
HOUSE BILL 1719

State of Washington

66th Legislature

2019 Regular Session

By Representative Klippert

Read first time 01/29/19. Referred to Committee on Public Safety.

1 AN ACT Relating to mail theft; and amending RCW 9A.56.010,
2 9A.56.370, and 9A.56.380.

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

4 **Sec. 1.** RCW 9A.56.010 and 2017 c 266 s 7 are each amended to
5 read as follows:

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

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

14 (2) "Appropriate lost or misdelivered property or services" means
15 obtaining or exerting control over the property or services of
16 another which the actor knows to have been lost or mislaid, or to
17 have been delivered under a mistake as to identity of the recipient
18 or as to the nature or amount of the property;

19 (3) "Beverage crate" means a plastic or metal box-like container
20 used by a manufacturer or distributor in the transportation or
21 distribution of individually packaged beverages to retail outlets,

1 and affixed with language stating "property of," "owned
2 by," or other markings or words identifying ownership;

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

7 (5) "Deception" occurs when an actor knowingly:

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

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

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

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

18 (e) Promises performance which the actor does not intend to
19 perform or knows will not be performed;

20 (6) "Deprive" in addition to its common meaning means to make
21 unauthorized use or an unauthorized copy of records, information,
22 data, trade secrets, or computer programs;

23 (7) "Mail," in addition to its common meaning, means any letter,
24 postal card, package, bag, or other item that is addressed to a
25 specific address for delivery by the United States postal service or
26 any commercial carrier performing the function of delivering similar
27 items to residences or businesses, provided the mail:

28 (a)(i) Is addressed with a specific person's name, family name,
29 or company, business, or corporation name on the outside of the item
30 of mail or on the contents inside; and

31 (ii) Is not addressed to a generic unnamed occupant or resident
32 of the address without an identifiable person, family, or company,
33 business, or corporation name on the outside of the item of mail or
34 on the contents inside; and

35 (b) Has been left for collection or delivery in any letter box,
36 mailbox, mail receptacle, or other authorized depository for mail, or
37 given to a mail carrier, or left with any private business that
38 provides mailboxes or mail addresses for customers or when left in a
39 similar location for collection or delivery by any commercial
40 carrier; or

1 (c) Is in transit with a postal service, mail carrier, letter
2 carrier, commercial carrier, or that is at or in a postal vehicle,
3 postal station, mailbox, postal airplane, transit station, or similar
4 location of a commercial carrier; or

5 (d) Has been delivered to the intended address, but has not been
6 received by the intended addressee((-

7 ~~Mail, for purposes of chapter 164, Laws of 2011, does not include~~
8 ~~magazines, catalogs, direct mail inserts, newsletters, advertising~~
9 ~~circulars, or any mail that is considered third-class mail by the~~
10 ~~United States postal service));~~

11 (8) "Mailbox," in addition to its common meaning, means any
12 authorized depository or receptacle of mail for the United States
13 postal service or authorized depository for a commercial carrier that
14 provides services to the general public, including any address to
15 which mail is or can be addressed, or a place where the United States
16 postal service or equivalent commercial carrier delivers mail to its
17 addressee;

18 (9) "Merchandise pallet" means a wood or plastic carrier designed
19 and manufactured as an item on which products can be placed before or
20 during transport to retail outlets, manufacturers, or contractors,
21 and affixed with language stating "property of . . .," "owned
22 by . . .," or other markings or words identifying ownership;

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

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

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

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

34 (12) "Parking area" means a parking lot or other property
35 provided by retailers for use by a customer for parking an automobile
36 or other vehicle;

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

1 (14) "Received by the intended addressee" means that the
2 addressee, owner of the delivery mailbox, or authorized agent has
3 removed the delivered mail from its delivery mailbox;

4 (15) "Services" includes, but is not limited to, labor,
5 professional services, transportation services, electronic computer
6 services, the supplying of hotel accommodations, restaurant services,
7 entertainment, the supplying of equipment for use, and the supplying
8 of commodities of a public utility nature such as gas, electricity,
9 steam, and water;

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

13 (17) "Stolen" means obtained by theft, robbery, or extortion;

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

21 (19) "Telecommunication device" means (a) any type of instrument,
22 device, machine, or equipment that is capable of transmitting or
23 receiving telephonic or electronic communications; or (b) any part of
24 such an instrument, device, machine, or equipment, or any computer
25 circuit, computer chip, electronic mechanism, or other component,
26 that is capable of facilitating the transmission or reception of
27 telephonic or electronic communications;

28 (20) "Telecommunication service" includes any service other than
29 subscription television service provided for a charge or compensation
30 to facilitate the transmission, transfer, or reception of a
31 telephonic communication or an electronic communication;

32 (21) Value. (a) "Value" means the market value of the property or
33 services at the time and in the approximate area of the criminal act.

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

37 (i) The value of an instrument constituting an evidence of debt,
38 such as a check, draft, or promissory note, shall be deemed the
39 amount due or collectible thereon or thereby, that figure ordinarily

1 being the face amount of the indebtedness less any portion thereof
2 which has been satisfied;

3 (ii) The value of a ticket or equivalent instrument which
4 evidences a right to receive transportation, entertainment, or other
5 service shall be deemed the price stated thereon, if any; and if no
6 price is stated thereon, the value shall be deemed the price of such
7 ticket or equivalent instrument which the issuer charged the general
8 public;

9 (iii) The value of any other instrument that creates, releases,
10 discharges, or otherwise affects any valuable legal right, privilege,
11 or obligation shall be deemed the greatest amount of economic loss
12 which the owner of the instrument might reasonably suffer by virtue
13 of the loss of the instrument.

14 (c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4),
15 whenever any series of transactions which constitute theft, would,
16 when considered separately, constitute theft in the third degree
17 because of value, and said series of transactions are a part of a
18 criminal episode or a common scheme or plan, then the transactions
19 may be aggregated in one count and the sum of the value of all said
20 transactions shall be the value considered in determining the degree
21 of theft involved.

22 For purposes of this subsection, "criminal episode" means a
23 series of thefts committed by the same person from one or more
24 mercantile establishments on three or more occasions within a five-
25 day period.

26 (d) Whenever any person is charged with possessing stolen
27 property and such person has unlawfully in his possession at the same
28 time the stolen property of more than one person, then the stolen
29 property possessed may be aggregated in one count and the sum of the
30 value of all said stolen property shall be the value considered in
31 determining the degree of theft involved. Thefts committed by the
32 same person in different counties that have been aggregated in one
33 county may be prosecuted in any county in which one of the thefts
34 occurred.

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

38 (22) "Vulnerable adult" includes a person eighteen years of age
39 or older who:

1 (a) Is functionally, mentally, or physically unable to care for
2 himself or herself; or

3 (b) Is suffering from a cognitive impairment other than voluntary
4 intoxication;

5 (23) "Wrongfully obtains" or "exerts unauthorized control" means:

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

7 (b) Having any property or services in one's possession, custody
8 or control as bailee, factor, lessee, pledgee, renter, servant,
9 attorney, agent, employee, trustee, executor, administrator,
10 guardian, or officer of any person, estate, association, or
11 corporation, or as a public officer, or person authorized by
12 agreement or competent authority to take or hold such possession,
13 custody, or control, to secrete, withhold, or appropriate the same to
14 his or her own use or to the use of any person other than the true
15 owner or person entitled thereto; or

16 (c) Having any property or services in one's possession, custody,
17 or control as partner, to secrete, withhold, or appropriate the same
18 to his or her use or to the use of any person other than the true
19 owner or person entitled thereto, where the use is unauthorized by
20 the partnership agreement.

21 **Sec. 2.** RCW 9A.56.370 and 2011 c 164 s 3 are each amended to
22 read as follows:

23 (1) A person is guilty of mail theft if he or she ~~((:—(a)))~~
24 commits theft of mail ((addressed to three or more different
25 addresses; and (b) commits theft of a minimum of ten separate pieces
26 of mail)).

27 (2) ~~((Each set of ten separate pieces of stolen mail addressed to~~
28 ~~three or more different mailboxes))~~ A set of one or more pieces of
29 mail addressed to a particular mailbox constitutes a separate and
30 distinct crime and may be punished accordingly. For the purposes of
31 determining the unit of prosecution under this section, each separate
32 address for a particular mailbox constitutes a separate offense.

33 (3) (a) Except as provided in (b) of this subsection, mail theft
34 is a gross misdemeanor.

35 (b) Mail theft is a class C felony if the person has one or more
36 previous convictions under this section.

37 **Sec. 3.** RCW 9A.56.380 and 2011 c 164 s 4 are each amended to
38 read as follows:

1 (1) A person is guilty of possession of stolen mail if he or
2 she(~~(a)~~) possesses stolen mail (~~((addressed to three or more~~
3 ~~different mailboxes; and (b) possesses a minimum of ten separate~~
4 ~~pieces of stolen mail))~~).

5 (2) "Possesses stolen mail" means to knowingly receive, retain,
6 possess, conceal, or dispose of stolen mail knowing that it has been
7 stolen, and to withhold or appropriate to the use of any person other
8 than the true owner, or the person to whom the mail is addressed.

9 (3) The fact that the person who stole the mail has not been
10 convicted, apprehended, or identified is not a defense to the charge
11 of possessing stolen mail.

12 (4) (~~Each set of ten separate pieces of stolen mail addressed to~~
13 ~~three or more different mailboxes)) A set of one or more pieces of
14 mail addressed to a particular mailbox constitutes a separate and
15 distinct crime and may be punished accordingly. For the purposes of
16 determining the unit of prosecution under this section, each separate
17 address for a particular mailbox constitutes a separate offense.~~

18 (5) (a) Except as provided in (b) of this subsection, possession
19 of stolen mail is a gross misdemeanor.

20 (b) Possession of stolen mail is a class C felony if the person
21 has one or more previous convictions under this section.

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