

2 SHB 2059 - S COMM AMD
3 By Committee on Law & Justice

4 ADOPTED AS AMENDED 4/15/97

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.56 RCW
8 to read as follows:

9 (1) A person who, with intent to deprive the owner or owner's
10 agent, wrongfully obtains, or exerts unauthorized control over, or by
11 color or aid of deception gains control of personal property that is
12 rented or leased to the person, is guilty of theft of rental, leased,
13 or lease-purchased property.

14 (2) The finder of fact may presume intent to deprive if the finder
15 of fact finds either of the following:

16 (a) That the person who rented or leased the property failed to
17 return or make arrangements acceptable to the owner of the property or
18 the owner's agent to return the property to the owner or the owner's
19 agent within seventy-two hours after receipt of proper notice following
20 the due date of the rental, lease, or lease-purchase agreement; or

21 (b) That the renter or lessee presented identification to the owner
22 or the owner's agent that was materially false, fictitious, or not
23 current with respect to name, address, place of employment, or other
24 appropriate items.

25 (3) As used in subsection (2) of this section, "proper notice"
26 consists of a written demand by the owner or the owner's agent made
27 after the due date of the rental, lease, or lease-purchase period,
28 mailed by certified or registered mail to the renter or lessee at: (a)
29 The address the renter or lessee gave when the contract was made; or
30 (b) the renter or lessee's last known address if later furnished in
31 writing by the renter, lessee, or the agent of the renter or lessee.

32 (4) The replacement value of the property obtained must be utilized
33 in determining the amount involved in the theft of rental, leased, or
34 lease-purchased property. Theft of rental, leased, or lease-purchased
35 property is a: Class B felony if the rental, leased, or lease-
36 purchased property is valued at one thousand five hundred dollars or

1 more; class C felony if the rental, leased, or lease-purchased property
2 is valued at two hundred fifty dollars or more but less than one
3 thousand five hundred dollars; and gross misdemeanor if the rental,
4 leased, or lease-purchased property is valued at less than two hundred
5 fifty dollars.

6 (5) This section applies to rental agreements that provide that the
7 renter may return the property any time within the rental period and
8 pay only for the time the renter actually retained the property, in
9 addition to any minimum rental fee, to lease agreements, and to lease-
10 purchase agreements as defined under RCW 63.19.010. This section does
11 not apply to rental or leasing of real property under the residential
12 landlord-tenant act, chapter 59.18 RCW.

13 **Sec. 2.** RCW 9A.56.010 and 1995 c 92 s 1 are each amended to read
14 as follows:

15 The following definitions are applicable in this chapter unless the
16 context otherwise requires:

17 (1) "Appropriate lost or misdelivered property or services" means
18 obtaining or exerting control over the property or services of another
19 which the actor knows to have been lost or mislaid, or to have been
20 delivered under a mistake as to identity of the recipient or as to the
21 nature or amount of the property;

22 (2) "By color or aid of deception" means that the deception
23 operated to bring about the obtaining of the property or services; it
24 is not necessary that deception be the sole means of obtaining the
25 property or services;

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

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

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

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

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

1 (d) Transfers or encumbers property without disclosing a lien,
2 adverse claim, or other legal impediment to the enjoyment of the
3 property, whether that impediment is or is not valid, or is or is not
4 a matter of official record; or

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

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

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

11 (a) In relation to property, to bring about a transfer or purported
12 transfer to the obtainer or another of a legally recognized interest in
13 the property; or

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

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

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

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

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

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

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

38 (10) "Services" includes, but is not limited to, labor,
39 professional services, transportation services, electronic computer

1 services, the supplying of hotel accommodations, restaurant services,
2 entertainment, the supplying of equipment for use, and the supplying of
3 commodities of a public utility nature such as gas, electricity, steam,
4 and water;

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

6 (12) "Subscription television service" means cable or encrypted
7 video and related audio and data services intended for viewing on a
8 home television by authorized members of the public only, who have
9 agreed to pay a fee for the service. Subscription services include but
10 are not limited to those video services presently delivered by coaxial
11 cable, fiber optic cable, terrestrial microwave, television broadcast,
12 and satellite transmission;

13 (13) "Telecommunication device" means (a) any type of instrument,
14 device, machine, or equipment that is capable of transmitting or
15 receiving telephonic or electronic communications; or (b) any part of
16 such an instrument, device, machine, or equipment, or any computer
17 circuit, computer chip, electronic mechanism, or other component, that
18 is capable of facilitating the transmission or reception of telephonic
19 or electronic communications;

20 (14) "Telecommunication service" includes any service other than
21 subscription television service provided for a charge or compensation
22 to facilitate the transmission, transfer, or reception of a telephonic
23 communication or an electronic communication;

24 (15) Value. (a) "Value" means the market value of the property or
25 services at the time and in the approximate area of the criminal act.

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

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

34 (ii) The value of a ticket or equivalent instrument which evidences
35 a right to receive transportation, entertainment, or other service
36 shall be deemed the price stated thereon, if any; and if no price is
37 stated thereon, the value shall be deemed the price of such ticket or
38 equivalent instrument which the issuer charged the general public;

1 (iii) The value of any other instrument that creates, releases,
2 discharges, or otherwise affects any valuable legal right, privilege,
3 or obligation shall be deemed the greatest amount of economic loss
4 which the owner of the instrument might reasonably suffer by virtue of
5 the loss of the instrument.

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

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

18 (e) Property or services having value that cannot be ascertained
19 pursuant to the standards set forth above shall be deemed to be of a
20 value not exceeding two hundred and fifty dollars;

21 (16) "Shopping cart" means a basket mounted on wheels or similar
22 container generally used in a retail establishment by a customer for
23 the purpose of transporting goods of any kind;

24 (17) "Parking area" means a parking lot or other property provided
25 by retailers for use by a customer for parking an automobile or other
26 vehicle.

27 **Sec. 3.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996
28 c 36 s 2 are each reenacted and amended to read as follows:

29 TABLE 2

30 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

31	XV	Aggravated Murder 1 (RCW 10.95.020)
32	XIV	Murder 1 (RCW 9A.32.030)
33		Homicide by abuse (RCW 9A.32.055)
34	XIII	Murder 2 (RCW 9A.32.050)

1 XII Assault 1 (RCW 9A.36.011)
2 Assault of a Child 1 (RCW 9A.36.120)
3 XI Rape 1 (RCW 9A.44.040)
4 Rape of a Child 1 (RCW 9A.44.073)
5 X Kidnapping 1 (RCW 9A.40.020)
6 Rape 2 (RCW 9A.44.050)
7 Rape of a Child 2 (RCW 9A.44.076)
8 Child Molestation 1 (RCW 9A.44.083)
9 Damaging building, etc., by explosion with
10 threat to human being (RCW
11 70.74.280(1))
12 Over 18 and deliver heroin or narcotic from
13 Schedule I or II to someone under 18
14 (RCW 69.50.406)
15 Leading Organized Crime (RCW
16 9A.82.060(1)(a))
17 IX Assault of a Child 2 (RCW 9A.36.130)
18 Robbery 1 (RCW 9A.56.200)
19 Manslaughter 1 (RCW 9A.32.060)
20 Explosive devices prohibited (RCW
21 70.74.180)
22 Indecent Liberties (with forcible
23 compulsion) (RCW 9A.44.100(1)(a))
24 Endangering life and property by explosives
25 with threat to human being (RCW
26 70.74.270)
27 Over 18 and deliver narcotic from Schedule
28 III, IV, or V or a nonnarcotic from
29 Schedule I-V to someone under 18 and 3
30 years junior (RCW 69.50.406)
31 Controlled Substance Homicide (RCW
32 69.50.415)
33 Sexual Exploitation (RCW 9.68A.040)
34 Inciting Criminal Profiteering (RCW
35 9A.82.060(1)(b))

1 Vehicular Homicide, by being under the
2 influence of intoxicating liquor or
3 any drug (RCW 46.61.520)

4 VIII Arson 1 (RCW 9A.48.020)
5 Promoting Prostitution 1 (RCW 9A.88.070)
6 Selling for profit (controlled or
7 counterfeit) any controlled substance
8 (RCW 69.50.410)
9 Manufacture, deliver, or possess with
10 intent to deliver heroin or cocaine
11 (RCW 69.50.401(a)(1)(i))
12 Manufacture, deliver, or possess with
13 intent to deliver methamphetamine (RCW
14 69.50.401(a)(1)(ii))
15 Possession of ephedrine or pseudoephedrine
16 with intent to manufacture
17 methamphetamine (RCW 69.50.440)
18 Vehicular Homicide, by the operation of any
19 vehicle in a reckless manner (RCW
20 46.61.520)

21 VII Burglary 1 (RCW 9A.52.020)
22 Vehicular Homicide, by disregard for the
23 safety of others (RCW 46.61.520)
24 Introducing Contraband 1 (RCW 9A.76.140)
25 Indecent Liberties (without forcible
26 compulsion) (RCW 9A.44.100(1) (b) and
27 (c))
28 Child Molestation 2 (RCW 9A.44.086)
29 Dealing in depictions of minor engaged in
30 sexually explicit conduct (RCW
31 9.68A.050)
32 Sending, bringing into state depictions of
33 minor engaged in sexually explicit
34 conduct (RCW 9.68A.060)
35 Involving a minor in drug dealing (RCW
36 69.50.401(f))
37 Reckless Endangerment 1 (RCW 9A.36.045)

1 Unlawful Possession of a Firearm in the
2 first degree (RCW 9.41.040(1)(a))

3 VI Bribery (RCW 9A.68.010)
4 Manslaughter 2 (RCW 9A.32.070)
5 Rape of a Child 3 (RCW 9A.44.079)
6 Intimidating a Juror/Witness (RCW
7 9A.72.110, 9A.72.130)
8 Damaging building, etc., by explosion with
9 no threat to human being (RCW
10 70.74.280(2))
11 Endangering life and property by explosives
12 with no threat to human being (RCW
13 70.74.270)
14 Incest 1 (RCW 9A.64.020(1))
15 Manufacture, deliver, or possess with
16 intent to deliver narcotics from
17 Schedule I or II (except heroin or
18 cocaine) (RCW 69.50.401(a)(1)(i))
19 Intimidating a Judge (RCW 9A.72.160)
20 Bail Jumping with Murder 1 (RCW
21 9A.76.170(2)(a))
22 Theft of a Firearm (RCW 9A.56.300)

23 V Persistent prison misbehavior (RCW
24 9.94.070)
25 Criminal Mistreatment 1 (RCW 9A.42.020)
26 Abandonment of dependent person 1 (RCW
27 9A.42.060)
28 Rape 3 (RCW 9A.44.060)
29 Sexual Misconduct with a Minor 1 (RCW
30 9A.44.093)
31 Child Molestation 3 (RCW 9A.44.089)
32 Kidnapping 2 (RCW 9A.40.030)
33 Extortion 1 (RCW 9A.56.120)
34 Incest 2 (RCW 9A.64.020(2))
35 Perjury 1 (RCW 9A.72.020)
36 Extortionate Extension of Credit (RCW
37 9A.82.020)

1 Advancing money or property for
2 extortionate extension of credit (RCW
3 9A.82.030)
4 Extortionate Means to Collect Extensions of
5 Credit (RCW 9A.82.040)
6 Rendering Criminal Assistance 1 (RCW
7 9A.76.070)
8 Bail Jumping with class A Felony (RCW
9 9A.76.170(2)(b))
10 Sexually Violating Human Remains (RCW
11 9A.44.105)
12 Delivery of imitation controlled substance
13 by person eighteen or over to person
14 under eighteen (RCW 69.52.030(2))
15 Possession of a Stolen Firearm (RCW
16 9A.56.310)

17 IV Residential Burglary (RCW 9A.52.025)
18 Theft of Livestock 1 (RCW 9A.56.080)
19 Robbery 2 (RCW 9A.56.210)
20 Assault 2 (RCW 9A.36.021)
21 Escape 1 (RCW 9A.76.110)
22 Arson 2 (RCW 9A.48.030)
23 Commercial Bribery (RCW 9A.68.060)
24 Bribing a Witness/Bribe Received by Witness
25 (RCW 9A.72.090, 9A.72.100)
26 Malicious Harassment (RCW 9A.36.080)
27 Threats to Bomb (RCW 9.61.160)
28 Willful Failure to Return from Furlough
29 (RCW 72.66.060)
30 Hit and Run -- Injury Accident (RCW
31 46.52.020(4))
32 Hit and Run with Vessel -- Injury Accident
33 (RCW 88.12.155(3))
34 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or nonnarcotics
4 from Schedule I-V (except marijuana or
5 methamphetamines) (RCW 69.50.401(a)(1)
6 (iii) through (v))
7 Influencing Outcome of Sporting Event (RCW
8 9A.82.070)
9 Use of Proceeds of Criminal Profiteering
10 (RCW 9A.82.080 (1) and (2))
11 Knowingly Trafficking in Stolen Property
12 (RCW 9A.82.050(2))
13 III Criminal Mistreatment 2 (RCW 9A.42.030)
14 Abandonment of dependent person 2 (RCW
15 9A.42.070)
16 Extortion 2 (RCW 9A.56.130)
17 Unlawful Imprisonment (RCW 9A.40.040)
18 Assault 3 (RCW 9A.36.031)
19 Assault of a Child 3 (RCW 9A.36.140)
20 Custodial Assault (RCW 9A.36.100)
21 Unlawful possession of firearm in the
22 second degree (RCW 9.41.040(1)(b))
23 Harassment (RCW 9A.46.020)
24 Promoting Prostitution 2 (RCW 9A.88.080)
25 Willful Failure to Return from Work Release
26 (RCW 72.65.070)
27 Burglary 2 (RCW 9A.52.030)
28 Introducing Contraband 2 (RCW 9A.76.150)
29 Communication with a Minor for Immoral
30 Purposes (RCW 9.68A.090)
31 Patronizing a Juvenile Prostitute (RCW
32 9.68A.100)
33 Escape 2 (RCW 9A.76.120)
34 Perjury 2 (RCW 9A.72.030)
35 Bail Jumping with class B or C Felony (RCW
36 9A.76.170(2)(c))
37 Intimidating a Public Servant (RCW
38 9A.76.180)
39 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with
2 intent to deliver marijuana (RCW
3 69.50.401(a)(1)(iii))
4 Delivery of a material in lieu of a
5 controlled substance (RCW
6 69.50.401(c))
7 Manufacture, distribute, or possess with
8 intent to distribute an imitation
9 controlled substance (RCW
10 69.52.030(1))
11 Recklessly Trafficking in Stolen Property
12 (RCW 9A.82.050(1))
13 Theft of livestock 2 (RCW 9A.56.080)
14 Securities Act violation (RCW 21.20.400)

15 II Unlawful Practice of Law (RCW 2.48.180)
16 Malicious Mischief 1 (RCW 9A.48.070)
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Class B Felony Theft of Rental, Leased, Or
21 Lease-purchased Property (section 1(4)
22 of this act)
23 Trafficking in Insurance Claims (RCW
24 48.30A.015)
25 Unlicensed Practice of a Profession or
26 Business (RCW 18.130.190(7))
27 Health Care False Claims (RCW 48.80.030)
28 Possession of controlled substance that is
29 either heroin or narcotics from
30 Schedule I or II (RCW 69.50.401(d))
31 Possession of phencyclidine (PCP) (RCW
32 69.50.401(d))
33 Create, deliver, or possess a counterfeit
34 controlled substance (RCW
35 69.50.401(b))
36 Computer Trespass 1 (RCW 9A.52.110)
37 Escape from Community Custody (RCW
38 72.09.310)

1 I Theft 2 (RCW 9A.56.040)
2 Class C Felony Theft of Rental, Leased, or
3 Lease-purchased Property (section 1(4)
4 of this act)
5 Possession of Stolen Property 2 (RCW
6 9A.56.160)
7 Forgery (RCW 9A.60.020)
8 Taking Motor Vehicle Without Permission
9 (RCW 9A.56.070)
10 Vehicle Prowl 1 (RCW 9A.52.095)
11 Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 Malicious Mischief 2 (RCW 9A.48.080)
14 Reckless Burning 1 (RCW 9A.48.040)
15 Unlawful Issuance of Checks or Drafts (RCW
16 9A.56.060)
17 Unlawful Use of Food Stamps (RCW 9.91.140
18 (2) and (3))
19 False Verification for Welfare (RCW
20 74.08.055)
21 Forged Prescription (RCW 69.41.020)
22 Forged Prescription for a Controlled
23 Substance (RCW 69.50.403)
24 Possess Controlled Substance that is a
25 Narcotic from Schedule III, IV, or V
26 or Non-narcotic from Schedule I-V
27 (except phencyclidine) (RCW
28 69.50.401(d))

29 NEW SECTION. Sec. 4. The following acts or parts of acts are each
30 repealed:

- 31 (1) RCW 9.45.062 and 1971 c 61 s 2; and
32 (2) RCW 9A.56.095 and 1977 ex.s. c 236 s 1."

1 **SHB 2059** - S COMM AMD
2 By Committee on Law & Justice

3 ADOPTED AS AMENDED 4/15/97

4 On page 1, line 1 of the title, after "property;" strike the
5 remainder of the title and insert "amending RCW 9A.56.010; reenacting
6 and amending RCW 9.94A.320; adding a new section to chapter 9A.56 RCW;
7 repealing RCW 9.45.62 and 9A.56.095; and prescribing penalties."

--- END ---

EFFECT: Removes artificial legal distinction between rental, lease, and lease-purchase property which had been created by original bill. Makes technical corrections.