WEST VIRGINIA CODE: §61-3A-3

§61-3A-3. Penalties.

A person convicted of shoplifting shall be punished as follows:

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

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

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

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

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

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

(c) Third offense conviction. — Upon a third or subsequent shoplifting conviction, regardless of the value of the merchandise, the person is guilty of a felony and, shall be fined not less than $500 nor more than $5000, and shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years. If the court finds that probable cause exists that a person convicted of third or subsequent offense was abusing drugs or alcohol at the time of his or her arrest, it shall order an evaluation of the defendant to determine whether he or she has a substance use disorder. Upon a finding by the Court that the person convicted of a third or subsequent offense suffers from a substance use disorder, the Court may order that the defendant undergo treatment for the substance use disorder as part of his or her sentence.

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

(e) In determining the number of prior shoplifting convictions a defendant has, the court

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shall count convictions in other jurisdictions if that jurisdiction's offense has the same essential elements of this section, disregarding the value of the property shoplifted: *Provided*, That regardless of the jurisdiction, the court shall not count prior convictions that occurred more than seven years prior to the date of the third or subsequent offense.

WV Legislature