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SENATE BILL 5092

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State of Washington

56th Legislature

1999 Regular Session

By Senators Goings and Costa

Read first time 01/12/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to displaying a deadly weapon; and amending RCW  
2 9A.56.010.

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

4 **Sec. 1.** RCW 9A.56.010 and 1998 c 236 s 1 are each amended to read  
5 as follows:

6 The following definitions are applicable in this chapter unless the  
7 context otherwise requires:

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

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

17 (3) "Access device" means any card, plate, code, account number, or  
18 other means of account access that can be used alone or in conjunction  
19 with another access device to obtain money, goods, services, or

1 anything else of value, or that can be used to initiate a transfer of  
2 funds, other than a transfer originated solely by paper instrument;

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

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

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

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

10 (d) Transfers or encumbers property without disclosing a lien,  
11 adverse claim, or other legal impediment to the enjoyment of the  
12 property, whether that impediment is or is not valid, or is or is not  
13 a matter of official record; or

14 (e) Promises performance which the actor does not intend to perform  
15 or knows will not be performed((~~-~~));

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

19 (6) "Displays" means to make a deadly weapon actually visible to  
20 the victim. "Displays" also includes to intimidate by otherwise  
21 manifesting the presence of such a weapon even though it is not seen by  
22 the victim. "Displays" may include only verbal or written  
23 communication, or an exhibition to any of a victim's senses;

24 (7) "Obtain control over" in addition to its common meaning, means:

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

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

30 ((~~+7~~)) (8) "Wrongfully obtains" or "exerts unauthorized control"  
31 means:

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

33 (b) Having any property or services in one's possession, custody or  
34 control as bailee, factor, lessee, pledgee, renter, servant, attorney,  
35 agent, employee, trustee, executor, administrator, guardian, or officer  
36 of any person, estate, association, or corporation, or as a public  
37 officer, or person authorized by agreement or competent authority to  
38 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)~~) (9) "Merchandise pallet" means a wood or plastic carrier  
9 designed and manufactured as an item on which products can be placed  
10 prior to or during transport to retail outlets, manufacturers, or  
11 contractors, and affixed with language stating "property of . . .,"  
12 "owned by . . .," or other markings or words identifying ownership;

13 (~~(9)~~) (10) "Beverage crate" means a plastic or metal box-like  
14 container used by a manufacturer or distributor in the transportation  
15 or distribution of individually packaged beverages to retail outlets,  
16 and affixed with language stating "property of . . . . .," "owned by  
17 . . . . .," or other markings or words identifying ownership;

18 (~~(10)~~) (11) "Owner" means a person, other than the actor, who has  
19 possession of or any other interest in the property or services  
20 involved, and without whose consent the actor has no authority to exert  
21 control over the property or services;

22 (~~(11)~~) (12) "Receive" includes, but is not limited to, acquiring  
23 title, possession, control, or a security interest, or any other  
24 interest in the property;

25 (~~(12)~~) (13) "Services" includes, but is not limited to, labor,  
26 professional services, transportation services, electronic computer  
27 services, the supplying of hotel accommodations, restaurant services,  
28 entertainment, the supplying of equipment for use, and the supplying of  
29 commodities of a public utility nature such as gas, electricity, steam,  
30 and water;

31 (~~(13)~~) (14) "Stolen" means obtained by theft, robbery, or  
32 extortion;

33 (~~(14)~~) (15) "Subscription television service" means cable or  
34 encrypted video and related audio and data services intended for  
35 viewing on a home television by authorized members of the public only,  
36 who have agreed to pay a fee for the service. Subscription services  
37 include but are not limited to those video services presently delivered  
38 by coaxial cable, fiber optic cable, terrestrial microwave, television  
39 broadcast, and satellite transmission;

1       (~~(15)~~) (16) "Telecommunication device" means (a) any type of  
2 instrument, device, machine, or equipment that is capable of  
3 transmitting or receiving telephonic or electronic communications; or  
4 (b) any part of such an instrument, device, machine, or equipment, or  
5 any computer circuit, computer chip, electronic mechanism, or other  
6 component, that is capable of facilitating the transmission or  
7 reception of telephonic or electronic communications;

8       (~~(16)~~) (17) "Telecommunication service" includes any service  
9 other than subscription television service provided for a charge or  
10 compensation to facilitate the transmission, transfer, or reception of  
11 a telephonic communication or an electronic communication;

12       (~~(17)~~) (18) Value. (a) "Value" means the market value of the  
13 property or services at the time and in the approximate area of the  
14 criminal act.

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

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

23       (ii) The value of a ticket or equivalent instrument which evidences  
24 a right to receive transportation, entertainment, or other service  
25 shall be deemed the price stated thereon, if any; and if no price is  
26 stated thereon, the value shall be deemed the price of such ticket or  
27 equivalent instrument which the issuer charged the general public;

28       (iii) The value of any other instrument that creates, releases,  
29 discharges, or otherwise affects any valuable legal right, privilege,  
30 or obligation shall be deemed the greatest amount of economic loss  
31 which the owner of the instrument might reasonably suffer by virtue of  
32 the loss of the instrument.

33       (c) Whenever any series of transactions which constitute theft,  
34 would, when considered separately, constitute theft in the third degree  
35 because of value, and said series of transactions are a part of a  
36 common scheme or plan, then the transactions may be aggregated in one  
37 count and the sum of the value of all said transactions shall be the  
38 value considered in determining the degree of theft involved.

1 (d) Whenever any person is charged with possessing stolen property  
2 and such person has unlawfully in his possession at the same time the  
3 stolen property of more than one person, then the stolen property  
4 possessed may be aggregated in one count and the sum of the value of  
5 all said stolen property shall be the value considered in determining  
6 the degree of theft involved.

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

10 (~~(18)~~) (19) "Shopping cart" means a basket mounted on wheels or  
11 similar container generally used in a retail establishment by a  
12 customer for the purpose of transporting goods of any kind;

13 (~~(19)~~) (20) "Parking area" means a parking lot or other property  
14 provided by retailers for use by a customer for parking an automobile  
15 or other vehicle.

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