



Janet T. Mills
GOVERNOR

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AUGUSTA, MAINE
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April 9, 2024

The 131st Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 131st Legislature:

By the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing L.D. 2246, *An Act to Establish a Minimum Value Threshold for the Class C Crime of Theft by a Repeat Offender*.

L.D. 2246 would substantially amend Maine's Theft statute for the first time since 2002. The current statute sets out tiers based on the value of the theft and allows – but does not require – any third theft offense to be charged as a felony. L.D. 2246 would allow the third or subsequent theft to be charged as a felony only if the value of the theft is \$500 or more.

Last fall, the Department of Public Safety released its annual “Crime in Maine - 2022” report that catalogued incidents reported to police departments across the state for the year. One note of concern in that report was the uptick from 2021 to 2022 in the number of reported thefts, particularly those categorized as “shoplifting” and “other larcenies”. A December 2023 report by *Forbes* on the “*Impact of Theft on Small Businesses and States*” ranked Maine the third worst in the nation for the prevalence and impact of retail theft (behind Washington State and Washington D.C.). Moreover, within the past several months, there have been several news stories about local businesses suffering from theft. This is a serious problem in Maine and L.D. 2246 will do nothing to help. In fact, it's arguable that it will make it worse.

Among New England states there is only one that does not currently have a criminal statute that permits consideration of a prior conviction in charging subsequent offenses as a felony. That state, Vermont, recently advanced a stricter retail theft bill through their House of Representatives in response to an increase in retail thefts there. Rhode Island permits a second shoplifting offense to be charged as a felony if that second offense is for a theft of \$100 or more. Massachusetts, Connecticut, and New Hampshire all permit a third theft to be charged as a felony, without regard to the value. L.D. 2246 would make Maine an outlier among New England states.

I recognize the desire to ensure that those who engage in petty crimes are not punished excessively or in a manner that is not commensurate to the crime. The Criminal Law Advisory Commission (CLAC) submitted a short letter (after the public hearing date) to point out that only felony offenses are eligible for probation. Imposing probationary terms can be a critical tool for addressing and



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are eligible for probation. Imposing probationary terms can be a critical tool for addressing and correcting a pattern of unlawful behavior. Limiting the ability of prosecutors to charge a third theft as a felony – and undermining the ability of the courts to impose terms of probation on a person who is committing repeated offenses – will take away an important tool to hold people accountable.

Finally, this bill was printed on March 5 and a public hearing was held on March 7, limiting the ability of many to have their voices heard. Since enactment, I have heard from Maine-based retailers upset at this proposed change who fear their losses will only grow if this bill becomes law. If we are going to make changes to our criminal code, there should be broad input from those impacted and a thorough review by CLAC before moving ahead.

For these reasons I am returning L.D. 2246 unsigned and vetoed.

Sincerely,



Janet T. Mills
Governor



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