

2 **ESSB 5035** - S AMD - 564
3 By Senator Roach

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Authorized depository" means a mailbox, post office box, or
10 rural box used by postal customers to deposit outgoing mail or used by
11 the postal service to deliver incoming mail.

12 (2) "Letter box" means a receptacle intended or used for the
13 receipt or delivery of mail on a mail route.

14 (3)(a) "Mail" means a letter, card, parcel, or other material that:

15 (i) Is sent or delivered by means of the postal service;

16 (ii) Has postage affixed by the postal customer or postal service;

17 and

18 (iii) Is placed in an authorized depository or mail receptacle.

19 (b) "Mail" includes articles contained in mail.

20 (4) "Mail receptacle" means a place used by the postal service or
21 postal customers to place outgoing mail or receive incoming mail.

22 (5) "Postage" means a postal service stamp, permit imprint, meter
23 strip, or other authorized indication of prepayment for service
24 provided by the postal service for collection and delivery of mail.

25 (6) "Postal service" means the United States postal service.

26 NEW SECTION. **Sec. 2.** (1) A person commits the crime of
27 obstruction of mails if the person intentionally obstructs or delays:

28 (a) The passage of the mail; or

29 (b) A carrier or conveyance carrying the mail.

30 (2) Obstruction of mails is a gross misdemeanor.

31 NEW SECTION. **Sec. 3.** (1) A person commits the crime of
32 destruction of letter boxes or mail if the person knowingly:

33 (a) Tears down or destroys a letter box belonging to another;

34 (b) Breaks open a letter box belonging to another; or

1 (c) Injures, destroys, or defaces mail, belonging to another, that
2 has been deposited in a letter box.

3 (2) Destruction of letter boxes or mail is a class C felony.

4 NEW SECTION. **Sec. 4.** (1) A person commits the crime of mail theft
5 or receipt of stolen mail if the person knowingly:

6 (a) Takes or, by fraud or deception, obtains mail from a mail
7 receptacle, authorized depository, or mail carrier;

8 (b) Secretes, embezzles, or destroys mail;

9 (c) Takes or, by fraud or deception, obtains mail that has been
10 left for collection on or adjacent to an authorized depository or mail
11 receptacle; or

12 (d) Buys, receives, conceals, or unlawfully possesses mail knowing
13 that the mail was taken, obtained, or embezzled as described in this
14 subsection.

15 (2) When a person has in his or her possession or control stolen
16 mail addressed to two or more different addresses, he or she is
17 presumed to know that the mail is stolen. This presumption may be
18 rebutted by evidence raising a reasonable inference that the possession
19 of such stolen mail was without knowledge that the mail was stolen.

20 NEW SECTION. **Sec. 5.** (1) A person is guilty of mail theft or
21 receipt of stolen mail in the first degree if he or she possesses mail
22 addressed to five or more different addresses.

23 (2) Mail theft or receipt of stolen mail in the first degree is a
24 class B felony.

25 NEW SECTION. **Sec. 6.** (1) A person is guilty of mail theft or
26 receipt of stolen mail in the second degree if he or she possesses mail
27 addressed to four or less different addresses.

28 (2) Mail theft or receipt of stolen mail in the second degree is a
29 class C felony.

30 NEW SECTION. **Sec. 7.** In a prosecution under this chapter, it is
31 a defense that the defendant acted under an honest claim of right in
32 that:

33 (1) The defendant was unaware that the property was that of another
34 person;

1 (2) The defendant reasonably believed that the defendant was
2 entitled to the property involved or had a right to acquire or dispose
3 of it as the defendant did; or

4 (3) The property involved was that of the defendant's minor child
5 or spouse, unless the parties were not living together as husband and
6 wife and were living in separate abodes at the time of the alleged
7 offense.

8 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
9 a new chapter in Title 9A RCW.

10 **Sec. 9.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c
11 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each
12 reenacted and amended to read as follows:

13 TABLE 2

14 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

15	XV	Aggravated Murder 1 (RCW 10.95.020)
16	XIV	Murder 1 (RCW 9A.32.030)
17		Homicide by abuse (RCW 9A.32.055)
18		Malicious explosion 1 (RCW 70.74.280(1))
19	XIII	Murder 2 (RCW 9A.32.050)
20		Malicious explosion 2 (RCW 70.74.280(2))
21		Malicious placement of an explosive 1 (RCW
22		70.74.270(1))
23	XII	Assault 1 (RCW 9A.36.011)
24		Assault of a Child 1 (RCW 9A.36.120)
25		Rape 1 (RCW 9A.44.040)
26		Rape of a Child 1 (RCW 9A.44.073)
27		Malicious placement of an imitation device
28		1 (RCW 70.74.272(1)(a))
29	XI	Rape 2 (RCW 9A.44.050)
30		Rape of a Child 2 (RCW 9A.44.076)
31		Manslaughter 1 (RCW 9A.32.060)
32	X	Kidnapping 1 (RCW 9A.40.020)
33		Child Molestation 1 (RCW 9A.44.083)

1 Malicious explosion 3 (RCW 70.74.280(3))
2 Over 18 and deliver heroin or narcotic from
3 Schedule I or II to someone under 18
4 (RCW 69.50.406)
5 Leading Organized Crime (RCW
6 9A.82.060(1)(a))
7 Indecent Liberties (with forcible
8 compulsion) (RCW 9A.44.100(1)(a))
9 IX Assault of a Child 2 (RCW 9A.36.130)
10 Robbery 1 (RCW 9A.56.200)
11 Explosive devices prohibited (RCW
12 70.74.180)
13 Malicious placement of an explosive 2 (RCW
14 70.74.270(2))
15 Over 18 and deliver narcotic from Schedule
16 III, IV, or V or a nonnarcotic from
17 Schedule I-V to someone under 18 and 3
18 years junior (RCW 69.50.406)
19 Controlled Substance Homicide (RCW
20 69.50.415)
21 Sexual Exploitation (RCW 9.68A.040)
22 Inciting Criminal Profiteering (RCW
23 9A.82.060(1)(b))
24 Vehicular Homicide, by being under the
25 influence of intoxicating liquor or
26 any drug (RCW 46.61.520)
27 VIII Arson 1 (RCW 9A.48.020)
28 Promoting Prostitution 1 (RCW 9A.88.070)
29 Selling for profit (controlled or
30 counterfeit) any controlled substance
31 (RCW 69.50.410)
32 Manufacture, deliver, or possess with
33 intent to deliver heroin or cocaine
34 (RCW 69.50.401(a)(1)(i))
35 Manufacture, deliver, or possess with
36 intent to deliver methamphetamine (RCW
37 69.50.401(a)(1)(ii))

1 Possession of ephedrine or pseudoephedrine
2 with intent to manufacture
3 methamphetamine (RCW 69.50.440)
4 Vehicular Homicide, by the operation of any
5 vehicle in a reckless manner (RCW
6 46.61.520)
7 Manslaughter 2 (RCW 9A.32.070)

8 VII Burglary 1 (RCW 9A.52.020)
9 Vehicular Homicide, by disregard for the
10 safety of others (RCW 46.61.520)
11 Introducing Contraband 1 (RCW 9A.76.140)
12 Indecent Liberties (without forcible
13 compulsion) (RCW 9A.44.100(1) (b) and
14 (c))
15 Child Molestation 2 (RCW 9A.44.086)
16 Dealing in depictions of minor engaged in
17 sexually explicit conduct (RCW
18 9.68A.050)
19 Sending, bringing into state depictions of
20 minor engaged in sexually explicit
21 conduct (RCW 9.68A.060)
22 Involving a minor in drug dealing (RCW
23 69.50.401(f))
24 Drive-by Shooting (RCW 9A.36.045)
25 Unlawful Possession of a Firearm in the
26 first degree (RCW 9.41.040(1)(a))
27 Malicious placement of an explosive 3 (RCW
28 70.74.270(3))

29 VI Bribery (RCW 9A.68.010)
30 Rape of a Child 3 (RCW 9A.44.079)
31 Intimidating a Juror/Witness (RCW
32 9A.72.110, 9A.72.130)
33 Malicious placement of an imitation device
34 2 (RCW 70.74.272(1)(b))
35 Incest 1 (RCW 9A.64.020(1))
36 Manufacture, deliver, or possess with
37 intent to deliver narcotics from

1 Schedule I or II (except heroin or
2 cocaine) (RCW 69.50.401(a)(1)(i))
3 Intimidating a Judge (RCW 9A.72.160)
4 Bail Jumping with Murder 1 (RCW
5 9A.76.170(2)(a))
6 Theft of a Firearm (RCW 9A.56.300)

7 V Persistent prison misbehavior (RCW
8 9.94.070)
9 Criminal Mistreatment 1 (RCW 9A.42.020)
10 Abandonment of dependent person 1 (RCW
11 9A.42.060)
12 Rape 3 (RCW 9A.44.060)
13 Sexual Misconduct with a Minor 1 (RCW
14 9A.44.093)
15 Child Molestation 3 (RCW 9A.44.089)
16 Kidnapping 2 (RCW 9A.40.030)
17 Extortion 1 (RCW 9A.56.120)
18 Incest 2 (RCW 9A.64.020(2))
19 Perjury 1 (RCW 9A.72.020)
20 Extortionate Extension of Credit (RCW
21 9A.82.020)
22 Advancing money or property for
23 extortionate extension of credit (RCW
24 9A.82.030)
25 Extortionate Means to Collect Extensions of
26 Credit (RCW 9A.82.040)
27 Rendering Criminal Assistance 1 (RCW
28 9A.76.070)
29 Bail Jumping with class A Felony (RCW
30 9A.76.170(2)(b))
31 Sexually Violating Human Remains (RCW
32 9A.44.105)
33 Delivery of imitation controlled substance
34 by person eighteen or over to person
35 under eighteen (RCW 69.52.030(2))
36 Possession of a Stolen Firearm (RCW
37 9A.56.310)

1 IV Residential Burglary (RCW 9A.52.025)
2 Theft of Livestock 1 (RCW 9A.56.080)
3 Robbery 2 (RCW 9A.56.210)
4 Assault 2 (RCW 9A.36.021)
5 Escape 1 (RCW 9A.76.110)
6 Arson 2 (RCW 9A.48.030)
7 Commercial Bribery (RCW 9A.68.060)
8 Bribing a Witness/Bribe Received by Witness
9 (RCW 9A.72.090, 9A.72.100)
10 Malicious Harassment (RCW 9A.36.080)
11 Threats to Bomb (RCW 9.61.160)
12 Willful Failure to Return from Furlough
13 (RCW 72.66.060)
14 Hit and Run--Injury Accident (RCW
15 46.52.020(4))
16 Hit and Run with Vessel--Injury Accident
17 (RCW 88.12.155(3))
18 Vehicular Assault (RCW 46.61.522)
19 Manufacture, deliver, or possess with
20 intent to deliver narcotics from
21 Schedule III, IV, or V or nonnarcotics
22 from Schedule I-V (except marijuana or
23 methamphetamines) (RCW 69.50.401
24 (a)(1) (iii) through (v))
25 Influencing Outcome of Sporting Event (RCW
26 9A.82.070)
27 Use of Proceeds of Criminal Profiteering
28 (RCW 9A.82.080 (1) and (2))
29 Knowingly Trafficking in Stolen Property
30 (RCW 9A.82.050(2))
31 III Criminal Gang Intimidation (RCW 9A.46.120)
32 Criminal Mistreatment 2 (RCW 9A.42.030)
33 Abandonment of dependent person 2 (RCW
34 9A.42.070)
35 Extortion 2 (RCW 9A.56.130)
36 Unlawful Imprisonment (RCW 9A.40.040)
37 Assault 3 (RCW 9A.36.031)
38 Assault of a Child 3 (RCW 9A.36.140)
39 Custodial Assault (RCW 9A.36.100)

1 Unlawful possession of firearm in the
2 second degree (RCW 9.41.040(1)(b))
3 Harassment (RCW 9A.46.020)
4 Promoting Prostitution 2 (RCW 9A.88.080)
5 Willful Failure to Return from Work Release
6 (RCW 72.65.070)
7 Burglary 2 (RCW 9A.52.030)
8 Introducing Contraband 2 (RCW 9A.76.150)
9 Communication with a Minor for Immoral
10 Purposes (RCW 9.68A.090)
11 Patronizing a Juvenile Prostitute (RCW
12 9.68A.100)
13 Escape 2 (RCW 9A.76.120)
14 Perjury 2 (RCW 9A.72.030)
15 Bail Jumping with class B or C Felony (RCW
16 9A.76.170(2)(c))
17 Intimidating a Public Servant (RCW
18 9A.76.180)
19 Tampering with a Witness (RCW 9A.72.120)
20 Manufacture, deliver, or possess with
21 intent to deliver marijuana (RCW
22 69.50.401(a)(1)(iii))
23 Delivery of a material in lieu of a
24 controlled substance (RCW
25 69.50.401(c))
26 Manufacture, distribute, or possess with
27 intent to distribute an imitation
28 controlled substance (RCW
29 69.52.030(1))
30 Recklessly Trafficking in Stolen Property
31 (RCW 9A.82.050(1))
32 Theft of livestock 2 (RCW 9A.56.080)
33 Securities Act violation (RCW 21.20.400)
34 II Mail Theft or Receipt of Stolen Mail 1
35 (section 5 of this act)
36 Unlawful Practice of Law (RCW 2.48.180)
37 Malicious Mischief 1 (RCW 9A.48.070)
38 Possession of Stolen Property 1 (RCW
39 9A.56.150)

1 Theft 1 (RCW 9A.56.030)
2 Class B Felony Theft of Rental, Leased, or
3 Lease-purchased Property (RCW
4 9A.56.096(4))
5 Trafficking in Insurance Claims (RCW
6 48.30A.015)
7 Unlicensed Practice of a Profession or
8 Business (RCW 18.130.190(7))
9 Health Care False Claims (RCW 48.80.030)
10 Possession of controlled substance that is
11 either heroin or narcotics from
12 Schedule I or II (RCW 69.50.401(d))
13 Possession of phencyclidine (PCP) (RCW
14 69.50.401(d))
15 Create, deliver, or possess a counterfeit
16 controlled substance (RCW
17 69.50.401(b))
18 Computer Trespass 1 (RCW 9A.52.110)
19 Escape from Community Custody (RCW
20 72.09.310)

21 I Mail Theft or Receipt of Stolen Mail 2
22 (section 6 of this act)
23 Theft 2 (RCW 9A.56.040)
24 Class C Felony Theft of Rental, Leased, or
25 Lease-purchased Property (RCW
26 9A.56.096(4))
27 Possession of Stolen Property 2 (RCW
28 9A.56.160)
29 Forgery (RCW 9A.60.020)
30 Taking Motor Vehicle Without Permission
31 (RCW 9A.56.070)
32 Vehicle Prowl 1 (RCW 9A.52.095)
33 Attempting to Elude a Pursuing Police
34 Vehicle (RCW 46.61.024)
35 Malicious Mischief 2 (RCW 9A.48.080)
36 Reckless Burning 1 (RCW 9A.48.040)
37 Unlawful Issuance of Checks or Drafts (RCW
38 9A.56.060)

1 Unlawful Use of Food Stamps (RCW 9.91.140
2 (2) and (3))
3 False Verification for Welfare (RCW
4 74.08.055)
5 Forged Prescription (RCW 69.41.020)
6 Forged Prescription for a Controlled
7 Substance (RCW 69.50.403)
8 Possess Controlled Substance that is a
9 Narcotic from Schedule III, IV, or V
10 or Non-narcotic from Schedule I-V
11 (except phencyclidine) (RCW
12 69.50.401(d))

13 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately."

17 **ESSB 5035** - S AMD - 564
18 By Senator Roach

19
20 On page 1, line 1 of the title, after "mail;" strike the remainder
21 of the title and insert "reenacting and amending RCW 9.94A.320; adding
22 a new chapter to Title 9A RCW; prescribing penalties; and declaring an
23 emergency."

--- END ---