
HOUSE BILL 2999

State of Washington

55th Legislature

1998 Regular Session

By Representative Koster

Read first time 01/27/98. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to crimes involving beverage crates or merchandise
2 pallets; amending RCW 9A.56.010, 9A.56.050, 9A.56.140, 9A.56.170, and
3 9A.60.010; and prescribing penalties.

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

5 **Sec. 1.** RCW 9A.56.010 and 1997 c 346 s 2 are each amended to read
6 as follows:

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

9 (1) "Appropriate lost or misdelivered property or services" means
10 obtaining or exerting control over the property or services of another
11 which the actor knows to have been lost or mislaid, or to have been
12 delivered under a mistake as to identity of the recipient or as to the
13 nature or amount of the property;

14 (2) "Beverage crate" means a plastic or metal box-like container
15 used by a manufacturer or distributor in the transportation or
16 distribution of individually packaged beverages to retail outlets, and
17 affixed with language stating "property of . . .," "owned by . . .," or
18 other markings or words identifying ownership;

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

5 ~~((+3))~~ (4) "Access device" means any card, plate, code, account
6 number, or other means of account access that can be used alone or in
7 conjunction with another access device to obtain money, goods,
8 services, or anything else of value, or that can be used to initiate a
9 transfer of funds, other than a transfer originated solely by paper
10 instrument;

11 ~~((+4))~~ (5) "Deception" occurs when an actor knowingly:

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

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

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

18 (d) Transfers or encumbers property without disclosing a lien,
19 adverse claim, or other legal impediment to the enjoyment of the
20 property, whether that impediment is or is not valid, or is or is not
21 a matter of official record; or

22 (e) Promises performance which the actor does not intend to perform
23 or knows will not be performed~~((+))~~;

24 ~~((+5))~~ (6) "Deprive" in addition to its common meaning means to
25 make unauthorized use or an unauthorized copy of records, information,
26 data, trade secrets, or computer programs;

27 ~~((+6))~~ (7) "Merchandise pallet" means a wood or plastic carrier
28 designed and manufactured as an item on which products can be placed
29 before or during transport to retail outlets, manufacturers, or
30 contractors, and affixed with language stating "property of . . .,"
31 "owned by . . .," or other markings or words identifying ownership;

32 (8) "Obtain control over" in addition to its common meaning, means:

33 (a) In relation to property, to bring about a transfer or purported
34 transfer to the obtainer or another of a legally recognized interest in
35 the property; or

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

38 ~~((+7))~~ (9) "Wrongfully obtains" or "exerts unauthorized control"
39 means:

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

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

10 (c) Having any property or services in one's possession, custody,
11 or control as partner, to secrete, withhold, or appropriate the same to
12 his or her use or to the use of any person other than the true owner or
13 person entitled thereto, where such use is unauthorized by the
14 partnership agreement;

15 ~~((+8+))~~ (10) "Owner" means a person, other than the actor, who has
16 possession of or any other interest in the property or services
17 involved, and without whose consent the actor has no authority to exert
18 control over the property or services;

19 ~~((+9+))~~ (11) "Receive" includes, but is not limited to, acquiring
20 title, possession, control, or a security interest, or any other
21 interest in the property;

22 ~~((+10+))~~ (12) "Services" includes, but is not limited to, labor,
23 professional services, transportation services, electronic computer
24 services, the supplying of hotel accommodations, restaurant services,
25 entertainment, the supplying of equipment for use, and the supplying of
26 commodities of a public utility nature such as gas, electricity, steam,
27 and water;

28 ~~((+11+))~~ (13) "Stolen" means obtained by theft, robbery, or
29 extortion;

30 ~~((+12+))~~ (14) "Subscription television service" means cable or
31 encrypted video and related audio and data services intended for
32 viewing on a home television by authorized members of the public only,
33 who have agreed to pay a fee for the service. Subscription services
34 include but are not limited to those video services presently delivered
35 by coaxial cable, fiber optic cable, terrestrial microwave, television
36 broadcast, and satellite transmission;

37 ~~((+13+))~~ (15) "Telecommunication device" means (a) any type of
38 instrument, device, machine, or equipment that is capable of
39 transmitting or receiving telephonic or electronic communications; or

1 (b) any part of such an instrument, device, machine, or equipment, or
2 any computer circuit, computer chip, electronic mechanism, or other
3 component, that is capable of facilitating the transmission or
4 reception of telephonic or electronic communications;

5 (~~(14)~~) (16) "Telecommunication service" includes any service
6 other than subscription television service provided for a charge or
7 compensation to facilitate the transmission, transfer, or reception of
8 a telephonic communication or an electronic communication;

9 (~~(15)~~) (17) Value. (a) "Value" means the market value of the
10 property or services at the time and in the approximate area of the
11 criminal act.

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

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

20 (ii) The value of a ticket or equivalent instrument which evidences
21 a right to receive transportation, entertainment, or other service
22 shall be deemed the price stated thereon, if any; and if no price is
23 stated thereon, the value shall be deemed the price of such ticket or
24 equivalent instrument which the issuer charged the general public;

25 (iii) The value of any other instrument that creates, releases,
26 discharges, or otherwise affects any valuable legal right, privilege,
27 or obligation shall be deemed the greatest amount of economic loss
28 which the owner of the instrument might reasonably suffer by virtue of
29 the loss of the instrument.

30 (c) Whenever any series of transactions which constitute theft,
31 would, when considered separately, constitute theft in the third degree
32 because of value, and said series of transactions are a part of a
33 common scheme or plan, then the transactions may be aggregated in one
34 count and the sum of the value of all said transactions shall be the
35 value considered in determining the degree of theft involved.

36 (d) Whenever any person is charged with possessing stolen property
37 and such person has unlawfully in his possession at the same time the
38 stolen property of more than one person, then the stolen property
39 possessed may be aggregated in one count and the sum of the value of

1 all said stolen property shall be the value considered in determining
2 the degree of theft involved.

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

6 (~~(16)~~) (18) "Shopping cart" means a basket mounted on wheels or
7 similar container generally used in a retail establishment by a
8 customer for the purpose of transporting goods of any kind;

9 (~~(17)~~) (19) "Parking area" means a parking lot or other property
10 provided by retailers for use by a customer for parking an automobile
11 or other vehicle.

12 **Sec. 2.** RCW 9A.56.050 and 1975 1st ex.s. c 260 s 9A.56.050 are
13 each amended to read as follows:

14 (1) A person is guilty of theft in the third degree if (~~he~~) the
15 person commits theft of:

16 (a) Property or services (~~which~~) that does not exceed two hundred
17 and fifty dollars in value; or

18 (b) Ten or more merchandise pallets, or ten or more beverage
19 crates, or a combination of ten or more merchandise pallets and
20 beverage crates.

21 (2) Theft in the third degree is a gross misdemeanor.

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

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

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

31 (3) When a person (~~not an issuer or agent thereof~~) has in his or
32 her possession or under his or her control, stolen access devices
33 issued in the names of two or more persons, or ten or more stolen
34 merchandise pallets, or ten or more stolen beverage crates, or a
35 combination of ten or more stolen merchandise pallets and beverage
36 crates, he (~~shall be~~) or she is presumed to know that they are
37 stolen.

1 (~~This~~) (4) The presumption (~~may be rebutted~~) of subsection (3)
2 of this section is rebuttable by evidence raising a reasonable
3 inference that the possession of such stolen access devices,
4 merchandise pallets, or beverage crates was without knowledge that they
5 were stolen.

6 **Sec. 4.** RCW 9A.56.170 and 1975 1st ex.s. c 260 s 9A.56.170 are
7 each amended to read as follows:

8 (1) A person is guilty of possessing stolen property in the third
9 degree if (~~he~~) the person possesses:

10 (a) Stolen property (~~which~~) that does not exceed two hundred
11 fifty dollars in value; or

12 (b) Ten or more stolen merchandise pallets, or ten or more stolen
13 beverage crates, or a combination of ten or more stolen merchandise
14 pallets and beverage crates.

15 (2) Possessing stolen property in the third degree is a gross
16 misdemeanor.

17 **Sec. 5.** RCW 9A.60.010 and 1987 c 140 s 5 are each amended to read
18 as follows:

19 The following definitions and the definitions of RCW 9A.56.010 are
20 applicable in this chapter unless the context otherwise requires:

21 (1) "Written instrument" means: (a) Any paper, document, or other
22 instrument containing written or printed matter or its equivalent; or
23 (b) any access device, as defined in RCW 9A.56.010(~~(+3)~~), token,
24 stamp, seal, badge, trademark, or other evidence or symbol of value,
25 right, privilege, or identification;

26 (2) "Complete written instrument" means one (~~which~~) that is fully
27 drawn with respect to every essential feature thereof;

28 (3) "Incomplete written instrument" means one (~~which~~) that
29 contains some matter by way of content or authentication but (~~which~~)
30 that requires additional matter in order to render it a complete
31 written instrument;

32 (4) To "falsely make" a written instrument means to make or draw a
33 complete or incomplete written instrument (~~which~~) that purports to be
34 authentic, but (~~which~~) that is not authentic either because the
35 ostensible maker is fictitious or because, if real, he or she did not
36 authorize the making or drawing thereof;

1 (5) To "falsely complete" a written instrument means to transform
2 an incomplete written instrument into a complete one by adding or
3 inserting matter, without the authority of anyone entitled to grant it;

4 (6) To "falsely alter" a written instrument means to change,
5 without authorization by anyone entitled to grant it, a written
6 instrument, whether complete or incomplete, by means of erasure,
7 obliteration, deletion, insertion of new matter, transposition of
8 matter, or in any other manner;

9 (7) "Forged instrument" means a written instrument (~~which~~) that
10 has been falsely made, completed, or altered.

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