

SENATE BILL REPORT

SB 5035

As Reported By Senate Committee On:
Law & Justice, February 5, 1997

Title: An act relating to crimes related to mail.

Brief Description: Providing a rebuttable presumption that the possessor of stolen mail has knowledge that the mail is stolen.

Sponsors: Senator Roach.

Brief History:

Committee Activity: Law & Justice: 1/21/97, 2/5/97 [DPS, DNPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5035 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Kline, Long, McCaslin, Stevens and Zarelli.

Minority Report: Do not pass substitute.

Signed by Senator Fairley.

Staff: Mychal Schwartz (786-7444)

Background: The state has no criminal statute related to obstruction or theft of the mail. Federal law governing the Postal Service contains laws prohibiting these types of crimes. Given limited resources, the federal authorities cannot prosecute all violations of these statutes, and, as a result, unless the violation has a significant impact, the offender will not be subject to any criminal penalties.

The Washington State Economic Crimes Task Force has suggested this legislation to give state authorities an opportunity to prosecute offenders whose crimes do not rise to the level which would merit prosecution under the federal law. The proposed legislation is based upon the corresponding sections of the federal law.

Summary of Substitute Bill: A new section is added to the criminal code, creating three new crimes: obstruction of mails, destruction of letter boxes or mail, and theft or receipt of stolen mail. In the case of theft or receipt of stolen mail, a rebuttable presumption is created that the offender knows that the mail under his or her control is stolen if it is addressed to two or more different addresses. Three defenses to prosecution, each based upon the defendant having an honest and reasonable basis to act, are set forth.

Obstruction of mails is a gross misdemeanor. Destruction of letter boxes or mail is a class C felony. Theft or receipt of stolen mail addressed to five or more different addresses is a

class B felony. Theft or receipt of stolen mail addressed to four or less different addresses is a class C felony.

Substitute Bill Compared to Original Bill: The substitute changes the intent required to commit obstruction of mails from knowingly– to intentionally.– Theft or receipt of stolen mail is divided into two classes, theft or receipt of stolen mail in the second degree and theft or receipt of stolen mail in the third degree. The distinction between the two classes is the number of pieces of stolen mail the offender is found to have stolen or received. Theft or receipt of stolen mail in the first degree is defined as a level II felony in the sentencing grid of the Sentencing Reform Act. Theft or receipt of stolen mail in the second degree is defined as a level I felony in the sentencing grid of the Sentencing Reform Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: Federal law currently exists, but most offenders are not prosecuted due to the limited amount of resources available. Because most evidence of these crimes is recovered as a result of state action, it makes sense to allow the state to prosecute the offender. The law is needed because under current state law, the only charge that an offender could be prosecuted under is possessing stolen property in the third degree which does not have significant penalties attached to act as a deterrent. This bill would have the potential to hit offenders hard.

Testimony Against: None.

Testified: Larry Carlier, U.S. Postal Inspector (pro); D.J. Nesel, King County Police Detective (pro).