



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature  
Second Regular Session

Senate: MAPS DP 5-0-2-0 | 3<sup>rd</sup> Read DP 22-6-2-0-0

House: JUD DP 6-3-0-0 | 3<sup>rd</sup> Read DP 42-17-0-0-1

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## **SB 1412: shoplifting; prior offenses**

**Sponsor: Senator Gowan, LD 19**

**Vetoed**

### **Overview**

For purposes of the enhanced class 4 felony sentencing classification that applies to a person who commits shoplifting and has previously committed or been convicted of certain outlined offenses within the past five years, requires that any time that a person spent on absconder status while on probation, on escape status or incarcerated be excluded from the five-year calculation.

### **History**

Under [A.R.S. § 13-1805](#), a person commits *shoplifting* if, while in an establishment in which merchandise is displayed for sale, the person knowingly obtains such goods of another with the intent to deprive that person of such goods by doing any of the following:

- 1) removing any of the good from the immediate display or from any other place within the establishment without paying the purchase price;
- 2) charging the purchase price of the goods to a fictitious person or any person without that person's authority;
- 3) paying less than the purchase price of the goods by some trick or artifice such as altering, removing, substituting or otherwise disfiguring any liable, price tag or marking;
- 4) transferring the good from one container to another;
- 5) concealment.

Shoplifting can generally carry a sentencing classification ranging from a class 5 felony to a class 1 misdemeanor depending on the value of the property involved in the offense or other circumstances (such as whether the offense was committed to further or assist any criminal street gang or criminal syndicate).

However, under [A.R.S. § 13-1805](#), subsection I, shoplifting can become a class 4 felony if a person commits shoplifting and has previously committed or been convicted within the past five years of two or more offenses involving burglary, shoplifting, robbery, organized retail theft or theft.

A class 4 felony carries a presumptive imprisonment sentence of 2.5 years for a first-time felony offender, with a possible maximum sentence of 15 years for aggravated offenses committed by a category 3 repetitive offender (A.R.S. §§ [13-702](#) and [13-703](#)). The fine for a felony may be up to \$150,000 ([A.R.S. § 13-801](#)).

The *culpable mental states*, including *intentionally* (or *with intent to*) and *knowingly*, are defined in [A.R.S. § 13-105](#). The term *obtain* is defined in [A.R.S. § 13-1801](#).

**Provisions**

1. Mandates that the following periods of time be excluded when calculating whether a person has previously committed or been convicted within the past five years of two or more of the offenses listed in [A.R.S. § 13-1805](#), subsection I:
  - a) any time the person spent on absconder status while on probation;
  - b) any time the person spent on escape status;
  - c) any time the person spent incarcerated. (Sec. 1)
2. For purposes of this new provision, defines *escape* as either of the following:
  - a) a departure from custody or from a juvenile secure care facility, a juvenile detention facility or an adult correctional facility in which a person is held or detained, with knowledge that the departure is not allowed, or the failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period;
  - b) a failure to report as ordered to custody or detention to begin serving a term of incarceration. (Sec. 1)
3. Makes technical changes. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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