

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1069

55th Legislature
1997 Regular Session

Passed by the House February 21, 1997
Yeas 95 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 10, 1997
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1069** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1069

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Sterk and Honeyford)

Read first time 01/27/97.

1 AN ACT Relating to malicious use of explosives; amending RCW
2 70.74.270 and 70.74.280; reenacting and amending RCW 9.94A.320; adding
3 new sections to chapter 70.74 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.74.270 and 1993 c 293 s 6 are each amended to read
6 as follows:

7 ((Every)) A person who maliciously places any explosive or
8 improvised device in, upon, under, against, or near any building, car,
9 vessel, railroad track, airplane, public utility transmission system,
10 or structure, in such manner or under such circumstances as to destroy
11 or injure it if exploded(, shall be punished as follows)) is guilty

12 of:

13 (1) Malicious placement of an explosive in the first degree if the
14 offense is committed with intent to commit a terrorist act. Malicious
15 placement of an explosive in the first degree is a class A felony;

16 (2) Malicious placement of an explosive in the second degree if the
17 offense is committed under circumstances not amounting to malicious
18 placement of an explosive in the first degree and if the circumstances
19 and surroundings are such that the safety of any person might be

1 endangered by the explosion(~~(, by imprisonment in a state correctional~~
2 ~~facility for not more than twenty years;~~

3 ~~(2) In every other case by imprisonment in a state correctional~~
4 ~~facility for not more than five years)). Malicious placement of an
5 explosive in the second degree is a class B felony;~~

6 (3) Malicious placement of an explosive in the third degree if the
7 offense is committed under circumstances not amounting to malicious
8 placement of an explosive in the first or second degree. Malicious
9 placement of an explosive in the third degree is a class B felony.

10 NEW SECTION. Sec. 2. A new section is added to chapter 70.74 RCW
11 to read as follows:

12 (1) A person who maliciously places any imitation device in, upon,
13 under, against, or near any building, car, vessel, railroad track,
14 airplane, public utility transmission system, or structure, with the
15 intent to give the appearance or impression that the imitation device
16 is an explosive or improvised device, is guilty of:

17 (a) Malicious placement of an imitation device in the first degree
18 if the offense is committed with intent to commit a terrorist act.
19 Malicious placement of an imitation device in the first degree is a
20 class B felony;

21 (b) Malicious placement of an imitation device in the second degree
22 if the offense is committed under circumstances not amounting to
23 malicious placement of an imitation device in the first degree.
24 Malicious placement of an imitation device in the second degree is a
25 class C felony.

26 (2) For purposes of this section, "imitation device" means a device
27 or substance that is not an explosive or improvised device, but which
28 by appearance or representation would lead a reasonable person to
29 believe that the device or substance is an explosive or improvised
30 device.

31 Sec. 3. RCW 70.74.280 and 1992 c 7 s 50 are each amended to read
32 as follows:

33 ~~((Every))~~ A person who ((shall)) maliciously, by the explosion of
34 gunpowder or any other explosive substance or material, destroy or
35 damage any building, car, airplane, vessel, common carrier, railroad
36 track, or public utility transmission system or structure(~~(, shall be~~
37 punished as follows)) is guilty of:

1 (1) Malicious explosion of a substance in the first degree if the
2 offense is committed with intent to commit a terrorist act. Malicious
3 explosion of a substance in the first degree is a class A felony;

4 (2) Malicious explosion of a substance in the second degree if the
5 offense is committed under circumstances not amounting to malicious
6 explosion of a substance in the first degree and if thereby the life
7 or safety of a human being is endangered(, by imprisonment in a state
8 correctional facility for not more than twenty-five years;

9 ~~(2) In every other case by imprisonment in a state correctional~~
10 ~~facility for not more than five years)).~~ Malicious explosion of a
11 substance in the second degree is a class A felony;

12 (3) Malicious explosion of a substance in the third degree if the
13 offense is committed under circumstances not amounting to malicious
14 explosion of a substance in the first or second degree. Malicious
15 explosion of a substance in the third degree is a class B felony.

16 NEW SECTION. Sec. 4. A new section is added to chapter 70.74 RCW
17 to read as follows:

18 For the purposes of sections 1 through 3 of this act "terrorist
19 act" means an act that is intended to: (1) Intimidate or coerce a
20 civilian population; (2) influence the policy of a branch or level of
21 government by intimidation or coercion; (3) affect the conduct of a
22 branch or level of government by intimidation or coercion; or (4)
23 retaliate against a branch or level of government for a policy or
24 conduct of the government.

25 **Sec. 5.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996
26 c 36 s 2 are each reenacted and amended to read as follows:

27 TABLE 2

28 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

29	XV	Aggravated Murder 1 (RCW 10.95.020)
30	XIV	Murder 1 (RCW 9A.32.030)
31		Homicide by abuse (RCW 9A.32.055)
32		<u>Malicious explosion 1 (RCW 70.74.280(1))</u>
33	XIII	Murder 2 (RCW 9A.32.050)
34		<u>Malicious explosion 2 (RCW 70.74.280(2))</u>

1 Malicious placement of an explosive 1 (RCW
2 70.74.270(1))

3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation device
6 1 (section 2(1)(a) of this act)

7 XI Rape 1 (RCW 9A.44.040)
8 Rape of a Child 1 (RCW 9A.44.073)

9 X Kidnapping 1 (RCW 9A.40.020)
10 Rape 2 (RCW 9A.44.050)
11 Rape of a Child 2 (RCW 9A.44.076)
12 Child Molestation 1 (RCW 9A.44.083)
13 (~~(Damaging building, etc., by explosion~~
14 ~~with threat to human being (RCW~~
15 ~~70.74.280(1)))~~)

16 Malicious explosion 3 (RCW 70.74.280(3))
17 Over 18 and deliver heroin or narcotic from
18 Schedule I or II to someone under 18
19 (RCW 69.50.406)
20 Leading Organized Crime (RCW
21 9A.82.060(1)(a))

22 IX Assault of a Child 2 (RCW 9A.36.130)
23 Robbery 1 (RCW 9A.56.200)
24 Manslaughter 1 (RCW 9A.32.060)
25 Explosive devices prohibited (RCW
26 70.74.180)
27 Indecent Liberties (with forcible
28 compulsion) (RCW 9A.44.100(1)(a))
29 (~~(Endangering life and property by~~
30 ~~explosives with threat to human being~~
31 ~~(RCW 70.74.270))~~)

32 Malicious placement of an explosive 2 (RCW
33 70.74.270(2))
34 Over 18 and deliver narcotic from Schedule
35 III, IV, or V or a nonnarcotic from
36 Schedule I-V to someone under 18 and 3
37 years junior (RCW 69.50.406)

1 Controlled Substance Homicide (RCW
2 69.50.415)
3 Sexual Exploitation (RCW 9.68A.040)
4 Inciting Criminal Profiteering (RCW
5 9A.82.060(1)(b))
6 Vehicular Homicide, by being under the
7 influence of intoxicating liquor or
8 any drug (RCW 46.61.520)

9 VIII Arson 1 (RCW 9A.48.020)
10 Promoting Prostitution 1 (RCW 9A.88.070)
11 Selling for profit (controlled or
12 counterfeit) any controlled substance
13 (RCW 69.50.410)
14 Manufacture, deliver, or possess with
15 intent to deliver heroin or cocaine
16 (RCW 69.50.401(a)(1)(i))
17 Manufacture, deliver, or possess with
18 intent to deliver methamphetamine (RCW
19 69.50.401(a)(1)(ii))
20 Possession of ephedrine or pseudoephedrine
21 with intent to manufacture
22 methamphetamine (RCW 69.50.440)
23 Vehicular Homicide, by the operation of any
24 vehicle in a reckless manner (RCW
25 46.61.520)

26 VII Burglary 1 (RCW 9A.52.020)
27 Vehicular Homicide, by disregard for the
28 safety of others (RCW 46.61.520)
29 Introducing Contraband 1 (RCW 9A.76.140)
30 Indecent Liberties (without forcible
31 compulsion) (RCW 9A.44.100(1) (b) and
32 (c))
33 Child Molestation 2 (RCW 9A.44.086)
34 Dealing in depictions of minor engaged in
35 sexually explicit conduct (RCW
36 9.68A.050)

1 Sending, bringing into state depictions of
2 minor engaged in sexually explicit
3 conduct (RCW 9.68A.060)
4 Involving a minor in drug dealing (RCW
5 69.50.401(f))
6 Reckless Endangerment 1 (RCW 9A.36.045)
7 Unlawful Possession of a Firearm in the
8 first degree (RCW 9.41.040(1)(a))
9 Malicious placement of an explosive 3 (RCW
10 70.74.270(3))

11 VI Bribery (RCW 9A.68.010)
12 Manslaughter 2 (RCW 9A.32.070)
13 Rape of a Child 3 (RCW 9A.44.079)
14 Intimidating a Juror/Witness (RCW
15 9A.72.110, 9A.72.130)
16 ~~((Damaging building, etc., by explosion~~
17 ~~with no threat to human being (RCW~~
18 ~~70.74.280(2))~~
19 ~~Endangering life and property by explosives~~
20 ~~with no threat to human being (RCW~~
21 ~~70.74.270))~~
22 Malicious placement of an imitation device
23 2 (section 2(1)(b) of this act)
24 Incest 1 (RCW 9A.64.020(1))
25 Manufacture, deliver, or possess with
26 intent to deliver narcotics from
27 Schedule I or II (except heroin or
28 cocaine) (RCW 69.50.401(a)(1)(i))
29 Intimidating a Judge (RCW 9A.72.160)
30 Bail Jumping with Murder 1 (RCW
31 9A.76.170(2)(a))
32 Theft of a Firearm (RCW 9A.56.300)

1 V Persistent prison misbehavior (RCW
2 9.94.070)
3 Criminal Mistreatment 1 (RCW 9A.42.020)
4 Abandonment of dependent person 1 (RCW
5 9A.42.060)
6 Rape 3 (RCW 9A.44.060)
7 Sexual Misconduct with a Minor 1 (RCW
8 9A.44.093)
9 Child Molestation 3 (RCW 9A.44.089)
10 Kidnapping 2 (RCW 9A.40.030)
11 Extortion 1 (RCW 9A.56.120)
12 Incest 2 (RCW 9A.64.020(2))
13 Perjury 1 (RCW 9A.72.020)
14 Extortionate Extension of Credit (RCW
15 9A.82.020)
16 Advancing money or property for
17 extortionate extension of credit (RCW
18 9A.82.030)
19 Extortionate Means to Collect Extensions of
20 Credit (RCW 9A.82.040)
21 Rendering Criminal Assistance 1 (RCW
22 9A.76.070)
23 Bail Jumping with class A Felony (RCW
24 9A.76.170(2)(b))
25 Sexually Violating Human Remains (RCW
26 9A.44.105)
27 Delivery of imitation controlled substance
28 by person eighteen or over to person
29 under eighteen (RCW 69.52.030(2))
30 Possession of a Stolen Firearm (RCW
31 9A.56.310)

32 IV Residential Burglary (RCW 9A.52.025)
33 Theft of Livestock 1 (RCW 9A.56.080)
34 Robbery 2 (RCW 9A.56.210)
35 Assault 2 (RCW 9A.36.021)
36 Escape 1 (RCW 9A.76.110)
37 Arson 2 (RCW 9A.48.030)
38 Commercial Bribery (RCW 9A.68.060)

1 Bribing a Witness/Bribe Received by Witness
2 (RCW 9A.72.090, 9A.72.100)
3 Malicious Harassment (RCW 9A.36.080)
4 Threats to Bomb (RCW 9.61.160)
5 Willful Failure to Return from Furlough
6 (RCW 72.66.060)
7 Hit and Run -- Injury Accident (RCW
8 46.52.020(4))
9 Hit and Run with Vessel -- Injury Accident
10 (RCW 88.12.155(3))
11 Vehicular Assault (RCW 46.61.522)
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule III, IV, or V or nonnarcotics
15 from Schedule I-V (except marijuana or
16 methamphetamines) (RCW 69.50.401(a)(1)
17 (iii) through (v))
18 Influencing Outcome of Sporting Event (RCW
19 9A.82.070)
20 Use of Proceeds of Criminal Profiteering
21 (RCW 9A.82.080 (1) and (2))
22 Knowingly Trafficking in Stolen Property
23 (RCW 9A.82.050(2))

24 III Criminal Mistreatment 2 (RCW 9A.42.030)
25 Abandonment of dependent person 2 (RCW
26 9A.42.070)
27 Extortion 2 (RCW 9A.56.130)
28 Unlawful Imprisonment (RCW 9A.40.040)
29 Assault 3 (RCW 9A.36.031)
30 Assault of a Child 3 (RCW 9A.36.140)
31 Custodial Assault (RCW 9A.36.100)
32 Unlawful possession of firearm in the
33 second degree (RCW 9.41.040(1)(b))
34 Harassment (RCW 9A.46.020)
35 Promoting Prostitution 2 (RCW 9A.88.080)
36 Willful Failure to Return from Work Release
37 (RCW 72.65.070)
38 Burglary 2 (RCW 9A.52.030)
39 Introducing Contraband 2 (RCW 9A.76.150)

1 Communication with a Minor for Immoral
2 Purposes (RCW 9.68A.090)
3 Patronizing a Juvenile Prostitute (RCW
4 9.68A.100)
5 Escape 2 (RCW 9A.76.120)
6 Perjury 2 (RCW 9A.72.030)
7 Bail Jumping with class B or C Felony (RCW
8 9A.76.170(2)(c))
9 Intimidating a Public Servant (RCW
10 9A.76.180)
11 Tampering with a Witness (RCW 9A.72.120)
12 Manufacture, deliver, or possess with
13 intent to deliver marijuana (RCW
14 69.50.401(a)(1)(iii))
15 Delivery of a material in lieu of a
16 controlled substance (RCW
17 69.50.401(c))
18 Manufacture, distribute, or possess with
19 intent to distribute an imitation
20 controlled substance (RCW
21 69.52.030(1))
22 Recklessly Trafficking in Stolen Property
23 (RCW 9A.82.050(1))
24 Theft of livestock 2 (RCW 9A.56.080)
25 Securities Act violation (RCW 21.20.400)
26 II Unlawful Practice of Law (RCW 2.48.180)
27 Malicious Mischief 1 (RCW 9A.48.070)
28 Possession of Stolen Property 1 (RCW
29 9A.56.150)
30 Theft 1 (RCW 9A.56.030)
31 Trafficking in Insurance Claims (RCW
32 48.30A.015)
33 Unlicensed Practice of a Profession or
34 Business (RCW 18.130.190(7))
35 Health Care False Claims (RCW 48.80.030)
36 Possession of controlled substance that is
37 either heroin or narcotics from
38 Schedule I or II (RCW 69.50.401(d))

1 Possession of phencyclidine (PCP) (RCW
2 69.50.401(d))
3 Create, deliver, or possess a counterfeit
4 controlled substance (RCW
5 69.50.401(b))
6 Computer Trespass 1 (RCW 9A.52.110)
7 Escape from Community Custody (RCW
8 72.09.310)

9 I Theft 2 (RCW 9A.56.040)
10 Possession of Stolen Property 2 (RCW
11 9A.56.160)
12 Forgery (RCW 9A.60.020)
13 Taking Motor Vehicle Without Permission
14 (RCW 9A.56.070)
15 Vehicle Prowl 1 (RCW 9A.52.095)
16 Attempting to Elude a Pursuing Police
17 Vehicle (RCW 46.61.024)
18 Malicious Mischief 2 (RCW 9A.48.080)
19 Reckless Burning 1 (RCW 9A.48.040)
20 Unlawful Issuance of Checks or Drafts (RCW
21 9A.56.060)
22 Unlawful Use of Food Stamps (RCW 9.91.140
23 (2) and (3))
24 False Verification for Welfare (RCW
25 74.08.055)
26 Forged Prescription (RCW 69.41.020)
27 Forged Prescription for a Controlled
28 Substance (RCW 69.50.403)
29 Possess Controlled Substance that is a
30 Narcotic from Schedule III, IV, or V
31 or Non-narcotic from Schedule I-V
32 (except phencyclidine) (RCW
33 69.50.401(d))

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