

SUBJECT: Aligning criminal penalties for property theft and tampering with price tag

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Martinez Fischer, Darby, Beckley, Landgraf, Moody, Parker

0 nays

2 absent — Patterson, Shine

1 present not voting — Collier

WITNESSES: For — Kathleen Mitchell, Just Liberty; (*Registered, but did not testify:*
Lauren Oertel, Austin Justice Coalition; Douglas Smith, Texas Criminal
Justice Coalition)

Against — None

BACKGROUND: Under Penal Code sec. 32.47, it is class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to tamper with, remove, or substitute certain writing with the intent to defraud another. A writing for these purposes includes price tags, universal product codes, labels, or other markings on goods.

Property theft is an offense under Penal Code sec. 31.03, with penalties ranging from a class C misdemeanor (maximum fine of \$500) to a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) depending on the value of the property.

Concerns have been raised regarding the discrepancy between the penalty for fraudulent tampering or substitution of writing attached to tangible property and the penalty for theft of that same property.

DIGEST: HB 427 would create a schedule of penalties paralleling those for property theft for the offense of tampering with, removing, or substituting a price tag, if the offender did so for the purpose of obtaining property for sale at

a lesser price indicated by a separate writing.

The offense would be:

- a class C misdemeanor (maximum fine of \$500) if the difference in value between the writings was less than \$100;
- a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the difference was \$100 to \$750;
- a class A misdemeanor if the difference was \$750 to \$2,500;
- a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if the difference was \$2,500 to \$30,000;
- a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the difference was \$30,000 to \$150,000;
- a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the difference was \$150,000 to \$300,000;
- a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the difference was \$300,000 or more.

The bill would take effect September 1, 2019, and would apply only to an offense committed on or after the effective date of the bill.