
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-2752.1/91

ATTY/TYPIST: BR:klS

BRIEF TITLE:

4
5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 9A.56.010 and 1987 c 140 s 1 are each amended to read
8 as follows:

9 The following definitions are applicable in this chapter unless the
10 context otherwise requires:

11 (1) "Appropriate lost or misdelivered property or services" means
12 obtaining or exerting control over the property or services of another
13 which the actor knows to have been lost or mislaid, or to have been
14 delivered under a mistake as to identity of the recipient or as to the
15 nature or amount of the property;

16 (2) "By color or aid of deception" means that the deception
17 operated to bring about the obtaining of the property or services; it
18 is not necessary that deception be the sole means of obtaining the
19 property or services;

20 (3) "Access device" means any card, plate, code, account number, or
21 other means of account access that can be used alone or in conjunction
22 with another access device to obtain money, goods, services, or
23 anything else of value, or that can be used to initiate a transfer of
24 funds, other than a transfer originated solely by paper instrument;

25 (4) "Deception" occurs when an actor knowingly:

26 (a) Creates or confirms another's false impression which the actor
27 knows to be false; or

1 (b) Fails to correct another's impression which the actor
2 previously has created or confirmed; or

3 (c) Prevents another from acquiring information material to the
4 disposition of the property involved; or

5 (d) Transfers or encumbers property without disclosing a lien,
6 adverse claim, or other legal impediment to the enjoyment of the
7 property, whether that impediment is or is not valid, or is or is not
8 a matter of official record; or

9 (e) Promises performance which the actor does not intend to perform
10 or knows will not be performed.

11 (5) "Deprive" in addition to its common meaning means to make
12 unauthorized use or an unauthorized copy of records, information, data,
13 trade secrets, or computer programs;

14 (6) "Obtain control over" in addition to its common meaning, means:

15 (a) In relation to property, to bring about a transfer or purported
16 transfer to the obtainer or another of a legally recognized interest in
17 the property; or

18 (b) In relation to labor or service, to secure performance thereof
19 for the benefits of the obtainer or another;

20 (7) "Wrongfully obtains" or "exerts unauthorized control" means:

21 (a) To take the property or services of another;

22 (b) Having any property or services in one's possession, custody or
23 control as bailee, factor, pledgee, servant, attorney, agent, employee,
24 trustee, executor, administrator, guardian, or officer of any person,
25 estate, association, or corporation, or as a public officer, or person
26 authorized by agreement or competent authority to take or hold such
27 possession, custody, or control, to secrete, withhold, or appropriate
28 the same to his or her own use or to the use of any person other than
29 the true owner or person entitled thereto; or

1 (c) Having any property or services in one's possession, custody,
2 or control as partner, to secrete, withhold, or appropriate the same to
3 his or her use or to the use of any person other than the true owner or
4 person entitled thereto, where such use is unauthorized by the
5 partnership agreement;

6 (8) "Owner" means a person, other than the actor, who has
7 possession of or any other interest in the property or services
8 involved, and without whose consent the actor has no authority to exert
9 control over the property or services;

10 (9) "Receive" includes, but is not limited to, acquiring title,
11 possession, control, or a security interest, or any other interest in
12 the property;

13 (10) "Services" includes, but is not limited to, labor,
14 professional services, transportation services, electronic computer
15 services, the supplying of hotel accommodations, restaurant services,
16 entertainment, the supplying of equipment for use, and the supplying of
17 commodities of a public utility nature such as gas, electricity, steam,
18 and water;

19 (11) "Stolen" means obtained by theft, robbery, or extortion;

20 (12) Value. (a) "Value" means the market value of the property or
21 services at the time and in the approximate area of the criminal act.

22 (b) Whether or not they have been issued or delivered, written
23 instruments, except those having a readily ascertained market value,
24 shall be evaluated as follows:

25 (i) The value of an instrument constituting an evidence of debt,
26 such as a check, draft, or promissory note, shall be deemed the amount
27 due or collectible thereon or thereby, that figure ordinarily being the
28 face amount of the indebtedness less any portion thereof which has been
29 satisfied;

1 (ii) The value of a ticket or equivalent instrument which evidences
2 a right to receive transportation, entertainment, or other service
3 shall be deemed the price stated thereon, if any; and if no price is
4 stated thereon, the value shall be deemed the price of such ticket or
5 equivalent instrument which the issuer charged the general public;

6 (iii) The value of any other instrument that creates, releases,
7 discharges, or otherwise affects any valuable legal right, privilege,
8 or obligation shall be deemed the greatest amount of economic loss
9 which the owner of the instrument might reasonably suffer by virtue of
10 the loss of the instrument.

11 (c) Whenever any series of transactions which constitute theft,
12 would, when considered separately, constitute theft in the third degree
13 because of value, and said series of transactions are a part of a
14 common scheme or plan, then the transactions may be aggregated in one
15 count and the sum of the value of all said transactions shall be the
16 value considered in determining the degree of theft involved.

17 (d) Whenever any person is charged with possessing stolen property
18 and such person has unlawfully in his possession at the same time the
19 stolen property of more than one person, then the stolen property
20 possessed may be aggregated in one count and the sum of the value of
21 all said stolen property shall be the value considered in determining
22 the degree of theft involved.

23 (e) Property or services having value that cannot be ascertained
24 pursuant to the standards set forth above shall be deemed to be of a
25 value not exceeding (~~two hundred and fifty~~) one thousand dollars;

26 (13) "Shopping cart" means a basket mounted on wheels or similar
27 container generally used in a retail establishment by a customer for
28 the purpose of transporting goods of any kind;

1 (14) "Parking area" means a parking lot or other property provided
2 by retailers for use by a customer for parking an automobile or other
3 vehicle."

4 "Sec. 2. RCW 9A.56.030 and 1975 1st ex.s. c 260 s 9A.56.030 are
5 each amended to read as follows:

6 (1) A person is guilty of theft in the first degree if ((he)) the
7 person commits theft of:

8 (a) Property or services which exceed(s) (~~one thousand five~~
9 ~~hundred~~) two thousand dollars in value; or

10 (b) Property of any value taken from the person of another.

11 (2) Theft in the first degree is a class B felony."

12 "Sec. 3. RCW 9A.56.040 and 1987 c 140 s 2 are each amended to read
13 as follows:

14 (1) A person is guilty of theft in the second degree if ((he)) the
15 person commits theft of:

16 (a) Property or services which exceed(s) (~~two hundred and fifty~~)
17 five hundred dollars in value, but does not exceed (~~one thousand five~~
18 ~~hundred~~) two thousand dollars in value; or

19 (b) A public record, writing, or instrument kept, filed, or
20 deposited according to law with or in the keeping of any public office
21 or public servant; or

22 (c) An access device; or

23 (d) A motor vehicle, of a value less than (~~one thousand five~~
24 ~~hundred~~) two thousand dollars; or

25 (e) A firearm, of a value less than (~~one thousand five hundred~~)
26 two thousand dollars.

27 (2) Theft in the second degree is a class C felony."

1 **"Sec. 4.** RCW 9A.56.050 and 1975 1st ex.s. c 260 s 9A.56.050 are
2 each amended to read as follows:

3 (1) A person is guilty of theft in the third degree if ((he)) the
4 person commits theft of property or services which does not exceed
5 ((two hundred and fifty)) five hundred dollars in value.

6 (2) Theft in the third degree is a gross misdemeanor."

7 **"Sec. 5.** RCW 9A.56.060 and 1982 c 138 s 1 are each amended to read
8 as follows:

9 (1) Any person who shall with intent to defraud, make, or draw, or
10 utter, or deliver to another person any check, or draft, on a bank or
11 other depository for the payment of money, knowing at the time of such
12 drawing, or delivery, that he or she has not sufficient funds in, or
13 credit with said bank or other depository, to meet said check or draft,
14 in full upon its presentation, shall be guilty of unlawful issuance of
15 bank check. The word "credit" as used herein shall be construed to
16 mean an arrangement or understanding with the bank or other depository
17 for the payment of such check or draft, and the uttering or delivery of
18 such a check or draft to another person without such fund or credit to
19 meet the same shall be prima facie evidence of an intent to defraud.

20 (2) Any person who shall with intent to defraud, make, or draw, or
21 utter, or deliver to another person any check, or draft on a bank or
22 other depository for the payment of money and who issues a stop-payment
23 order directing the bank or depository on which the check is drawn not
24 to honor said check, and who fails to make payment of money in the
25 amount of the check or draft or otherwise arrange a settlement agreed
26 upon by the holder of the check within twenty days of issuing said
27 check or draft shall be guilty of unlawful issuance of a bank check.

28 (3) When any series of transactions which constitute unlawful
29 issuance of a bank check would, when considered separately, constitute

1 unlawful issuance of a bank check in an amount of (~~two hundred fifty~~)
2 five hundred dollars or less because of value, and the series of
3 transactions are a part of a common scheme or plan, the transactions
4 may be aggregated in one count and the sum of the value of all of the
5 transactions shall be the value considered in determining whether the
6 unlawful issuance of a bank check is to be punished as a class C felony
7 or a gross misdemeanor.

8 (4) Unlawful issuance of a bank check in an amount greater than
9 (~~two hundred fifty~~) five hundred dollars is a class C felony.

10 (5) Unlawful issuance of a bank check in an amount of (~~two hundred~~
11 ~~fifty~~) five hundred dollars or less is a gross misdemeanor and shall
12 be punished as follows:

13 (a) The court shall order the defendant to make full restitution;

14 (b) The defendant need not be imprisoned, but the court shall
15 impose a minimum fine of five hundred dollars. Of the fine imposed, at
16 least fifty dollars shall not be suspended or deferred. Upon
17 conviction for a second offense within any twelve-month period, the
18 court may suspend or defer only that portion of the fine which is in
19 excess of five hundred dollars."

20 "**Sec. 6.** RCW 9A.56.150 and 1975 1st ex.s. c 260 s 9A.56.150 are
21 each amended to read as follows:

22 (1) A person is guilty of possessing stolen property in the first
23 degree if (~~he~~) the person possesses stolen property which exceeds
24 (~~one thousand five hundred~~) two thousand dollars in value.

25 (2) Possessing stolen property in the first degree is a class B
26 felony."

27 "**Sec. 7.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to read
28 as follows:

1 (1) A person is guilty of possessing stolen property in the second
2 degree if the person:

3 (a) ((He)) Possesses stolen property which exceeds ((~~two hundred~~
4 ~~fifty~~)) five hundred dollars in value but does not exceed ((~~one~~
5 ~~thousand five hundred~~)) two thousand dollars in value; or

6 (b) ((He)) Possesses a stolen public record, writing or instrument
7 kept, filed, or deposited according to law; or

8 (c) ((He)) Possesses a stolen access device; or

9 (d) ((He)) Possesses a stolen motor vehicle of a value less than
10 ((~~one thousand five hundred~~)) two thousand dollars; or

11 (e) ((He)) Possesses a stolen firearm.

12 (2) Possessing stolen property in the second degree is a class C
13 felony."

14 "**Sec. 8.** RCW 9A.56.170 and 1975 1st ex.s. c 260 s 9A.56.170 are
15 each amended to read as follows:

16 (1) A person is guilty of possessing stolen property in the third
17 degree if ((he)) the person possesses stolen property which does not
18 exceed ((~~two hundred fifty~~)) five hundred dollars in value.

19 (2) Possessing stolen property in the third degree is a gross
20 misdemeanor."

21 **SSB 5438** - H COMM AMD
22 By Committee on Judiciary

23

24 On page 1, line 2 of the title, after "theft;" strike the remainder
25 of the title and insert "amending RCW 9A.56.010, 9A.56.030, 9A.56.040,
26 9A.56.050, 9A.56.060, 9A.56.150, 9A.56.160, and 9A.56.170; and
27 prescribing penalties."