

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2059

55th Legislature
1997 Regular Session

Passed by the House April 21, 1997
Yeas 94 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 14, 1997
Yeas 42 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 2059** 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 2059

Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

State of Washington 55th Legislature 1997 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives D. Schmidt, Grant, Thompson and Sheldon)

Read first time 03/05/97.

1 AN ACT Relating to theft of rental property; amending RCW
2 9A.56.010; reenacting and amending RCW 9.94A.320; adding a new section
3 to chapter 9A.56 RCW; repealing RCW 9.45.062 and 9A.56.095; and
4 prescribing penalties.

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

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

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

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

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

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

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

12 (4) The replacement value of the property obtained must be utilized
13 in determining the amount involved in the theft of rental, leased, or
14 lease-purchased property. Theft of rental, leased, or lease-purchased
15 property is a: Class B felony if the rental, leased, or lease-
16 purchased property is valued at one thousand five hundred dollars or
17 more; class C felony if the rental, leased, or lease-purchased property
18 is valued at two hundred fifty dollars or more but less than one
19 thousand five hundred dollars; and gross misdemeanor if the rental,
20 leased, or lease-purchased property is valued at less than two hundred
21 fifty dollars.

22 (5) This section applies to rental agreements that provide that the
23 renter may return the property any time within the rental period and
24 pay only for the time the renter actually retained the property, in
25 addition to any minimum rental fee, to lease agreements, and to lease-
26 purchase agreements as defined under RCW 63.19.010. This section does
27 not apply to rental or leasing of real property under the residential
28 landlord-tenant act, chapter 59.18 RCW.

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

31 The following definitions are applicable in this chapter unless the
32 context otherwise requires:

33 (1) "Appropriate lost or misdelivered property or services" means
34 obtaining or exerting control over the property or services of another
35 which the actor knows to have been lost or mislaid, or to have been
36 delivered under a mistake as to identity of the recipient or as to the
37 nature or amount of the property;

1 (2) "By color or aid of deception" means that the deception
2 operated to bring about the obtaining of the property or services; it
3 is not necessary that deception be the sole means of obtaining the
4 property or services;

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

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

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

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

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

17 (d) Transfers or encumbers property without disclosing a lien,
18 adverse claim, or other legal impediment to the enjoyment of the
19 property, whether that impediment is or is not valid, or is or is not
20 a matter of official record; or

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

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

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

27 (a) In relation to property, to bring about a transfer or purported
28 transfer to the obtainer or another of a legally recognized interest in
29 the property; or

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

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

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

34 (b) Having any property or services in one's possession, custody or
35 control as bailee, factor, lessee, pledgee, renter, servant, attorney,
36 agent, employee, trustee, executor, administrator, guardian, or officer
37 of any person, estate, association, or corporation, or as a public
38 officer, or person authorized by agreement or competent authority to
39 take or hold such possession, custody, or control, to secrete,

1 withhold, or appropriate the same to his or her own use or to the use
2 of any person other than the true owner or person entitled thereto; or

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

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

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

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

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

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

29 (13) "Telecommunication device" means (a) any type of instrument,
30 device, machine, or equipment that is capable of transmitting or
31 receiving telephonic or electronic communications; or (b) any part of
32 such an instrument, device, machine, or equipment, or any computer
33 circuit, computer chip, electronic mechanism, or other component, that
34 is capable of facilitating the transmission or reception of telephonic
35 or electronic communications;

36 (14) "Telecommunication service" includes any service other than
37 subscription television service provided for a charge or compensation
38 to facilitate the transmission, transfer, or reception of a telephonic
39 communication or an electronic communication;

1 (15) Value. (a) "Value" means the market value of the property or
2 services at the time and in the approximate area of the criminal act.
3 (b) Whether or not they have been issued or delivered, written
4 instruments, except those having a readily ascertained market value,
5 shall be evaluated as follows:
6 (i) The value of an instrument constituting an evidence of debt,
7 such as a check, draft, or promissory note, shall be deemed the amount
8 due or collectible thereon or thereby, that figure ordinarily being the
9 face amount of the indebtedness less any portion thereof which has been
10 satisfied;
11 (ii) The value of a ticket or equivalent instrument which evidences
12 a right to receive transportation, entertainment, or other service
13 shall be deemed the price stated thereon, if any; and if no price is
14 stated thereon, the value shall be deemed the price of such ticket or
15 equivalent instrument which the issuer charged the general public;
16 (iii) The value of any other instrument that creates, releases,
17 discharges, or otherwise affects any valuable legal right, privilege,
18 or obligation shall be deemed the greatest amount of economic loss
19 which the owner of the instrument might reasonably suffer by virtue of
20 the loss of the instrument.
21 (c) Whenever any series of transactions which constitute theft,
22 would, when considered separately, constitute theft in the third degree
23 because of value, and said series of transactions are a part of a
24 common scheme or plan, then the transactions may be aggregated in one
25 count and the sum of the value of all said transactions shall be the
26 value considered in determining the degree of theft involved.
27 (d) Whenever any person is charged with possessing stolen property
28 and such person has unlawfully in his possession at the same time the
29 stolen property of more than one person, then the stolen property
30 possessed may be aggregated in one count and the sum of the value of
31 all said stolen property shall be the value considered in determining
32 the degree of theft involved.
33 (e) Property or services having value that cannot be ascertained
34 pursuant to the standards set forth above shall be deemed to be of a
35 value not exceeding two hundred and fifty dollars;
36 (16) "Shopping cart" means a basket mounted on wheels or similar
37 container generally used in a retail establishment by a customer for
38 the purpose of transporting goods of any kind;

1 (17) "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. 3.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996
5 c 36 s 2 are each reenacted and amended to read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

8	XV	Aggravated Murder 1 (RCW 10.95.020)
9	XIV	Murder 1 (RCW 9A.32.030)
10		Homicide by abuse (RCW 9A.32.055)
11	XIII	Murder 2 (RCW 9A.32.050)
12	XII	Assault 1 (RCW 9A.36.011)
13		Assault of a Child 1 (RCW 9A.36.120)
14	XI	Rape 1 (RCW 9A.44.040)
15		Rape of a Child 1 (RCW 9A.44.073)
16	X	Kidnapping 1 (RCW 9A.40.020)
17		Rape 2 (RCW 9A.44.050)
18		Rape of a Child 2 (RCW 9A.44.076)
19		Child Molestation 1 (RCW 9A.44.083)
20		Damaging building, etc., by explosion with
21		threat to human being (RCW
22		70.74.280(1))
23		Over 18 and deliver heroin or narcotic from
24		Schedule I or II to someone under 18
25		(RCW 69.50.406)
26		Leading Organized Crime (RCW
27		9A.82.060(1)(a))
28	IX	Assault of a Child 2 (RCW 9A.36.130)
29		Robbery 1 (RCW 9A.56.200)
30		Manslaughter 1 (RCW 9A.32.060)
31		Explosive devices prohibited (RCW
32		70.74.180)
33		Indecent Liberties (with forcible
34		compulsion) (RCW 9A.44.100(1)(a))

1 Endangering life and property by explosives
2 with threat to human being (RCW
3 70.74.270)
4 Over 18 and deliver narcotic from Schedule
5 III, IV, or V or a nonnarcotic from
6 Schedule I-V to someone under 18 and 3
7 years junior (RCW 69.50.406)
8 Controlled Substance Homicide (RCW
9 69.50.415)
10 Sexual Exploitation (RCW 9.68A.040)
11 Inciting Criminal Profiteering (RCW
12 9A.82.060(1)(b))
13 Vehicular Homicide, by being under the
14 influence of intoxicating liquor or
15 any drug (RCW 46.61.520)
16 VIII Arson 1 (RCW 9A.48.020)
17 Promoting Prostitution 1 (RCW 9A.88.070)
18 Selling for profit (controlled or
19 counterfeit) any controlled substance
20 (RCW 69.50.410)
21 Manufacture, deliver, or possess with
22 intent to deliver heroin or cocaine
23 (RCW 69.50.401(a)(1)(i))
24 Manufacture, deliver, or possess with
25 intent to deliver methamphetamine (RCW
26 69.50.401(a)(1)(ii))
27 Possession of ephedrine or pseudoephedrine
28 with intent to manufacture
29 methamphetamine (RCW 69.50.440)
30 Vehicular Homicide, by the operation of any
31 vehicle in a reckless manner (RCW
32 46.61.520)
33 VII Burglary 1 (RCW 9A.52.020)
34 Vehicular Homicide, by disregard for the
35 safety of others (RCW 46.61.520)
36 Introducing Contraband 1 (RCW 9A.76.140)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1) (b) and
3 (c))
4 Child Molestation 2 (RCW 9A.44.086)
5 Dealing in depictions of minor engaged in
6 sexually explicit conduct (RCW
7 9.68A.050)
8 Sending, bringing into state depictions of
9 minor engaged in sexually explicit
10 conduct (RCW 9.68A.060)
11 Involving a minor in drug dealing (RCW
12 69.50.401(f))
13 Reckless Endangerment 1 (RCW 9A.36.045)
14 Unlawful Possession of a Firearm in the
15 first degree (RCW 9.41.040(1)(a))
16 VI Bribery (RCW 9A.68.010)
17 Manslaughter 2 (RCW 9A.32.070)
18 Rape of a Child 3 (RCW 9A.44.079)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Damaging building, etc., by explosion with
22 no threat to human being (RCW
23 70.74.280(2))
24 Endangering life and property by explosives
25 with no threat to human being (RCW
26 70.74.270)
27 Incest 1 (RCW 9A.64.020(1))
28 Manufacture, deliver, or possess with
29 intent to deliver narcotics from
30 Schedule I or II (except heroin or
31 cocaine) (RCW 69.50.401(a)(1)(i))
32 Intimidating a Judge (RCW 9A.72.160)
33 Bail Jumping with Murder 1 (RCW
34 9A.76.170(2)(a))
35 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 Class B Felony Theft of Rental, Leased, or
32 Lease-purchased Property (section 1(4)
33 of this act)
34 Trafficking in Insurance Claims (RCW
35 48.30A.015)
36 Unlicensed Practice of a Profession or
37 Business (RCW 18.130.190(7))
38 Health Care False Claims (RCW 48.80.030)

1 Possession of controlled substance that is
2 either heroin or narcotics from
3 Schedule I or II (RCW 69.50.401(d))
4 Possession of phencyclidine (PCP) (RCW
5 69.50.401(d))
6 Create, deliver, or possess a counterfeit
7 controlled substance (RCW
8 69.50.401(b))
9 Computer Trespass 1 (RCW 9A.52.110)
10 Escape from Community Custody (RCW
11 72.09.310)

12 I Theft 2 (RCW 9A.56.040)
13 Class C Felony Theft of Rental, Leased, or
14 Lease-purchased Property (section 1(4)
15 of this act)
16 Possession of Stolen Property 2 (RCW
17 9A.56.160)
18 Forgery (RCW 9A.60.020)
19 Taking Motor Vehicle Without Permission
20 (RCW 9A.56.070)
21 Vehicle Prowl 1 (RCW 9A.52.095)
22 Attempting to Elude a Pursuing Police
23 Vehicle (RCW 46.61.024)
24 Malicious Mischief 2 (RCW 9A.48.080)
25 Reckless Burning 1 (RCW 9A.48.040)
26 Unlawful Issuance of Checks or Drafts (RCW
27 9A.56.060)
28 Unlawful Use of Food Stamps (RCW 9.91.140
29 (2) and (3))
30 False Verification for Welfare (RCW
31 74.08.055)
32 Forged Prescription (RCW 69.41.020)
33 Forged Prescription for a Controlled
34 Substance (RCW 69.50.403)
35 Possess Controlled Substance that is a
36 Narcotic from Schedule III, IV, or V
37 or Non-narcotic from Schedule I-V
38 (except phencyclidine) (RCW
39 69.50.401(d))

1 NEW SECTION. **Sec. 4.** The following acts or parts of acts are each
2 repealed:

3 (1) RCW 9.45.062 and 1971 c 61 s 2; and

4 (2) RCW 9A.56.095 and 1977 ex.s. c 236 s 1.

--- **END** ---