

2 **ESSB 5035** - S AMD - 665

3 By Senators Roach and Fairley

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 mail theft
27 or receipt of stolen mail if the person knowingly:

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

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

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

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

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

9 NEW SECTION. **Sec. 3.** (1) A person is guilty of mail theft or
10 receipt of stolen mail in the first degree if he or she possesses mail
11 addressed to five or more different addresses.

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

14 NEW SECTION. **Sec. 4.** (1) A person is guilty of mail theft or
15 receipt of stolen mail in the second degree if he or she possesses mail
16 addressed to four or less different addresses.

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

19 NEW SECTION. **Sec. 5.** In a prosecution under this chapter, it is
20 a defense that the defendant acted under an honest claim of right in
21 that:

22 (1) The defendant was unaware that the property was that of another
23 person;

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

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

31 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
32 a new chapter in Title 9A RCW.

1 IX Assault of a Child 2 (RCW 9A.36.130)
2 Robbery 1 (RCW 9A.56.200)
3 Explosive devices prohibited (RCW
4 70.74.180)
5 Malicious placement of an explosive 2 (RCW
6 70.74.270(2))
7 Over 18 and deliver narcotic from Schedule
8 III, IV, or V or a nonnarcotic from
9 Schedule I-V to someone under 18 and 3
10 years junior (RCW 69.50.406)
11 Controlled Substance Homicide (RCW
12 69.50.415)
13 Sexual Exploitation (RCW 9.68A.040)
14 Inciting Criminal Profiteering (RCW
15 9A.82.060(1)(b))
16 Vehicular Homicide, by being under the
17 influence of intoxicating liquor or
18 any drug (RCW 46.61.520)

19 VIII Arson 1 (RCW 9A.48.020)
20 Promoting Prostitution 1 (RCW 9A.88.070)
21 Selling for profit (controlled or
22 counterfeit) any controlled substance
23 (RCW 69.50.410)
24 Manufacture, deliver, or possess with
25 intent to deliver heroin or cocaine
26 (RCW 69.50.401(a)(1)(i))
27 Manufacture, deliver, or possess with
28 intent to deliver methamphetamine (RCW
29 69.50.401(a)(1)(ii))
30 Possession of ephedrine or pseudoephedrine
31 with intent to manufacture
32 methamphetamine (RCW 69.50.440)
33 Vehicular Homicide, by the operation of any
34 vehicle in a reckless manner (RCW
35 46.61.520)
36 Manslaughter 2 (RCW 9A.32.070)

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

22 VI Bribery (RCW 9A.68.010)
23 Rape of a Child 3 (RCW 9A.44.079)
24 Intimidating a Juror/Witness (RCW
25 9A.72.110, 9A.72.130)
26 Malicious placement of an imitation device
27 2 (RCW 70.74.272(1)(b))
28 Incest 1 (RCW 9A.64.020(1))
29 Manufacture, deliver, or possess with
30 intent to deliver narcotics from
31 Schedule I or II (except heroin or
32 cocaine) (RCW 69.50.401(a)(1)(i))
33 Intimidating a Judge (RCW 9A.72.160)
34 Bail Jumping with Murder 1 (RCW
35 9A.76.170(2)(a))
36 Theft of a Firearm (RCW 9A.56.300)

1 V Persistent prison misbehavior (RCW
2 9.94.070)
3 Criminal Mistreatment 1 (RCW 9A.42.020)
4 Abandonment of dependent person 1 (RCW
5 9A.42.060)
6 Rape 3 (RCW 9A.44.060)
7 Sexual Misconduct with a Minor 1 (RCW
8 9A.44.093)
9 Child Molestation 3 (RCW 9A.44.089)
10 Kidnapping 2 (RCW 9A.40.030)
11 Extortion 1 (RCW 9A.56.120)
12 Incest 2 (RCW 9A.64.020(2))
13 Perjury 1 (RCW 9A.72.020)
14 Extortionate Extension of Credit (RCW
15 9A.82.020)
16 Advancing money or property for
17 extortionate extension of credit (RCW
18 9A.82.030)
19 Extortionate Means to Collect Extensions of
20 Credit (RCW 9A.82.040)
21 Rendering Criminal Assistance 1 (RCW
22 9A.76.070)
23 Bail Jumping with class A Felony (RCW
24 9A.76.170(2)(b))
25 Sexually Violating Human Remains (RCW
26 9A.44.105)
27 Delivery of imitation controlled substance
28 by person eighteen or over to person
29 under eighteen (RCW 69.52.030(2))
30 Possession of a Stolen Firearm (RCW
31 9A.56.310)

32 IV Residential Burglary (RCW 9A.52.025)
33 Theft of Livestock 1 (RCW 9A.56.080)
34 Robbery 2 (RCW 9A.56.210)
35 Assault 2 (RCW 9A.36.021)
36 Escape 1 (RCW 9A.76.110)
37 Arson 2 (RCW 9A.48.030)
38 Commercial Bribery (RCW 9A.68.060)

1 Bribing a Witness/Bribe Received by Witness
2 (RCW 9A.72.090, 9A.72.100)
3 Malicious Harassment (RCW 9A.36.080)
4 Threats to Bomb (RCW 9.61.160)
5 Willful Failure to Return from Furlough
6 (RCW 72.66.060)
7 Hit and Run--Injury Accident (RCW
8 46.52.020(4))
9 Hit and Run with Vessel--Injury Accident
10 (RCW 88.12.155(3))
11 Vehicular Assault (RCW 46.61.522)
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule III, IV, or V or nonnarcotics
15 from Schedule I-V (except marijuana or
16 methamphetamines) (RCW 69.50.401
17 (a)(1) (iii) through (v))
18 Influencing Outcome of Sporting Event (RCW
19 9A.82.070)
20 Use of Proceeds of Criminal Profiteering
21 (RCW 9A.82.080 (1) and (2))
22 Knowingly Trafficking in Stolen Property
23 (RCW 9A.82.050(2))

24 III Criminal Gang Intimidation (RCW 9A.46.120)
25 Criminal Mistreatment 2 (RCW 9A.42.030)
26 Abandonment of dependent person 2 (RCW
27 9A.42.070)
28 Extortion 2 (RCW 9A.56.130)
29 Unlawful Imprisonment (RCW 9A.40.040)
30 Assault 3 (RCW 9A.36.031)
31 Assault of a Child 3 (RCW 9A.36.140)
32 Custodial Assault (RCW 9A.36.100)
33 Unlawful possession of firearm in the
34 second degree (RCW 9.41.040(1)(b))
35 Harassment (RCW 9A.46.020)
36 Promoting Prostitution 2 (RCW 9A.88.080)
37 Willful Failure to Return from Work Release
38 (RCW 72.65.070)
39 Burglary 2 (RCW 9A.52.030)

1 Introducing Contraband 2 (RCW 9A.76.150)
2 Communication with a Minor for Immoral
3 Purposes (RCW 9.68A.090)
4 Patronizing a Juvenile Prostitute (RCW
5 9.68A.100)
6 Escape 2 (RCW 9A.76.120)
7 Perjury 2 (RCW 9A.72.030)
8 Bail Jumping with class B or C Felony (RCW
9 9A.76.170(2)(c))
10 Intimidating a Public Servant (RCW
11 9A.76.180)
12 Tampering with a Witness (RCW 9A.72.120)
13 Manufacture, deliver, or possess with
14 intent to deliver marijuana (RCW
15 69.50.401(a)(1)(iii))
16 Delivery of a material in lieu of a
17 controlled substance (RCW
18 69.50.401(c))
19 Manufacture, distribute, or possess with
20 intent to distribute an imitation
21 controlled substance (RCW
22 69.52.030(1))
23 Recklessly Trafficking in Stolen Property
24 (RCW 9A.82.050(1))
25 Theft of livestock 2 (RCW 9A.56.080)
26 Securities Act violation (RCW 21.20.400)
27 II Mail Theft or Receipt of Stolen Mail 1
28 (section 3 of this act)
29 Unlawful Practice of Law (RCW 2.48.180)
30 Malicious Mischief 1 (RCW 9A.48.070)
31 Possession of Stolen Property 1 (RCW
32 9A.56.150)
33 Theft 1 (RCW 9A.56.030)
34 Class B Felony Theft of Rental, Leased, or
35 Lease-purchased Property (RCW
36 9A.56.096(4))
37 Trafficking in Insurance Claims (RCW
38 48.30A.015)

1 Unlicensed Practice of a Profession or
2 Business (RCW 18.130.190(7))
3 Health Care False Claims (RCW 48.80.030)
4 Possession of controlled substance that is
5 either heroin or narcotics from
6 Schedule I or II (RCW 69.50.401(d))
7 Possession of phencyclidine (PCP) (RCW
8 69.50.401(d))
9 Create, deliver, or possess a counterfeit
10 controlled substance (RCW
11 69.50.401(b))
12 Computer Trespass 1 (RCW 9A.52.110)
13 Escape from Community Custody (RCW
14 72.09.310)

15 I Mail Theft or Receipt of Stolen Mail 2
16 (section 4 of this act)
17 Theft 2 (RCW 9A.56.040)
18 Class C Felony Theft of Rental, Leased, or
19 Lease-purchased Property (RCW
20 9A.56.096(4))
21 Possession of Stolen Property 2 (RCW
22 9A.56.160)
23 Forgery (RCW 9A.60.020)
24 Taking Motor Vehicle Without Permission
25 (RCW 9A.56.070)
26 Vehicle Prowl 1 (RCW 9A.52.095)
27 Attempting to Elude a Pursuing Police
28 Vehicle (RCW 46.61.024)
29 Malicious Mischief 2 (RCW 9A.48.080)
30 Reckless Burning 1 (RCW 9A.48.040)
31 Unlawful Issuance of Checks or Drafts (RCW
32 9A.56.060)
33 Unlawful Use of Food Stamps (RCW 9.91.140
34 (2) and (3))
35 False Verification for Welfare (RCW
36 74.08.055)
37 Forged Prescription (RCW 69.41.020)
38 Forged Prescription for a Controlled
39 Substance (RCW 69.50.403)

1 Possess Controlled Substance that is a
2 Narcotic from Schedule III, IV, or V
3 or Non-narcotic from Schedule I-V
4 (except phencyclidine) (RCW
5 69.50.401(d))"

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9 On page 1, line 1 of the title, after "mail;" strike the remainder
10 of the title and insert "reenacting and amending RCW 9.94A.320; adding
11 a new chapter to Title 9A RCW; and prescribing penalties."

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