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**SUBSTITUTE HOUSE BILL 1977**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Energy & Utilities (originally sponsored by Representatives Mielke, Casada, Grant, Appelwick, Basich, Smith and L. Thomas)

Read first time 03/01/95.

1 AN ACT Relating to theft of telecommunication and cable services;  
2 amending RCW 9A.56.010, 9A.56.220, 9A.56.230, 9A.56.250, and 9A.82.010;  
3 adding new sections to chapter 9A.56 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 9A.56.010 and 1987 c 140 s 1 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) "By color or aid of deception" means that the deception  
15 operated to bring about the obtaining of the property or services; it  
16 is not necessary that deception be the sole means of obtaining the  
17 property or services;

18 (3) "Access device" means any card, plate, code, account number, or  
19 other means of account access that can be used alone or in conjunction

1 with another access device to obtain money, goods, services, or  
2 anything else of value, or that can be used to initiate a transfer of  
3 funds, other than a transfer originated solely by paper instrument;

4 (4) "Deception" occurs when an actor knowingly:

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

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

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

11 (d) Transfers or encumbers property without disclosing a lien,  
12 adverse claim, or other legal impediment to the enjoyment of the  
13 property, whether that impediment is or is not valid, or is or is not  
14 a matter of official record; or

15 (e) Promises performance which the actor does not intend to perform  
16 or knows will not be performed.

17 (5) "Deprive" in addition to its common meaning means to make  
18 unauthorized use or an unauthorized copy of records, information, data,  
19 trade secrets, or computer programs;

20 (6) "Obtain control over" in addition to its common meaning, means:

21 (a) In relation to property, to bring about a transfer or purported  
22 transfer to the obtainer or another of a legally recognized interest in  
23 the property; or

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

26 (7) "Wrongfully obtains" or "exerts unauthorized control" means:

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

28 (b) Having any property or services in one's possession, custody or  
29 control as bailee, factor, pledgee, servant, attorney, agent, employee,  
30 trustee, executor, administrator, guardian, or officer of any person,  
31 estate, association, or corporation, or as a public officer, or person  
32 authorized by agreement or competent authority to take or hold such  
33 possession, custody, or control, to secrete, withhold, or appropriate  
34 the same to his or her own use or to the use of any person other than  
35 the true owner or person entitled thereto; or

36 (c) Having any property or services in one's possession, custody,  
37 or control as partner, to secrete, withhold, or appropriate the same to  
38 his or her use or to the use of any person other than the true owner or

1 person entitled thereto, where such use is unauthorized by the  
2 partnership agreement;

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

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

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

16 (11) "Stolen" means obtained by theft, robbery, or extortion;

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

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

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

34 (15) "Unlawful telecommunication device" means any  
35 telecommunication device that is capable, or has been altered,  
36 modified, programmed or reprogrammed, or activated or reactivated so as  
37 to be capable, of acquiring, or facilitating the acquisition of, a  
38 telecommunications service without the consent of the telecommunication  
39 service provider and includes any computer program or data designed or

1 used to create, alter, modify, program, or activate a telecommunication  
2 device. Unlawful telecommunication devices include, but are not  
3 limited to, cloned telephones, tumbler telephones, tumbler microchips,  
4 cloned microchips, and other devices or components capable of  
5 disguising their identity or location or of gaining unauthorized access  
6 to a communication system operated by a telecommunication service  
7 provider;

8 (16) Value. (a) "Value" means the market value of the property or  
9 services at the time and in the approximate area of the criminal act.

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

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

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

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

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

34 (d) Whenever any person is charged with possessing stolen property  
35 and such person has unlawfully in his possession at the same time the  
36 stolen property of more than one person, then the stolen property  
37 possessed may be aggregated in one count and the sum of the value of  
38 all said stolen property shall be the value considered in determining  
39 the degree of theft involved.

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

4 (~~((13))~~) (17) "Shopping cart" means a basket mounted on wheels or  
5 similar container generally used in a retail establishment by a  
6 customer for the purpose of transporting goods of any kind;

7 (~~((14))~~) (18) "Parking area" means a parking lot or other property  
8 provided by retailers for use by a customer for parking an automobile  
9 or other vehicle.

10 **Sec. 2.** RCW 9A.56.220 and 1989 c 11 s 1 are each amended to read  
11 as follows:

12 (1) A person is guilty of theft of ~~((cable))~~ subscription  
13 television services if(~~(+~~

14 ~~(a))~~, with intent to avoid payment of the lawful charge (~~((for any~~  
15 ~~communication))~~) of a subscription television service (~~((of a cable~~  
16 ~~system))~~), he or she:

17 (~~((i) Tamper with the equipment of the cable system, whether by~~  
18 ~~mechanical, electrical, acoustical, or other means; or~~

19 ~~(ii) Knowingly misrepresents a material fact; or~~

20 ~~(iii) Uses any other artifice, trick, deception, code, or other~~  
21 ~~device; and~~

22 ~~(b) He or she wrongfully obtains cable communication services for~~  
23 ~~himself or herself or another.~~

24 ~~(2) RCW 9A.56.220 through 9A.56.250 do not apply to the~~  
25 ~~interception or receipt by any individual or the assisting (including~~  
26 ~~the manufacture or sale), of such interception or receipt of any~~  
27 ~~satellite-transmitted programming for private use.)~~

28 (a) Obtains or attempts to obtain subscription television service  
29 from a subscription television service company by trick, artifice,  
30 deception, use of a device or decoder, or other fraudulent means  
31 without authority from the company providing the service;

32 (b) Assists or instructs a person in obtaining or attempting to  
33 obtain subscription television service without authority of the company  
34 providing the service;

35 (c) Makes or maintains a connection or connections, whether  
36 physical, electrical, mechanical, acoustical, or by other means, with  
37 cables, wires, components, or other devices used for the distribution

1 of subscription television services without authority from the company  
2 providing the services; or

3 (d) Makes or maintains a modification or alteration to a device  
4 installed with the authorization of a subscription television service  
5 company for the purpose of interception or receiving a program or other  
6 service carried by the company that the person is not authorized by the  
7 company to receive.

8 (2) Intent to avoid payment of the lawful charge of a subscription  
9 television service is presumed when a person who is not an employee or  
10 agent of a subscription television service company:

11 (a) Has installed a connection to the subscription television  
12 service system or descrambler or receiving device, or provided  
13 instructions or advice on the installations to another, without  
14 authority from the subscription television service company;

15 (b) Has a connection to subscription television services to his or  
16 her residence or business after disconnection by the subscription  
17 television service company and notification of the disconnection has  
18 been provided to the person; or

19 (c) Has in his or her possession a converter or decoder provided by  
20 the subscription television service company that has been tampered  
21 with, altered, or modified to allow the reception or interception of  
22 programming carried by the subscription television service company  
23 without authority to do so.

24 (3) Theft of ((cable)) subscription television services is a gross  
25 misdemeanor.

26 **Sec. 3.** RCW 9A.56.230 and 1985 c 430 s 2 are each amended to read  
27 as follows:

28 (1) A person is guilty of unlawful sale of ((cable)) subscription  
29 television services if, with intent to avoid payment of the lawful  
30 charge for any communications service of a cable system, he or she  
31 ~~((offers for sale or otherwise makes available any telecommunications~~  
32 ~~decoder or descrambler that defeats a mechanism of electronic signal~~  
33 ~~encryption, or that restricts delivery of individually addressed~~  
34 ~~switching imposed by the cable system.~~

35 ~~(2))~~, without authorization from the subscription television  
36 service company:

37 (a) Publishes or advertises for sale a plan for a device that is  
38 designed in whole or in part to receive subscription television or

1 services offered for sale by the subscription television service  
2 company, regardless of whether the programming or services are encoded,  
3 filtered, scrambled, or otherwise made unintelligible;

4 (b) Advertises for sale or lease a device or kit for a device  
5 designed in whole or in part to receive subscription television  
6 services offered for sale by the subscription television service  
7 company, regardless of whether the programming or services are encoded,  
8 filtered, scrambled, or otherwise made unintelligible; or

9 (c) Manufactures, imports into the state of Washington,  
10 distributes, sells, leases, or offers for sale or lease a device, plan,  
11 or kit for a device designed in whole or in part to receive  
12 subscription television services offered for sale by the subscription  
13 television service company, regardless of whether the programming or  
14 services are encoded, filtered, scrambled, or otherwise made  
15 unintelligible.

16 (2) Intent to avoid payment of the lawful charge of a subscription  
17 television service is presumed when a person who is not an employee or  
18 agent of a subscription television service company:

19 (a) Has published or advertised for sale a plan for a device  
20 designed in whole or in part to receive television or services offered  
21 for sale by the subscription television service company and the  
22 advertisement states directly or indirectly that the plan will enable  
23 one to receive subscription television service without payment to the  
24 subscription television service company;

25 (b) Has advertised devices or kits designed in whole or in part to  
26 receive subscription television services offered for sale by the  
27 subscription television service company and the advertisement states  
28 directly or indirectly that the device or kit will enable one to  
29 receive subscription television service without payment to the  
30 subscription television service company; or

31 (c) Has sold, leased, or offered for sale or lease a device, plan,  
32 or kit for a device designed in whole or in part to receive  
33 subscription television services offered for sale by the subscription  
34 television service company and during the course of the transaction for  
35 sale or lease states directly or indirectly that the device or kit will  
36 enable one to receive subscription television service without payment  
37 to the subscription television service company.

38 (3) Unlawful sale of ((cable)) subscription television services is  
39 a ((gross misdemeanor)) class C felony.

1       **Sec. 4.** RCW 9A.56.250 and 1985 c 430 s 4 are each amended to read  
2 as follows:

3       (1) In addition to the criminal penalties provided in RCW 9A.56.220  
4 and 9A.56.230, there is created a civil cause of action for theft of  
5 ~~((cable))~~ subscription television services and for unlawful sale of  
6 ~~((cable))~~ subscription television services.

7       (2) ~~((The prevailing party may recover actual damages, reasonable  
8 attorneys' fees, and costs.~~

9       ~~(3))~~ A person who sustains injury to his or her person, business,  
10 or property by an act described in RCW 9A.56.220 or 9A.56.230 may file  
11 an action in superior court for recovery of damages and the costs of  
12 the suit, including reasonable investigative and attorneys' fees and  
13 costs.

14       (3) Upon finding a violation of RCW 9A.56.220 or 9A.56.230, in  
15 addition to the remedies described in this section, the court may  
16 impose a civil penalty not exceeding twenty-five thousand dollars.

17       (4) The superior court may grant temporary and final injunctions on  
18 such terms as it deems reasonable to prevent or restrain violations of  
19 RCW 9A.56.220 and 9A.56.230.

20       **Sec. 5.** RCW 9A.82.010 and 1994 c 218 s 17 are each amended to read  
21 as follows:

22       Unless the context requires the contrary, the definitions in this  
23 section apply throughout this chapter.

24       (1) "Creditor" means a person making an extension of credit or a  
25 person claiming by, under, or through a person making an extension of  
26 credit.

27       (2) "Debtor" means a person to whom an extension of credit is made  
28 or a person who guarantees the repayment of an extension of credit or  
29 in any manner undertakes to indemnify the creditor against loss  
30 resulting from the failure of a person to whom an extension is made to  
31 repay the same.

32       (3) "Extortionate extension of credit" means an extension of credit  
33 with respect to which it is the understanding of the creditor and the  
34 debtor at the time the extension is made that delay in making repayment  
35 or failure to make repayment could result in the use of violence or  
36 other criminal means to cause harm to the person, reputation, or  
37 property of any person.

1 (4) "Extortionate means" means the use, or an express or implicit  
2 threat of use, of violence or other criminal means to cause harm to the  
3 person, reputation, or property of any person.

4 (5) "To collect an extension of credit" means to induce in any way  
5 a person to make repayment thereof.

6 (6) "To extend credit" means to make or renew a loan or to enter  
7 into an agreement, tacit or express, whereby the repayment or  
8 satisfaction of a debt or claim, whether acknowledged or disputed,  
9 valid or invalid, and however arising, may or shall be deferred.

10 (7) "Repayment of an extension of credit" means the repayment,  
11 satisfaction, or discharge in whole or in part of a debt or claim,  
12 acknowledged or disputed, valid or invalid, resulting from or in  
13 connection with that extension of credit.

14 (8) "Dealer in property" means a person who buys and sells property  
15 as a business.

16 (9) "Stolen property" means property that has been obtained by  
17 theft, robbery, or extortion.

18 (10) "Traffic" means to sell, transfer, distribute, dispense, or  
19 otherwise dispose of stolen property to another person, or to buy,  
20 receive, possess, or obtain control of stolen property, with intent to  
21 sell, transfer, distribute, dispense, or otherwise dispose of the  
22 property to another person.

23 (11) "Control" means the possession of a sufficient interest to  
24 permit substantial direction over the affairs of an enterprise.

25 (12) "Enterprise" includes any individual, sole proprietorship,  
26 partnership, corporation, business trust, or other profit or nonprofit  
27 legal entity, and includes any union, association, or group of  
28 individuals associated in fact although not a legal entity, and both  
29 illicit and licit enterprises and governmental and nongovernmental  
30 entities.

31 (13) "Financial institution" means any bank, trust company, savings  
32 and loan association, savings bank, mutual savings bank, credit union,  
33 or loan company under the jurisdiction of the state or an agency of the  
34 United States.

35 (14) "Criminal profiteering" means any act, including any  
36 anticipatory or completed offense, committed for financial gain, that  
37 is chargeable or indictable under the laws of the state in which the  
38 act occurred and, if the act occurred in a state other than this state,  
39 would be chargeable or indictable under the laws of this state had the

1 act occurred in this state and punishable as a felony and by  
2 imprisonment for more than one year, regardless of whether the act is  
3 charged or indicted, as any of the following:

- 4 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 5 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 6 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 7 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 8 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and  
9 9A.56.080;

10 (f) Unlawful sale of subscription television services, as defined  
11 in RCW 9A.56.230;

12 (g) Child selling or child buying, as defined in RCW 9A.64.030;

13 ~~((g))~~ (h) Bribery, as defined in RCW 9A.68.010, 9A.68.020,  
14 9A.68.040, and 9A.68.050;

15 ~~((h))~~ (i) Gambling, as defined in RCW 9.46.220 and 9.46.215 and  
16 9.46.217;

17 ~~((i))~~ (j) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;

18 ~~((j))~~ (k) Extortionate extension of credit, as defined in RCW  
19 9A.82.020;

20 ~~((k))~~ (l) Advancing money for use in an extortionate extension of  
21 credit, as defined in RCW 9A.82.030;

22 ~~((l))~~ (m) Collection of an extortionate extension of credit, as  
23 defined in RCW 9A.82.040;

24 ~~((m))~~ (n) Collection of an unlawful debt, as defined in RCW  
25 9A.82.045;

26 ~~((n))~~ (o) Delivery or manufacture of controlled substances or  
27 possession with intent to deliver or manufacture controlled substances  
28 under chapter 69.50 RCW;

29 ~~((o))~~ (p) Trafficking in stolen property, as defined in RCW  
30 9A.82.050;

31 ~~((p))~~ (q) Leading organized crime, as defined in RCW 9A.82.060;

32 ~~((q))~~ (r) Money laundering, as defined in RCW 9A.83.020;

33 ~~((r))~~ (s) Obstructing criminal investigations or prosecutions in  
34 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,  
35 9A.76.070, or 9A.76.180;

36 ~~((s))~~ (t) Fraud in the purchase or sale of securities, as defined  
37 in RCW 21.20.010;

38 ~~((t))~~ (u) Promoting pornography, as defined in RCW 9.68.140;

1       (~~(u)~~) (v) Sexual exploitation of children, as defined in RCW  
2 9.68A.040, 9.68A.050, and 9.68A.060;

3       (~~(v)~~) (w) Promoting prostitution, as defined in RCW 9A.88.070 and  
4 9A.88.080;

5       (~~(w)~~) (x) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

6       (~~(x)~~) (y) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

7       (~~(y)~~) (z) Assault of a child, as defined in RCW 9A.36.120 and  
8 9A.36.130;

9       (~~(z)~~) (aa) A pattern of equity skimming, as defined in RCW  
10 61.34.020; or

11       (~~(aa)~~) (bb) Commercial telephone solicitation in violation of RCW  
12 19.158.040(1).

13       (15) "Pattern of criminal profiteering activity" means engaging in  
14 at least three acts of criminal profiteering, one of which occurred  
15 after July 1, 1985, and the last of which occurred within five years,  
16 excluding any period of imprisonment, after the commission of the  
17 earliest act of criminal profiteering. In order to constitute a  
18 pattern, the three acts must have the same or similar intent, results,  
19 accomplices, principals, victims, or methods of commission, or be  
20 otherwise interrelated by distinguishing characteristics including a  
21 nexus to the same enterprise, and must not be isolated events.  
22 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by  
23 any person other than the attorney general or county prosecuting  
24 attorney in which one or more acts of fraud in the purchase or sale of  
25 securities are asserted as acts of criminal profiteering activity, it  
26 is a condition to civil liability under RCW 9A.82.100 that the  
27 defendant has been convicted in a criminal proceeding of fraud in the  
28 purchase or sale of securities under RCW 21.20.400 or under the laws of  
29 another state or of the United States requiring the same elements of  
30 proof, but such conviction need not relate to any act or acts asserted  
31 as acts of criminal profiteering activity in such civil action under  
32 RCW 9A.82.100.

33       (16) "Records" means any book, paper, writing, record, computer  
34 program, or other material.

35       (17) "Documentary material" means any book, paper, document,  
36 writing, drawing, graph, chart, photograph, phonograph record, magnetic  
37 tape, computer printout, other data compilation from which information  
38 can be obtained or from which information can be translated into usable  
39 form, or other tangible item.

1 (18) "Unlawful debt" means any money or other thing of value  
2 constituting principal or interest of a debt that is legally  
3 unenforceable in the state in full or in part because the debt was  
4 incurred or contracted:

5 (a) In violation of any one of the following:

6 (i) Chapter 67.16 RCW relating to horse racing;

7 (ii) Chapter 9.46 RCW relating to gambling;

8 (b) In a gambling activity in violation of federal law; or

9 (c) In connection with the business of lending money or a thing of  
10 value at a rate that is at least twice the permitted rate under the  
11 applicable state or federal law relating to usury.

12 (19)(a) "Beneficial interest" means:

13 (i) The interest of a person as a beneficiary under a trust  
14 established under Title 11 RCW in which the trustee for the trust holds  
15 legal or record title to real property;

16 (ii) The interest of a person as a beneficiary under any other  
17 trust arrangement under which a trustee holds legal or record title to  
18 real property for the benefit of the beneficiary; or

19 (iii) The interest of a person under any other form of express  
20 fiduciary arrangement under which one person holds legal or record  
21 title to real property for the benefit of the other person.

22 (b) "Beneficial interest" does not include the interest of a  
23 stockholder in a corporation or the interest of a partner in a general  
24 partnership or limited partnership.

25 (c) A beneficial interest shall be considered to be located where  
26 the real property owned by the trustee is located.

27 (20) "Real property" means any real property or interest in real  
28 property, including but not limited to a land sale contract, lease, or  
29 mortgage of real property.

30 (21)(a) "Trustee" means:

31 (i) A person acting as a trustee under a trust established under  
32 Title 11 RCW in which the trustee holds legal or record title to real  
33 property;

34 (ii) A person who holds legal or record title to real property in  
35 which another person has a beneficial interest; or

36 (iii) A successor trustee to a person who is a trustee under  
37 subsection (21)(a) (i) or (ii) of this section.

38 (b) "Trustee" does not mean a person appointed or acting as:

39 (i) A personal representative under Title 11 RCW;

- 1 (ii) A trustee of any testamentary trust;
- 2 (iii) A trustee of any indenture of trust under which a bond is
- 3 issued; or
- 4 (iv) A trustee under a deed of trust.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 9A.56 RCW  
6 to read as follows:

7 (1) A person is guilty of theft of telecommunication services if he  
8 or she:

9 (a) Uses a telecommunication device to transmit or receive  
10 telephonic or electronic telecommunication without having entered into  
11 a prior agreement with a telecommunication service provider to pay for  
12 the telecommunication services; or

13 (b) Possesses an unlawful telecommunication device.

14 (2) Theft of telecommunication services is a class C felony.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.56 RCW  
16 to read as follows:

17 (1) A person is guilty of unlawful manufacture of a  
18 telecommunication device if he or she:

19 (a) Manufactures, produces, or assembles an unlawful  
20 telecommunication device;

21 (b) Modifies, alters, programs, or reprograms a telecommunication  
22 device to be capable of acquiring or of facilitating the acquisition of  
23 telecommunication service without the consent of the telecommunication  
24 service provider; or

25 (c) Writes, creates, or modifies a computer program that he or she  
26 knows is thereby capable of being used to manufacture an unlawful  
27 telecommunication device.

28 (2) Unlawful manufacture of a telecommunication device is a class  
29 C felony.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.56 RCW  
31 to read as follows:

32 (1) A person is guilty of unlawful sale of a telecommunication  
33 device if he or she sells, leases, exchanges, or offers to sell, lease,  
34 or exchange:

35 (a) An unlawful telecommunication device; or

1 (b) Any material, including data, computer software, or other  
2 information or equipment, knowing that the purchaser or a third person  
3 intends to use the material in the manufacture of an unlawful  
4 telecommunication device.

5 (2) Unlawful sale of a telecommunication device is a class C  
6 felony.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 9A.56 RCW  
8 to read as follows:

9 (1) In addition to the criminal penalties provided in sections 6  
10 through 8 of this act, there is created a civil cause of action for  
11 theft of telecommunication services, for unlawful manufacture of a  
12 telecommunication device, and for unlawful sale of a telecommunication  
13 device.

14 (2) A person who sustains injury to his or her person, business, or  
15 property by an act described in section 6, 7, or 8 of this act may file  
16 an action in superior court for recovery of damages and the costs of  
17 the suit, including reasonable investigative and attorneys' fees and  
18 costs.

19 (3) Upon finding a violation of section 6, 7, or 8 of this act, in  
20 addition to the remedies described in this section, the court may  
21 impose a civil penalty not exceeding twenty-five thousand dollars.

22 (4) The superior court may grant temporary and final injunctions on  
23 such terms as it deems reasonable to prevent or restrain violations of  
24 sections 6 through 8 of this act.

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