

# SENATE BILL REPORT

## SHB 1145

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As Reported by Senate Committee On:  
Judiciary, March 16, 2011

**Title:** An act relating to mail theft.

**Brief Description:** Establishing mail theft provisions.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Overstreet, Hurst, Klippert, Hinkle, Angel, Ross, Nealey, Warnick, Kirby, Short, Fagan, Hunt, Kelley, Eddy, Bailey, Kenney, McCune and Condotta; by request of Attorney General).

**Brief History:** Passed House: 3/01/11, 95-3.

**Committee Activity:** Judiciary: 3/15/11, 3/16/11 [DPA].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Baxter, Carrell, Hargrove, Kohl-Welles and Roach.

**Staff:** Lidia Mori (786-7755)

**Background:** Theft is committed when a person:

- wrongfully obtains or exerts unauthorized control over the property or services of another with intent to deprive that person of the property or services;
- by color or aid of deception, obtains control over the property or services of another with the intent to deprive him or her of the property or services; or
- appropriates lost or mis-delivered property or services of another with intent to deprive him or her of the property or services.

A person commits Possession of Stolen Property if the person knowingly receives, retains, possesses, conceals, or disposes of stolen property knowing that it has been stolen and to withhold or appropriate the property to the use of any person other than the true owner.

Generally, federal law governs most postal crimes. Under the federal statute, a person is guilty of Obstruction of Mail if the person takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or

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which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with the intent to obstruct the correspondence, to pry into the business or secrets of another, or to open, secrete, embezzle, or destroy the mail. The penalty is up to five years of imprisonment, up to \$250,000 fine, or both imprisonment and a fine.

**Summary of Bill (Recommended Amendments):** A person is guilty of Mail Theft if the person (1) possesses stolen mail addressed to three or more different mailboxes; and (2) possesses a minimum of ten separate pieces of stolen mail. Each set of ten pieces of stolen mail constitutes a separate crime of mail theft. Mail theft is an unranked class C felony offense.

A person is guilty of Possession of Stolen Mail if the person (1) possesses stolen mail addressed to three or more different mailboxes; and (2) possesses a minimum of ten separate pieces of stolen mail. Possesses stolen mail means to knowingly receive, retain, possess, conceal, or dispose of stolen mail knowing that it has been stolen, and to withhold or appropriate the use of it to any person other than the true owner or the person to whom it is addressed. The fact that the person who stole the mail has not been convicted, apprehended, or identified, is not a defense to the charge of possessing stolen mail. Each set of ten pieces of stolen mail addressed to at least three mail boxes is a separate and distinct crime of Possession of Stolen Mail. Possession of Stolen Mail is an unranked class C felony offense.

Mail is defined as any letter, postal card, package, bag, or other item that is addressed to a specific address for delivery by the United States Postal Service or any commercial carrier performing the function of delivering similar items to residences or businesses, provided the mail:

1. is addressed to a specific name of an individual person or with a family name or specific company, business or corporation name on the outside of the item of mail or on the contents inside; and
2. is not addressed to any general occupant or resident of the address or fails to provide an identifiable person or company, business or corporation; and
  - a. has been left for collection or delivery in a letter box, mailbox, mail receptacle, or other authorized depository for mail,
  - b. given to a mail carrier, or left with any private business that provides mailboxes or mail addresses for customers;
  - c. is in transit with a postal service, mail carrier, letter carrier, commercial carrier, or is at or in a postal vehicle, postal station, mailbox, postal airplane, transit station, or similar location of a commercial carrier;
  - d. or has been delivered to the intended address, but has not been received by the intended addressee.

Mail does not include magazines, catalogs, direct mail inserts, newsletters, advertising circulars, or any mail that is considered third class mail by the United States Postal Service for purposes of a Mail Theft or Possession of Stolen Mail offense.

If a person commits any other crime in the commission of Mail Theft or Possession of Stolen Mail, that person may be prosecuted for the additional crime(s).

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments):** A person is guilty of mail theft if the person commits theft of mail addressed to at least three different addresses and has a minimum of ten pieces of stolen mail. It is clarified that each set of ten pieces of stolen mail constitutes a separate crime of mail theft. A person is guilty of possession of stolen mail if the person possesses a minimum of ten separate pieces of stolen mail addressed to at least three different mail boxes. Each set of ten pieces of stolen mail addressed to at least three mail boxes is a separate and distinct crime. Language is added such that if a person commits any other crime in the commission of mail theft or possession of stolen mail, that person may be prosecuted for the additional crime(s).

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Substitute House Bill:** PRO: Work on the issue of theft of personal information is continuing through the Attorney General's office. The reason the bill requires the ten pieces of mail is so a clear pattern and intent can be shown. This bill was born out of our identity theft workgroup (LEGIT); and it is their number one priority. Mail theft usually falls under the jurisdiction of federal law, but mail theft is often the start of identity theft, so we really need a state statute. King county is 15th in the nation when it comes to identity theft. Mail theft is the number one way people get their hands on the necessary information for identity theft. The Federal system is driven by the amount or value of loss; they don't have a huge incentive for pursuing these crimes if you can't show actual loss. The amendment being proposed is beneficial to the bill. The additional crimes people tend to commit when they steal mail is forgery or identity theft.

**Persons Testifying:** PRO: Tom McBride, WA Assn. of Prosecuting Attorneys; Melinda Young, King County Prosecutor's Office; Hunter Goodman, Attorney General's Office.