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SENATE BILL 6338

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State of Washington                      58th Legislature                      2004 Regular Session

By Senators Johnson and Kline

Read first time 01/19/2004. Referred to Committee on Judiciary.

1            AN ACT Relating to stolen merchandise pallets; and amending RCW  
2 9A.56.020 and 9A.56.140.

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

4            **Sec. 1.** RCW 9A.56.020 and 1975-'76 2nd ex.s. c 38 s 9 are each  
5 amended to read as follows:

6            (1) "Theft" means:

7            (a) To wrongfully obtain or exert unauthorized control over the  
8 property or services of another or the value thereof, with intent to  
9 deprive him or her of such property or services; or

10            (b) By color or aid of deception to obtain control over the  
11 property or services of another or the value thereof, with intent to  
12 deprive him or her of such property or services; or

13            (c) To appropriate lost or misdelivered property or services of  
14 another, or the value thereof, with intent to deprive him or her of  
15 such property or services.

16            (2) In any prosecution for theft, it shall be a sufficient defense  
17 that:

18            (a) The property or service was appropriated openly and avowedly

1 under a claim of title made in good faith, even though the claim be  
2 untenable; or

3 (b) The property was merchandise pallets that were received by a  
4 pallet recycler or repairer in the ordinary course of its business.

5 **Sec. 2.** RCW 9A.56.140 and 1998 c 236 s 3 are each amended to read  
6 as follows:

7 (1) "Possessing stolen property" means knowingly to receive,  
8 retain, possess, conceal, or dispose of stolen property knowing that it  
9 has been stolen and to withhold or appropriate the same to the use of  
10 any person other than the true owner or person entitled thereto.

11 (2) The fact that the person who stole the property has not been  
12 convicted, apprehended, or identified is not a defense to a charge of  
13 possessing stolen property.

14 (3) When a person has in his or her possession, or under his or her  
15 control, stolen access devices issued in the names of two or more  
16 persons, or ten or more stolen merchandise pallets, or ten or more  
17 stolen beverage crates, or a combination of ten or more stolen  
18 merchandise pallets and beverage crates, as defined under RCW  
19 9A.56.010, he or she is presumed to know that they are stolen.

20 (4) The presumption in subsection (3) of this section is rebuttable  
21 by evidence raising a reasonable inference that the possession of such  
22 stolen access devices, merchandise pallets, or beverage crates was  
23 without knowledge that they were stolen.

24 (5) In any prosecution for possessing stolen property, it is a  
25 sufficient defense that the property was merchandise pallets that were  
26 received by a pallet recycler or repairer in the ordinary course of its  
27 business.

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