

ESB 5053 - H COMM AMD
By Committee on Public Safety

ADOPTED 04/11/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.52.100 and 2011 c 336 s 376 are each amended to
4 read as follows:

5 (1) A person is guilty of vehicle prowling in the second degree if,
6 with intent to commit a crime against a person or property therein, he
7 or she enters or remains unlawfully in a vehicle other than a motor
8 home, as defined in RCW 46.04.305, or a vessel equipped for propulsion
9 by mechanical means or by sail which has a cabin equipped with
10 permanently installed sleeping quarters or cooking facilities.

11 (2) Except as provided in subsection (3) of this section, vehicle
12 prowling in the second degree is a gross misdemeanor.

13 (3) Vehicle prowling in the second degree is a class C felony upon
14 a third or subsequent conviction of vehicle prowling in the second
15 degree. A third or subsequent conviction means that a person has been
16 previously convicted at least two separate occasions of the crime of
17 vehicle prowling in the second degree.

18 (4) Multiple counts of vehicle prowling (a) charged in the same
19 charging document do not count as separate offenses for the purposes of
20 charging as a felony based on previous convictions for vehicle prowling
21 in the second degree and (b) based on the same date of occurrence do
22 not count as separate offenses for the purposes of charging as a felony
23 based on previous convictions for vehicle prowling in the second
24 degree.

25 **Sec. 2.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are
26 each reenacted and amended to read as follows:

27

TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083) Criminal Mistreatment 1 (RCW 9A.42.020) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))

1 Kidnapping 1 (RCW 9A.40.020)
2 Leading Organized Crime (RCW
3 9A.82.060(1)(a))
4 Malicious explosion 3 (RCW
5 70.74.280(3))
6 Sexually Violent Predator Escape
7 (RCW 9A.76.115)
8 IX Abandonment of Dependent Person 1
9 (RCW 9A.42.060)
10 Assault of a Child 2 (RCW 9A.36.130)
11 Explosive devices prohibited (RCW
12 70.74.180)
13 Hit and Run--Death (RCW
14 46.52.020(4)(a))
15 Homicide by Watercraft, by being
16 under the influence of intoxicating
17 liquor or any drug (RCW
18 79A.60.050)
19 Inciting Criminal Profiteering (RCW
20 9A.82.060(1)(b))
21 Malicious placement of an explosive 2
22 (RCW 70.74.270(2))
23 Robbery 1 (RCW 9A.56.200)
24 Sexual Exploitation (RCW 9.68A.040)
25 VIII Arson 1 (RCW 9A.48.020)
26 Commercial Sexual Abuse of a Minor
27 (RCW 9.68A.100)
28 Homicide by Watercraft, by the
29 operation of any vessel in a
30 reckless manner (RCW
31 79A.60.050)
32 Manslaughter 2 (RCW 9A.32.070)
33 Promoting Prostitution 1 (RCW
34 9A.88.070)
35 Theft of Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation
2 of any vehicle in a reckless manner
3 (RCW 46.61.520)

4 VII Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Civil Disorder Training (RCW
7 9A.48.120)
8 Dealing in depictions of minor engaged
9 in sexually explicit conduct 1
10 (RCW 9.68A.050(1))
11 Drive-by Shooting (RCW 9A.36.045)
12 Homicide by Watercraft, by disregard
13 for the safety of others (RCW
14 79A.60.050)
15 Indecent Liberties (without forcible
16 compulsion) (RCW 9A.44.100(1)
17 (b) and (c))
18 Introducing Contraband 1 (RCW
19 9A.76.140)
20 Malicious placement of an explosive 3
21 (RCW 70.74.270(3))
22 Negligently Causing Death By Use of a
23 Signal Preemption Device (RCW
24 46.37.675)
25 Sending, bringing into state depictions
26 of minor engaged in sexually
27 explicit conduct 1 (RCW
28 9.68A.060(1))
29 Unlawful Possession of a Firearm in
30 the first degree (RCW 9.41.040(1))
31 Use of a Machine Gun in Commission
32 of a Felony (RCW 9.41.225)
33 Vehicular Homicide, by disregard for
34 the safety of others (RCW
35 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(3)(a))

1 Bribery (RCW 9A.68.010)
2 Incest 1 (RCW 9A.64.020(1))
3 Intimidating a Judge (RCW 9A.72.160)
4 Intimidating a Juror/Witness (RCW
5 9A.72.110, 9A.72.130)
6 Malicious placement of an imitation
7 device 2 (RCW 70.74.272(1)(b))
8 Possession of Depictions of a Minor
9 Engaged in Sexually Explicit
10 Conduct 1 (RCW 9.68A.070(1))
11 Rape of a Child 3 (RCW 9A.44.079)
12 Theft of a Firearm (RCW 9A.56.300)
13 Unlawful Storage of Ammonia (RCW
14 69.55.020)
15 V Abandonment of Dependent Person 2
16 (RCW 9A.42.070)
17 Advancing money or property for
18 extortionate extension of credit
19 (RCW 9A.82.030)
20 Bail Jumping with class A Felony
21 (RCW 9A.76.170(3)(b))
22 Child Molestation 3 (RCW 9A.44.089)
23 Criminal Mistreatment 2 (RCW
24 9A.42.030)
25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)
27 Dealing in Depictions of Minor
28 Engaged in Sexually Explicit
29 Conduct 2 (RCW 9.68A.050(2))
30 Domestic Violence Court Order
31 Violation (RCW 10.99.040,
32 10.99.050, 26.09.300, 26.10.220,
33 26.26.138, 26.50.110, 26.52.070,
34 or 74.34.145)
35 Driving While Under the Influence
36 (RCW 46.61.502(6))
37 Extortion 1 (RCW 9A.56.120)

1 Extortionate Extension of Credit (RCW
2 9A.82.020)
3 Extortionate Means to Collect
4 Extensions of Credit (RCW
5 9A.82.040)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Perjury 1 (RCW 9A.72.020)
9 Persistent prison misbehavior (RCW
10 9.94.070)
11 Physical Control of a Vehicle While
12 Under the Influence (RCW
13 46.61.504(6))
14 Possession of a Stolen Firearm (RCW
15 9A.56.310)
16 Rape 3 (RCW 9A.44.060)
17 Rendering Criminal Assistance 1
18 (RCW 9A.76.070)
19 Sending, Bringing into State Depictions
20 of Minor Engaged in Sexually
21 Explicit Conduct 2 (RCW
22 9.68A.060(2))
23 Sexual Misconduct with a Minor 1
24 (RCW 9A.44.093)
25 Sexually Violating Human Remains
26 (RCW 9A.44.105)
27 Stalking (RCW 9A.46.110)
28 Taking Motor Vehicle Without
29 Permission 1 (RCW 9A.56.070)
30 IV Arson 2 (RCW 9A.48.030)
31 Assault 2 (RCW 9A.36.021)
32 Assault 3 (of a Peace Officer with a
33 Projectile Stun Gun) (RCW
34 9A.36.031(1)(h))
35 Assault by Watercraft (RCW
36 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW 9A.68.060)
6 Counterfeiting (RCW 9.16.035(4))
7 Endangerment with a Controlled
8 Substance (RCW 9A.42.100)
9 Escape 1 (RCW 9A.76.110)
10 Hit and Run--Injury (RCW
11 46.52.020(4)(b))
12 Hit and Run with Vessel--Injury
13 Accident (RCW 79A.60.200(3))
14 Identity Theft 1 (RCW 9.35.020(2))
15 Indecent Exposure to Person Under
16 Age Fourteen (subsequent sex
17 offense) (RCW 9A.88.010)
18 Influencing Outcome of Sporting Event
19 (RCW 9A.82.070)
20 Malicious Harassment (RCW
21 9A.36.080)
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit
24 Conduct 2 (RCW 9.68A.070(2))
25 Residential Burglary (RCW
26 9A.52.025)
27 Robbery 2 (RCW 9A.56.210)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Threats to Bomb (RCW 9.61.160)
30 Trafficking in Stolen Property 1 (RCW
31 9A.82.050)
32 Unlawful factoring of a credit card or
33 payment card transaction (RCW
34 9A.56.290(4)(b))
35 Unlawful transaction of health
36 coverage as a health care service
37 contractor (RCW 48.44.016(3))

1 Unlawful transaction of health
2 coverage as a health maintenance
3 organization (RCW 48.46.033(3))
4 Unlawful transaction of insurance
5 business (RCW 48.15.023(3))
6 Unlicensed practice as an insurance
7 professional (RCW 48.17.063(2))
8 Use of Proceeds of Criminal
9 Profiteering (RCW 9A.82.080 (1)
10 and (2))
11 Vehicle Prowling 2 (third or
12 subsequent offense) (RCW
13 9A.52.100(3))
14 Vehicular Assault, by being under the
15 influence of intoxicating liquor or
16 any drug, or by the operation or
17 driving of a vehicle in a reckless
18 manner (RCW 46.61.522)
19 Viewing of Depictions of a Minor
20 Engaged in Sexually Explicit
21 Conduct 1 (RCW 9.68A.075(1))
22 Willful Failure to Return from
23 Furlough (RCW 72.66.060)
24 III Animal Cruelty 1 (Sexual Conduct or
25 Contact) (RCW 16.52.205(3))
26 Assault 3 (Except Assault 3 of a Peace
27 Officer With a Projectile Stun
28 Gun) (RCW 9A.36.031 except
29 subsection (1)(h))
30 Assault of a Child 3 (RCW 9A.36.140)
31 Bail Jumping with class B or C Felony
32 (RCW 9A.76.170(3)(c))
33 Burglary 2 (RCW 9A.52.030)
34 Communication with a Minor for
35 Immoral Purposes (RCW
36 9.68A.090)

1 Criminal Gang Intimidation (RCW
2 9A.46.120)
3 Custodial Assault (RCW 9A.36.100)
4 Cyberstalking (subsequent conviction
5 or threat of death) (RCW
6 9.61.260(3))
7 Escape 2 (RCW 9A.76.120)
8 Extortion 2 (RCW 9A.56.130)
9 Harassment (RCW 9A.46.020)
10 Intimidating a Public Servant (RCW
11 9A.76.180)
12 Introducing Contraband 2 (RCW
13 9A.76.150)
14 Malicious Injury to Railroad Property
15 (RCW 81.60.070)
16 Mortgage Fraud (RCW 19.144.080)
17 Negligently Causing Substantial Bodily
18 Harm By Use of a Signal
19 Preemption Device (RCW
20 46.37.674)
21 Organized Retail Theft 1 (RCW
22 9A.56.350(2))
23 Perjury 2 (RCW 9A.72.030)
24 Possession of Incendiary Device (RCW
25 9.40.120)
26 Possession of Machine Gun or Short-
27 Barreled Shotgun or Rifle (RCW
28 9.41.190)
29 Promoting Prostitution 2 (RCW
30 9A.88.080)
31 Retail Theft with Extenuating
32 Circumstances 1 (RCW
33 9A.56.360(2))
34 Securities Act violation (RCW
35 21.20.400)
36 Tampering with a Witness (RCW
37 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death)
3 (RCW 9.61.230(2))
4 Theft of Livestock 2 (RCW 9A.56.083)
5 Theft with the Intent to Resell 1 (RCW
6 9A.56.340(2))
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Hunting of Big Game 1
10 (RCW 77.15.410(3)(b))
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful possession of firearm in the
14 second degree (RCW 9.41.040(2))
15 Unlawful Taking of Endangered Fish
16 or Wildlife 1 (RCW
17 77.15.120(3)(b))
18 Unlawful Trafficking in Fish, Shellfish,
19 or Wildlife 1 (RCW
20 77.15.260(3)(b))
21 Unlawful Use of a Nondesignated
22 Vessel (RCW 77.15.530(4))
23 Vehicular Assault, by the operation or
24 driving of a vehicle with disregard
25 for the safety of others (RCW
26 46.61.522)
27 Willful Failure to Return from Work
28 Release (RCW 72.65.070)
29 II Commercial Fishing Without a License
30 1 (RCW 77.15.500(3)(b))
31 Computer Trespass 1 (RCW
32 9A.52.110)
33 Counterfeiting (RCW 9.16.035(3))
34 Engaging in Fish Dealing Activity
35 Unlicensed 1 (RCW 77.15.620(3))
36 Escape from Community Custody
37 (RCW 72.09.310)

1 Failure to Register as a Sex Offender
2 (second or subsequent offense)
3 (RCW 9A.44.132)
4 Health Care False Claims (RCW
5 48.80.030)
6 Identity Theft 2 (RCW 9.35.020(3))
7 Improperly Obtaining Financial
8 Information (RCW 9.35.010)
9 Malicious Mischief 1 (RCW
10 9A.48.070)
11 Organized Retail Theft 2 (RCW
12 9A.56.350(3))
13 Possession of Stolen Property 1 (RCW
14 9A.56.150)
15 Possession of a Stolen Vehicle (RCW
16 9A.56.068)
17 Retail Theft with Extenuating
18 Circumstances 2 (RCW
19 9A.56.360(3))
20 Theft 1 (RCW 9A.56.030)
21 Theft of a Motor Vehicle (RCW
22 9A.56.065)
23 Theft of Rental, Leased, or Lease-
24 purchased Property (valued at one
25 thousand five hundred dollars or
26 more) (RCW 9A.56.096(5)(a))
27 Theft with the Intent to Resell 2 (RCW
28 9A.56.340(3))
29 Trafficking in Insurance Claims (RCW
30 48.30A.015)
31 Unlawful factoring of a credit card or
32 payment card transaction (RCW
33 9A.56.290(4)(a))
34 Unlawful Participation of Non-Indians
35 in Indian Fishery (RCW
36 77.15.570(2))

1 Unlawful Practice of Law (RCW
2 2.48.180)
3 Unlicensed Practice of a Profession or
4 Business (RCW 18.130.190(7))
5 Unlawful Purchase or Use of a License
6 (RCW 77.15.650(3)(b))
7 Unlawful Trafficking in Fish, Shellfish,
8 or Wildlife 2 (RCW
9 77.15.260(3)(a))
10 Voyeurism (RCW 9A.44.115)
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Fraudulent Creation or Revocation of a
17 Mental Health Advance Directive
18 (RCW 9A.60.060)
19 Malicious Mischief 2 (RCW
20 9A.48.080)
21 Mineral Trespass (RCW 78.44.330)
22 Possession of Stolen Property 2 (RCW
23 9A.56.160)
24 Reckless Burning 1 (RCW 9A.48.040)
25 Spotlighting Big Game 1 (RCW
26 77.15.450(3)(b))
27 Suspension of Department Privileges 1
28 (RCW 77.15.670(3)(b))
29 Taking Motor Vehicle Without
30 Permission 2 (RCW 9A.56.075)
31 Theft 2 (RCW 9A.56.040)
32 Theft of Rental, Leased, or Lease-
33 purchased Property (valued at two
34 hundred fifty dollars or more but
35 less than one thousand five
36 hundred dollars) (RCW
37 9A.56.096(5)(b))

1 Transaction of insurance business
2 beyond the scope of licensure
3 (RCW 48.17.063)
4 Unlawful Fish and Shellfish Catch
5 Accounting (RCW
6 77.15.630(3)(b))
7 Unlawful Issuance of Checks or Drafts
8 (RCW 9A.56.060)
9 Unlawful Possession of Fictitious
10 Identification (RCW 9A.56.320)
11 Unlawful Possession of Instruments of
12 Financial Fraud (RCW 9A.56.320)
13 Unlawful Possession of Payment
14 Instruments (RCW 9A.56.320)
15 Unlawful Possession of a Personal
16 Identification Device (RCW
17 9A.56.320)
18 Unlawful Production of Payment
19 Instruments (RCW 9A.56.320)
20 Unlawful Release of Deleterious Exotic
21 Wildlife (RCW 77.15.250(2)(b))
22 Unlawful Trafficking in Food Stamps
23 (RCW 9.91.142)
24 Unlawful Use of Food Stamps (RCW
25 9.91.144)
26 Unlawful Use of Net to Take Fish 1
27 (RCW 77.15.580(3)(b))
28 Unlawful Use of Prohibited Aquatic
29 Animal Species (RCW
30 77.15.253(3))
31 Vehicle Prowl 1 (RCW 9A.52.095)
32 Violating Commercial Fishing Area or
33 Time 1 (RCW 77.15.550(3)(b))"

34 Correct the title.

EFFECT: Makes it a seriousness level IV, class C felony offense

(instead of a seriousness level V offense) for the crime of Vehicle Prowling in the second degree on an offender's third or subsequent offense.

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