



Retail Theft Package and Proposition 36

Recently, Gov. Gavin Newsom signed a 10-bill package addressing retail theft. The table below compares Proposition 36 — the ballot initiative sponsored by the District Attorneys that would make changes to Proposition 47 — with the retail theft package signed by the Governor.

PROVISION	PROPOSITION 36	LEGISLATIVE PACKAGE (NO AMENDMENTS TO PROPOSITION 47)	RELEVANT BILL NUMBERS
Fentanyl			
Fentanyl possession with firearm	Adds to list of crimes with penalties of 2, 3, or 4 years in prison.	Not in package.	
Fentanyl increasing penalties	Increases penalties from 2 to 20 years depending on the amount.	Not in package.	
Treatment mandated felony	Creates a new crime for hard drug possession with tiered penalties up to 25 years.	Not in package.	
Retail Theft			
Aggregation	Provides that any case involving one or more acts of theft or shoplifting may be aggregated into a single count or charge.	Not in package.	
Auto theft	Does not address this issue.	Closes the loophole under existing law regarding locked cars.	SB 905 (Wiener)
Cargo theft	Does not address this issue.	Adds cargo theft to the Regional Property Crime Task Force operated by the CHP.	AB 1972 (Alanis)
Fencing	Does not address this issue.	Expands existing law for online marketplaces to report high-volume sellers to law enforcement.	SB 1144 (Skinner)
Fires	Does not address this issue.	Makes it a factor in aggravation if an offense	SB 1242 (Min)

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		was carried out in a merchant's premises to commit retail theft.	
Increased penalties	Increases penalty enhancements for property crimes for up to 4 years and allows the court to impose enhancements with another single count.	Increases penalty enhancements for resale of property or stolen property in the commission of a felony for up to 4 years and allows the court to impose enhancements with another single count. No changes to Proposition 47.	AB 1960 (Rivas)*; SB 1416 (Newman)
Multi-jurisdictional offenses	Does not address this issue.	Allows local jurisdictions to file charges that deal with offenses across county lines.	AB 1779 (Irwin)
Organized retail theft	Several provisions related to acting in concert and increasing penalties for organized retail theft. However, it does not address the sunset date of the statute. (Does not amend the same code section as the legislative bills).	Removes the sunset clause on the organized retail theft statute.	AB 1802 (Jones-Sawyer); SB 982 (Wahab)
Police ability to arrest	Does not address this issue.	Provides that under certain circumstances police can arrest without a warrant.	AB 2943 (Zbur)
Probation	Does not address this issue.	Provides that the term of probation for shoplifting or petty theft would be two years.	AB 2943 (Zbur)
Repeat offenders	An offender with two prior convictions of petty theft or shoplifting can be	Creates a new crime for shoplifting which can be charged as a felony but does not change the threshold amount of \$950.	AB 2943 (Zbur)

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	charged with a felony regardless of value. Amends Proposition 47.		
Restraining orders	Does not address this issue.	Creates the Retail Theft Restraining Order for repeated attempts of shoplifting which can be requested by city attorneys, retailers, or district attorneys.	AB 3209 (Berman)
Retailers – nuisance action	Does not address this issue.	Prohibits local government and law enforcement from threatening or filing nuisance complaints against retailers for reporting crime.	AB 2943 (Zbur)

*AB 1960 (Rivas) is currently pending on the Governor's desk.