
SENATE BILL 5033

State of Washington

55th Legislature

1997 Regular Session

By Senator Roach

Read first time 01/13/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to possession of stolen checks or drafts; amending
2 RCW 9A.56.160, 9A.56.140, and 9A.56.010; and prescribing penalties.

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

4 **Sec. 1.** RCW 9A.56.160 and 1995 c 129 s 15 (Initiative Measure No.
5 159) are each amended to read as follows:

6 (1) A person is guilty of possessing stolen property in the second
7 degree if:

8 (a) He or she possesses stolen property other than a firearm as
9 defined in RCW 9.41.010 which exceeds two hundred fifty dollars in
10 value but does not exceed one thousand five hundred dollars in value;
11 or

12 (b) He or she possesses a stolen public record, writing or
13 instrument kept, filed, or deposited according to law; or

14 (c) He or she possesses a stolen access device; or

15 (d) He or she possesses a stolen check or draft; or

16 (e) He or she possesses a stolen motor vehicle of a value less than
17 one thousand five hundred dollars.

18 (2) Possessing stolen property in the second degree is a class C
19 felony.

1 **Sec. 2.** RCW 9A.56.140 and 1987 c 140 s 3 are each amended to read
2 as follows:

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

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

10 (3) When a person (~~((not an issuer or agent thereof))~~) has in his or
11 her possession, or under his or her control, stolen access devices,
12 checks, or drafts issued in the names of two or more persons, he
13 (~~((shall be))~~) or she is presumed to know that they are stolen.

14 (~~((This))~~) (4) The presumption ((may be rebutted)) in subsection (3)
15 of this section is rebuttable by evidence raising a reasonable
16 inference that the possession of such stolen access devices, checks, or
17 drafts was without knowledge that they were stolen.

18 **Sec. 3.** RCW 9A.56.010 and 1995 c 92 s 1 are each amended to read
19 as follows:

20 The following definitions are applicable in this chapter unless the
21 context otherwise requires:

22 (1) "Appropriate lost or misdelivered property or services" means
23 obtaining or exerting control over the property or services of another
24 which the actor knows to have been lost or mislaid, or to have been
25 delivered under a mistake as to identity of the recipient or as to the
26 nature or amount of the property;

27 (2) "By color or aid of deception" means that the deception
28 operated to bring about the obtaining of the property or services; it
29 is not necessary that deception be the sole means of obtaining the
30 property or services;

31 (3) "Access device" means any card, plate, code, account number, or
32 other means of account access that can be used alone or in conjunction
33 with another access device to obtain money, goods, services, or
34 anything else of value, or that can be used to initiate a transfer of
35 funds, other than a transfer originated solely by paper instrument;

36 (4) "Check" and "draft" each have the meanings given in RCW 62A.3-
37 104;

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

1 (a) Creates or confirms another's false impression which the actor
2 knows to be false; or
3 (b) Fails to correct another's impression which the actor
4 previously has created or confirmed; or
5 (c) Prevents another from acquiring information material to the
6 disposition of the property involved; or
7 (d) Transfers or encumbers property without disclosing a lien,
8 adverse claim, or other legal impediment to the enjoyment of the
9 property, whether that impediment is or is not valid, or is or is not
10 a matter of official record; or
11 (e) Promises performance which the actor does not intend to perform
12 or knows will not be performed(~~(-)~~);
13 (~~(+5)~~) (6) "Deprive" in addition to its common meaning means to
14 make unauthorized use or an unauthorized copy of records, information,
15 data, trade secrets, or computer programs;
16 (~~(+6)~~) (7) "Obtain control over" in addition to its common
17 meaning, means:
18 (a) In relation to property, to bring about a transfer or purported
19 transfer to the obtainer or another of a legally recognized interest in
20 the property; or
21 (b) In relation to labor or service, to secure performance thereof
22 for the benefits of the obtainer or another;
23 (~~(+7)~~) (8) "Wrongfully obtains" or "exerts unauthorized control"
24 means:
25 (a) To take the property or services of another;
26 (b) Having any property or services in one's possession, custody or
27 control as bailee, factor, pledgee, servant, attorney, agent, employee,
28 trustee, executor, administrator, guardian, or officer of any person,
29 estate, association, or corporation, or as a public officer, or person
30 authorized by agreement or competent authority to take or hold such
31 possession, custody, or control, to secrete, withhold, or appropriate
32 the same to his or her own use or to the use of any person other than
33 the true owner or person entitled thereto; or
34 (c) Having any property or services in one's possession, custody,
35 or control as partner, to secrete, withhold, or appropriate the same to
36 his or her use or to the use of any person other than the true owner or
37 person entitled thereto, where such use is unauthorized by the
38 partnership agreement;

1 (~~(8)~~) (9) "Owner" means a person, other than the actor, who has
2 possession of or any other interest in the property or services
3 involved, and without whose consent the actor has no authority to exert
4 control over the property or services;

5 (~~(9)~~) (10) "Receive" includes, but is not limited to, acquiring
6 title, possession, control, or a security interest, or any other
7 interest in the property;

8 (~~(10)~~) (11) "Services" includes, but is not limited to, labor,
9 professional services, transportation services, electronic computer
10 services, the supplying of hotel accommodations, restaurant services,
11 entertainment, the supplying of equipment for use, and the supplying of
12 commodities of a public utility nature such as gas, electricity, steam,
13 and water;

14 (~~(11)~~) (12) "Stolen" means obtained by theft, robbery, or
15 extortion;

16 (~~(12)~~) (13) "Subscription television service" means cable or
17 encrypted video and related audio and data services intended for
18 viewing on a home television by authorized members of the public only,
19 who have agreed to pay a fee for the service. Subscription services
20 include but are not limited to those video services presently delivered
21 by coaxial cable, fiber optic cable, terrestrial microwave, television
22 broadcast, and satellite transmission;

23 (~~(13)~~) (14) "Telecommunication device" means (a) any type of
24 instrument, device, machine, or equipment that is capable of
25 transmitting or receiving telephonic or electronic communications; or
26 (b) any part of such an instrument, device, machine, or equipment, or
27 any computer circuit, computer chip, electronic mechanism, or other
28 component, that is capable of facilitating the transmission or
29 reception of telephonic or electronic communications;

30 (~~(14)~~) (15) "Telecommunication service" includes any service
31 other than subscription television service provided for a charge or
32 compensation to facilitate the transmission, transfer, or reception of
33 a telephonic communication or an electronic communication;

34 (~~(15)~~) (16) Value. (a) "Value" means the market value of the
35 property or services at the time and in the approximate area of the
36 criminal act.

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

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

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

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

16 (c) Whenever any series of transactions which constitute theft,
17 would, when considered separately, constitute theft in the third degree
18 because of value, and said series of transactions are a part of a
19 common scheme or plan, then the transactions may be aggregated in one
20 count and the sum of the value of all said transactions shall be the
21 value considered in determining the degree of theft involved.

22 (d) Whenever any person is charged with possessing stolen property
23 and such person has unlawfully in his or her possession at the same
24 time the stolen property of more than one person, then the stolen
25 property possessed may be aggregated in one count and the sum of the
26 value of all said stolen property shall be the value considered in
27 determining the degree of theft involved.

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

31 (~~(16)~~) (17) "Shopping cart" means a basket mounted on wheels or
32 similar container generally used in a retail establishment by a
33 customer for the purpose of transporting goods of any kind;

34 (~~(17)~~) (18) "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.

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