70 and who has previously been convicted two or more times as an
71 adult of any theft commits a felony of the third degree,
72 punishable as provided in s. 775.082 or s. 775.083 if the third
73 or subsequent petit theft offense occurred within 3 years after
74 the expiration of his or her sentence for the most recent theft
75 conviction.

76 (d)1. Every judgment of guilty or not guilty of a petit
77 theft shall be in writing, signed by the judge, and recorded by
78 the clerk of the circuit court. The judge shall cause to be
79 affixed to every such written judgment of guilty of petit theft,
80 in open court and in the presence of such judge, the
81 fingerprints of the defendant against whom such judgment is
82 rendered. Such fingerprints shall be affixed beneath the judge's
83 signature to such judgment. Beneath such fingerprints shall be
84 appended a certificate to the following effect:

85
86 "I hereby certify that the above and foregoing fingerprints
87 on this judgment are the fingerprints of the defendant,,
88 and that they were placed thereon by said defendant in my
89 presence, in open court, this the day of,
90 ... (year)...."

91
92 Such certificate shall be signed by the judge, whose signature
93 thereto shall be followed by the word "Judge."

94 2. Any such written judgment of guilty of a petit theft, or
95 a certified copy thereof, is admissible in evidence in the
96 courts of this state as prima facie evidence that the
97 fingerprints appearing thereon and certified by the judge are



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98 the fingerprints of the defendant against whom such judgment of
99 guilty of a petit theft was rendered.

100 (7) For purposes of determining the value of property taken
101 in violation of this section, the value must be based on the
102 fair market value of the property at the time the taking
103 occurred.

104 (8) The Office of Program Policy Analysis and Government
105 Accountability shall, every 5 years, perform a study of the
106 appropriateness of the threshold amounts included in this
107 section. The study's scope shall include, but need not be
108 limited to, the crime trends related to theft offenses, the
109 theft threshold amounts of other states in effect at the time of
110 the study, fiscal impact of any modifications to Florida's
111 threshold amounts, and economic factors, such as inflation. The
112 report shall include options for amending the threshold amounts
113 if the study finds that such amounts are inconsistent with
114 current trends. In conducting the study, OPPAGA shall consult
115 with the Office of Economic and Demographic Research in addition
116 to other interested entities. OPPAGA shall submit a report to
117 the Governor, President of the Senate, and Speaker of the House
118 of Representatives by September 1 of each fifth year.

119 Section 2. Paragraph (n) of subsection (1) and subsection
120 (10) are added to section 812.015, Florida Statutes, and
121 subsections (8) and (9) of that section are amended, to read:

122 812.015 Retail and farm theft; transit fare evasion;
123 mandatory fine; alternative punishment; detention and arrest;
124 exemption from liability for false arrest; resisting arrest;
125 penalties.—

126 (1) As used in this section:



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127 (n) "Value" means the fair market value of the property
128 taken in violation of this section at the time the taking
129 occurred.

130 (8) Except as provided in subsection (9), a person who
131 commits retail theft commits a felony of the third degree,
132 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
133 if the property stolen is valued at \$1,500 ~~\$300~~ or more, and the
134 person:

135 (a) Individually, or in concert with one or more other
136 persons, coordinates the activities of one or more individuals
137 in committing the offense, in which case the amount of each
138 individual theft is aggregated to determine the value of the
139 property stolen;

140 (b) Commits theft from more than one location within a 48-
141 hour period, in which case the amount of each individual theft
142 is aggregated to determine the value of the property stolen;

143 (c) Acts in concert with one or more other individuals
144 within one or more establishments to distract the merchant,
145 merchant's employee, or law enforcement officer in order to
146 carry out the offense, or acts in other ways to coordinate
147 efforts to carry out the offense; or

148 (d) Commits the offense through the purchase of merchandise
149 in a package or box that contains merchandise other than, or in
150 addition to, the merchandise purported to be contained in the
151 package or box.

152 (9) A person commits a felony of the second degree,
153 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
154 if the person:

155 (a) Violates subsection (8) as an adult and has previously



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156 been convicted of a violation of subsection (8) within 3 years
157 after the expiration of his or her sentence for the conviction;
158 or

159 (b) Individually, or in concert with one or more other
160 persons, coordinates the activities of one or more persons in
161 committing the offense of retail theft where the stolen property
162 has a value in excess of \$3,000.

163 (10) The Office of Program Policy Analysis and Government
164 Accountability shall, every 5 years, perform a study of the
165 appropriateness of the threshold amounts included in this
166 section. The study's scope shall include, but need not be
167 limited to, the crime trends related to theft offenses, the
168 theft threshold amounts of other states in effect at the time of
169 the study, fiscal impact of any modifications to Florida's
170 threshold amounts, and economic factors, such as inflation. The
171 report shall include options for amending the threshold amounts
172 if the study finds that such amounts are inconsistent with
173 current trends. In conducting the study, OPPAGA shall consult
174 with the Office of Economic and Demographic Research in addition
175 to other interested entities. OPPAGA shall submit a report to
176 the Governor, President of the Senate, and Speaker of the House
177 of Representatives by September 1 of each fifth year.

178
179 ===== T I T L E A M E N D M E N T =====

180 And the title is amended as follows:

181 Delete lines 7 - 19

182 and insert:

183 market value at the time of the taking; requiring the
184 Office of Program Policy Analysis and Government



185 Accountability to conduct a study of the threshold
186 amounts every five years; providing the scope of the
187 study; requiring the OPPAGA to make recommendations,
188 if appropriate; requiring the OPPAGA to consult with
189 the Office of Economic and Demographic Research and
190 other interested entities; requiring the OPPAGA to
191 submit a report to the Governor, President of the
192 Senate, and Speaker of the House of Representatives by
193 September 1 of every fifth year; amending s. 812.015,
194 F.S.; defining the term "value"; increasing threshold
195 amounts for a certain theft offense; revising the
196 circumstances under which an offense of retail theft
197 constitutes a felony of the second degree; requiring
198 the OPPAGA to conduct a study of the threshold amounts
199 every five years; providing the scope of the study;
200 requiring the OPPAGA to make recommendations, if
201 appropriate; requiring the OPPAGA to consult with the
202 EDR and other interested entities; requiring the
203 OPPAGA to submit a report to the Governor, President
204 of the Senate, and Speaker of the House of
205 Representatives by September 1 of every fifth year;
206 amending s. 921.0022, F.S.;