

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

ENROLLED

House Bill 4998

BY DELEGATES KIRBY, NESTOR, BROOKS, HORNBUCKLE,

AND E. PRITT

[Passed March 7, 2024; in effect ninety days from
passage.]

1 AN ACT to amend and reenact §61-3A-3 of the Code of West Virginia, 1931, as amended, relating
2 to modifying the penalties for third offense conviction of shoplifting; eliminating
3 requirement for third offense conviction that the person actually serve one year of
4 confinement or in the alternative home confinement; directing courts to order substance
5 abuse evaluation upon a finding that the defendant is a substance abuser; authorizing
6 directed treatment; and specifying method to determine the number of convictions a
7 defendant has.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3A. SHOPLIFTING.

§61-3A-3. Penalties.

1 A person convicted of shoplifting shall be punished as follows:

2 (a) *First offense conviction.* — Upon a first shoplifting conviction:

3 (1) When the value of the merchandise is less than or equal to \$500, the person is guilty
4 of a misdemeanor and, shall be fined not more than \$250.

5 (2) When the value of the merchandise exceeds \$500, the person is guilty of a
6 misdemeanor and, shall be fined not less than \$100 nor more than \$500, and such fine shall not
7 be suspended, or the person shall be confined in jail not more than 60 days, or both.

8 (b) *Second offense conviction.* — Upon a second shoplifting conviction:

9 (1) When the value of the merchandise is less than or equal to \$500, the person is guilty
10 of a misdemeanor and, shall be fined not less than \$100 nor more than \$500, and such fine shall
11 not be suspended, or the person shall be confined in jail not more than six months or both.

12 (2) When the value of the merchandise exceeds \$500, the person is guilty of a
13 misdemeanor and, shall be fined not less than \$500 and shall be confined in jail for not less than
14 six months nor more than one year.

15 (c) *Third offense conviction.* — Upon a third or subsequent shoplifting conviction,
16 regardless of the value of the merchandise, the person is guilty of a felony and, shall be fined not

17 less than \$500 nor more than \$5000, and shall be imprisoned in a state correctional facility for
18 not less than one year nor more than 10 years. If the court finds that probable cause exists that
19 a person convicted of third or subsequent offense was abusing drugs or alcohol at the time of his
20 or her arrest, it shall order an evaluation of the defendant to determine whether he or she has a
21 substance use disorder. Upon a finding by the Court that the person convicted of a third or
22 subsequent offense suffers from a substance use disorder, the Court may order that the defendant
23 undergo treatment for the substance use disorder as part of his or her sentence.

24 (d) *Mandatory penalty.* — In addition to the fines and imprisonment imposed by this
25 section, in all cases of conviction for the offense of shoplifting, the court shall order the defendant
26 to pay a penalty to the mercantile establishment involved in the amount of \$50, or double the
27 value of the merchandise involved, whichever is higher. The mercantile establishment shall be
28 entitled to collect such mandatory penalty as in the case of a civil judgment. This penalty shall be
29 in addition to the mercantile establishment's rights to recover the stolen merchandise.

30 (e) In determining the number of prior shoplifting convictions a defendant has, the court
31 shall count convictions in other jurisdictions if that jurisdiction's offense has the same essential
32 elements of this section, disregarding the value of the property shoplifted: *Provided*, That
33 regardless of the jurisdiction, the court shall not count prior convictions that occurred more than
34 seven years prior to the date of the third or subsequent offense.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2024.

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Governor