
HOUSE BILL 1085

State of Washington

56th Legislature

1999 Regular Session

By Representatives Dunn, Conway, Lambert and Esser

Read first time 01/14/1999. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to possession of stolen checks or drafts; amending
2 RCW 9A.56.160, 9A.56.140, 9A.56.010, 9A.56.110, and 9A.56.040;
3 prescribing penalties; and declaring an emergency.

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

5 **Sec. 1.** RCW 9A.56.160 and 1995 c 129 s 15 are each amended to read
6 as follows:

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

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

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

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

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

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

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

3 **Sec. 2.** RCW 9A.56.140 and 1998 c 236 s 3 are each amended to read
4 as follows:

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

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

12 (3) When a person has in his or her possession, or under his or her
13 control, stolen access devices issued in the names of two or more
14 persons, or ten or more stolen merchandise pallets, or ten or more
15 stolen beverage crates, or a combination of ten or more stolen
16 merchandise pallets and beverage crates, as defined under RCW
17 9A.56.010, he or she is presumed to know that they are stolen.

18 (4) When a person has in his or her possession, or under his or her
19 control, two or more stolen checks with different account numbers, he
20 or she is presumed to know that they are stolen.

21 (5) The presumptions in subsections (3) and (4) of this section
22 ((is)) are rebuttable by evidence raising a reasonable inference that
23 the possession of such stolen access devices, merchandise pallets,
24 ((or)) beverage crates, checks, or drafts was without knowledge that
25 they were stolen.

26 **Sec. 3.** RCW 9A.56.010 and 1998 c 236 s 1 are each amended to read
27 as follows:

28 The following definitions are applicable in this chapter unless the
29 context otherwise requires:

30 (1) "Appropriate lost or misdelivered property or services" means
31 obtaining or exerting control over the property or services of another
32 which the actor knows to have been lost or mislaid, or to have been
33 delivered under a mistake as to identity of the recipient or as to the
34 nature or amount of the property;

35 (2) "By color or aid of deception" means that the deception
36 operated to bring about the obtaining of the property or services; it

1 is not necessary that deception be the sole means of obtaining the
2 property or services;

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

8 (4) "Check" and "draft" each have the meanings given in RCW
9 62A.3-104;

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

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

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

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

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

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

23 (~~(+5)~~) (6) "Deprive" in addition to its common meaning means to
24 make unauthorized use or an unauthorized copy of records, information,
25 data, trade secrets, or computer programs;

26 (~~(+6)~~) (7) "Obtain control over" in addition to its common
27 meaning, means:

28 (a) In relation to property, to bring about a transfer or purported
29 transfer to the obtainer or another of a legally recognized interest in
30 the property; or

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

33 (~~(+7)~~) (8) "Wrongfully obtains" or "exerts unauthorized control"
34 means:

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

36 (b) Having any property or services in one's possession, custody or
37 control as bailee, factor, lessee, pledgee, renter, servant, attorney,
38 agent, employee, trustee, executor, administrator, guardian, or officer
39 of any person, estate, association, or corporation, or as a public

1 officer, or person authorized by agreement or competent authority to
2 take or hold such possession, custody, or control, to secrete,
3 withhold, or appropriate the same to his or her own use or to the use
4 of any person other than the true owner or person entitled thereto; or

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

10 (~~(8)~~) (9) "Merchandise pallet" means a wood or plastic carrier
11 designed and manufactured as an item on which products can be placed
12 prior to or during transport to retail outlets, manufacturers, or
13 contractors, and affixed with language stating "property of . . .,"
14 "owned by . . .," or other markings or words identifying ownership;

15 (~~(9)~~) (10) "Beverage crate" means a plastic or metal box-like
16 container used by a manufacturer or distributor in the transportation
17 or distribution of individually packaged beverages to retail outlets,
18 and affixed with language stating "property of," "owned by
19," or other markings or words identifying ownership;

20 (~~(10)~~) (11) "Owner" means a person, other than the actor, who has
21 possession of or any other interest in the property or services
22 involved, and without whose consent the actor has no authority to exert
23 control over the property or services;

24 (~~(11)~~) (12) "Receive" includes, but is not limited to, acquiring
25 title, possession, control, or a security interest, or any other
26 interest in the property;

27 (~~(12)~~) (13) "Services" includes, but is not limited to, labor,
28 professional services, transportation services, electronic computer
29 services, the supplying of hotel accommodations, restaurant services,
30 entertainment, the supplying of equipment for use, and the supplying of
31 commodities of a public utility nature such as gas, electricity, steam,
32 and water;

33 (~~(13)~~) (14) "Stolen" means obtained by theft, robbery, or
34 extortion;

35 (~~(14)~~) (15) "Subscription television service" means cable or
36 encrypted video and related audio and data services intended for
37 viewing on a home television by authorized members of the public only,
38 who have agreed to pay a fee for the service. Subscription services
39 include but are not limited to those video services presently delivered

1 by coaxial cable, fiber optic cable, terrestrial microwave, television
2 broadcast, and satellite transmission;

3 ~~((15))~~ (16) "Telecommunication device" means (a) any type of
4 instrument, device, machine, or equipment that is capable of
5 transmitting or receiving telephonic or electronic communications; or
6 (b) any part of such an instrument, device, machine, or equipment, or
7 any computer circuit, computer chip, electronic mechanism, or other
8 component, that is capable of facilitating the transmission or
9 reception of telephonic or electronic communications;

10 ~~((16))~~ (17) "Telecommunication service" includes any service
11 other than subscription television service provided for a charge or
12 compensation to facilitate the transmission, transfer, or reception of
13 a telephonic communication or an electronic communication;

14 ~~((17))~~ (18) Value. (a) "Value" means the market value of the
15 property or services at the time and in the approximate area of the
16 criminal act.

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

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

25 (ii) The value of a ticket or equivalent instrument which evidences
26 a right to receive transportation, entertainment, or other service
27 shall be deemed the price stated thereon, if any; and if no price is
28 stated thereon, the value shall be deemed the price of such ticket or
29 equivalent instrument which the issuer charged the general public;

30 (iii) The value of any other instrument that creates, releases,
31 discharges, or otherwise affects any valuable legal right, privilege,
32 or obligation shall be deemed the greatest amount of economic loss
33 which the owner of the instrument might reasonably suffer by virtue of
34 the loss of the instrument.

35 (c) Whenever any series of transactions which constitute theft,
36 would, when considered separately, constitute theft in the third degree
37 because of value, and said series of transactions are a part of a
38 common scheme or plan, then the transactions may be aggregated in one

1 count and the sum of the value of all said transactions shall be the
2 value considered in determining the degree of theft involved.

3 (d) Whenever any person is charged with possessing stolen property
4 and such person has unlawfully in his possession at the same time the
5 stolen property of more than one person, then the stolen property
6 possessed may be aggregated in one count and the sum of the value of
7 all said stolen property shall be the value considered in determining
8 the degree of theft involved.

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

12 (~~((18))~~) (19) "Shopping cart" means a basket mounted on wheels or
13 similar container generally used in a retail establishment by a
14 customer for the purpose of transporting goods of any kind;

15 (~~((19))~~) (20) "Parking area" means a parking lot or other property
16 provided by retailers for use by a customer for parking an automobile
17 or other vehicle.

18 **Sec. 4.** RCW 9A.56.110 and 1983 1st ex.s. c 4 s 2 are each amended
19 to read as follows:

20 "Extortion" means knowingly to obtain or attempt to obtain by
21 threat property or services of the owner, (~~as defined in RCW~~
22 ~~9A.56.010(8))~~) and specifically includes sexual favors.

23 **Sec. 5.** RCW 9A.56.040 and 1995 c 129 s 12 are each amended to read
24 as follows:

25 (1) A person is guilty of theft in the second degree if he or she
26 commits theft of:

27 (a) Property or services which exceed(s) two hundred and fifty
28 dollars in value other than a firearm as defined in RCW 9.41.010, but
29 does not exceed one thousand five hundred dollars in value; or

30 (b) A public record, writing, or instrument kept, filed, or
31 deposited according to law with or in the keeping of any public office
32 or public servant; or

33 (c) An access device; or

34 (d) A motor vehicle, of a value less than one thousand five hundred
35 dollars; or

36 (e) A check or draft.

37 (2) Theft in the second degree is a class C felony.

1 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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