

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5022

63rd Legislature
2013 Regular Session

Passed by the Senate April 19, 2013
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 9, 2013
YEAS 92 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5022** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5022

AS AMENDED BY THE HOUSE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By Senate Law & Justice (originally sponsored by Senators Padden, Sheldon, and Carrell)

READ FIRST TIME 01/22/13.

1 AN ACT Relating to changing retail theft with extenuating
2 circumstances to retail theft with special circumstances; amending RCW
3 9A.56.360; reenacting and amending RCW 9.94A.515; prescribing
4 penalties; and providing an effective date.

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

6 **Sec. 1.** RCW 9A.56.360 and 2006 c 277 s 3 are each amended to read
7 as follows:

8 (1) A person commits retail theft with ~~((extenuating))~~ special
9 circumstances if he or she commits theft of property from a mercantile
10 establishment with one of the following ~~((extenuating))~~ special
11 circumstances:

12 (a) To facilitate the theft, the person leaves the mercantile
13 establishment through a designated emergency exit;

14 (b) The person was, at the time of the theft, in possession of an
15 item, article, implement, or device designed to overcome security
16 systems including, but not limited to, lined bags or tag removers; or

17 (c) The person committed theft at three or more separate and
18 distinct mercantile establishments within a one hundred eighty-day
19 period.

1 (2) A person is guilty of retail theft with ((~~extenuating~~)) special
2 circumstances in the first degree if the theft involved constitutes
3 theft in the first degree. Retail theft with ((~~extenuating~~)) special
4 circumstances in the first degree is a class B felony.

5 (3) A person is guilty of retail theft with ((~~extenuating~~)) special
6 circumstances in the second degree if the theft involved constitutes
7 theft in the second degree. Retail theft with ((~~extenuating~~)) special
8 circumstances in the second degree is a class C felony.

9 (4) A person is guilty of retail theft with ((~~extenuating~~)) special
10 circumstances in the third degree if the theft involved constitutes
11 theft in the third degree. Retail theft with ((~~extenuating~~)) special
12 circumstances in the third degree is a class C felony.

13 (5) For the purposes of this section, "special circumstances" means
14 the particular aggravating circumstances described in subsection (1)(a)
15 through (c) of this section.

16 **Sec. 2.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are
17 each reenacted and amended to read as follows:
18

19

TABLE 2

CRIMES INCLUDED WITHIN

EACH SERIOUSNESS LEVEL

22	XVI	Aggravated Murder 1 (RCW
23		10.95.020)
24	XV	Homicide by abuse (RCW 9A.32.055)
25		Malicious explosion 1 (RCW
26		70.74.280(1))
27		Murder 1 (RCW 9A.32.030)
28	XIV	Murder 2 (RCW 9A.32.050)
29		Trafficking 1 (RCW 9A.40.100(1))
30	XIII	Malicious explosion 2 (RCW
31		70.74.280(2))
32		Malicious placement of an explosive 1
33		(RCW 70.74.270(1))
34	XII	Assault 1 (RCW 9A.36.011)
35		Assault of a Child 1 (RCW 9A.36.120)

1 Malicious placement of an imitation
2 device 1 (RCW 70.74.272(1)(a))
3 Promoting Commercial Sexual Abuse
4 of a Minor (RCW 9.68A.101)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Trafficking 2 (RCW 9A.40.100(2))
8 XI Manslaughter 1 (RCW 9A.32.060)
9 Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Vehicular Homicide, by being under
12 the influence of intoxicating liquor
13 or any drug (RCW 46.61.520)
14 X Child Molestation 1 (RCW 9A.44.083)
15 Criminal Mistreatment 1 (RCW
16 9A.42.020)
17 Indecent Liberties (with forcible
18 compulsion) (RCW
19 9A.44.100(1)(a))
20 Kidnapping 1 (RCW 9A.40.020)
21 Leading Organized Crime (RCW
22 9A.82.060(1)(a))
23 Malicious explosion 3 (RCW
24 70.74.280(3))
25 Sexually Violent Predator Escape
26 (RCW 9A.76.115)
27 IX Abandonment of Dependent Person 1
28 (RCW 9A.42.060)
29 Assault of a Child 2 (RCW 9A.36.130)
30 Explosive devices prohibited (RCW
31 70.74.180)
32 Hit and Run--Death (RCW
33 46.52.020(4)(a))
34 Homicide by Watercraft, by being
35 under the influence of intoxicating
36 liquor or any drug (RCW
37 79A.60.050)

1 Inciting Criminal Profiteering (RCW
2 9A.82.060(1)(b))
3 Malicious placement of an explosive 2
4 (RCW 70.74.270(2))
5 Robbery 1 (RCW 9A.56.200)
6 Sexual Exploitation (RCW 9.68A.040)
7 VIII Arson 1 (RCW 9A.48.020)
8 Commercial Sexual Abuse of a Minor
9 (RCW 9.68A.100)
10 Homicide by Watercraft, by the
11 operation of any vessel in a
12 reckless manner (RCW
13 79A.60.050)
14 Manslaughter 2 (RCW 9A.32.070)
15 Promoting Prostitution 1 (RCW
16 9A.88.070)
17 Theft of Ammonia (RCW 69.55.010)
18 Vehicular Homicide, by the operation
19 of any vehicle in a reckless manner
20 (RCW 46.61.520)
21 VII Burglary 1 (RCW 9A.52.020)
22 Child Molestation 2 (RCW 9A.44.086)
23 Civil Disorder Training (RCW
24 9A.48.120)
25 Dealing in depictions of minor engaged
26 in sexually explicit conduct 1
27 (RCW 9.68A.050(1))
28 Drive-by Shooting (RCW 9A.36.045)
29 Homicide by Watercraft, by disregard
30 for the safety of others (RCW
31 79A.60.050)
32 Indecent Liberties (without forcible
33 compulsion) (RCW 9A.44.100(1)
34 (b) and (c))
35 Introducing Contraband 1 (RCW
36 9A.76.140)

1 Malicious placement of an explosive 3
2 (RCW 70.74.270(3))
3 Negligently Causing Death By Use of a
4 Signal Preemption Device (RCW
5 46.37.675)
6 Sending, bringing into state depictions
7 of minor engaged in sexually
8 explicit conduct 1 (RCW
9 9.68A.060(1))
10 Unlawful Possession of a Firearm in
11 the first degree (RCW 9.41.040(1))
12 Use of a Machine Gun in Commission
13 of a Felony (RCW 9.41.225)
14 Vehicular Homicide, by disregard for
15 the safety of others (RCW
16 46.61.520)
17 VI Bail Jumping with Murder 1 (RCW
18 9A.76.170(3)(a))
19 Bribery (RCW 9A.68.010)
20 Incest 1 (RCW 9A.64.020(1))
21 Intimidating a Judge (RCW 9A.72.160)
22 Intimidating a Juror/Witness (RCW
23 9A.72.110, 9A.72.130)
24 Malicious placement of an imitation
25 device 2 (RCW 70.74.272(1)(b))
26 Possession of Depictions of a Minor
27 Engaged in Sexually Explicit
28 Conduct 1 (RCW 9.68A.070(1))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Unlawful Storage of Ammonia (RCW
32 69.55.020)
33 V Abandonment of Dependent Person 2
34 (RCW 9A.42.070)
35 Advancing money or property for
36 extortionate extension of credit
37 (RCW 9A.82.030)

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 2 (RCW
5 9A.42.030)
6 Custodial Sexual Misconduct 1 (RCW
7 9A.44.160)
8 Dealing in Depictions of Minor
9 Engaged in Sexually Explicit
10 Conduct 2 (RCW 9.68A.050(2))
11 Domestic Violence Court Order
12 Violation (RCW 10.99.040,
13 10.99.050, 26.09.300, 26.10.220,
14 26.26.138, 26.50.110, 26.52.070,
15 or 74.34.145)
16 Driving While Under the Influence
17 (RCW 46.61.502(6))
18 Extortion 1 (RCW 9A.56.120)
19 Extortionate Extension of Credit (RCW
20 9A.82.020)
21 Extortionate Means to Collect
22 Extensions of Credit (RCW
23 9A.82.040)
24 Incest 2 (RCW 9A.64.020(2))
25 Kidnapping 2 (RCW 9A.40.030)
26 Perjury 1 (RCW 9A.72.020)
27 Persistent prison misbehavior (RCW
28 9.94.070)
29 Physical Control of a Vehicle While
30 Under the Influence (RCW
31 46.61.504(6))
32 Possession of a Stolen Firearm (RCW
33 9A.56.310)
34 Rape 3 (RCW 9A.44.060)
35 Rendering Criminal Assistance 1
36 (RCW 9A.76.070)

1 Sending, Bringing into State Depictions
2 of Minor Engaged in Sexually
3 Explicit Conduct 2 (RCW
4 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)
12 IV Arson 2 (RCW 9A.48.030)
13 Assault 2 (RCW 9A.36.021)
14 Assault 3 (of a Peace Officer with a
15 Projectile Stun Gun) (RCW
16 9A.36.031(1)(h))
17 Assault by Watercraft (RCW
18 79A.60.060)
19 Bribing a Witness/Bribe Received by
20 Witness (RCW 9A.72.090,
21 9A.72.100)
22 Cheating 1 (RCW 9.46.1961)
23 Commercial Bribery (RCW 9A.68.060)
24 Counterfeiting (RCW 9.16.035(4))
25 Endangerment with a Controlled
26 Substance (RCW 9A.42.100)
27 Escape 1 (RCW 9A.76.110)
28 Hit and Run--Injury (RCW
29 46.52.020(4)(b))
30 Hit and Run with Vessel--Injury
31 Accident (RCW 79A.60.200(3))
32 Identity Theft 1 (RCW 9.35.020(2))
33 Indecent Exposure to Person Under
34 Age Fourteen (subsequent sex
35 offense) (RCW 9A.88.010)
36 Influencing Outcome of Sporting Event
37 (RCW 9A.82.070)

1 Malicious Harassment (RCW
2 9A.36.080)
3 Possession of Depictions of a Minor
4 Engaged in Sexually Explicit
5 Conduct 2 (RCW 9.68A.070(2))
6 Residential Burglary (RCW
7 9A.52.025)
8 Robbery 2 (RCW 9A.56.210)
9 Theft of Livestock 1 (RCW 9A.56.080)
10 Threats to Bomb (RCW 9.61.160)
11 Trafficking in Stolen Property 1 (RCW
12 9A.82.050)
13 Unlawful factoring of a credit card or
14 payment card transaction (RCW
15 9A.56.290(4)(b))
16 Unlawful transaction of health
17 coverage as a health care service
18 contractor (RCW 48.44.016(3))
19 Unlawful transaction of health
20 coverage as a health maintenance
21 organization (RCW 48.46.033(3))
22 Unlawful transaction of insurance
23 business (RCW 48.15.023(3))
24 Unlicensed practice as an insurance
25 professional (RCW 48.17.063(2))
26 Use of Proceeds of Criminal
27 Profiteering (RCW 9A.82.080 (1)
28 and (2))
29 Vehicular Assault, by being under the
30 influence of intoxicating liquor or
31 any drug, or by the operation or
32 driving of a vehicle in a reckless
33 manner (RCW 46.61.522)
34 Viewing of Depictions of a Minor
35 Engaged in Sexually Explicit
36 Conduct 1 (RCW 9.68A.075(1))

1 Willful Failure to Return from
2 Furlough (RCW 72.66.060)
3 III Animal Cruelty 1 (Sexual Conduct or
4 Contact) (RCW 16.52.205(3))
5 Assault 3 (Except Assault 3 of a Peace
6 Officer With a Projectile Stun
7 Gun) (RCW 9A.36.031 except
8 subsection (1)(h))
9 Assault of a Child 3 (RCW 9A.36.140)
10 Bail Jumping with class B or C Felony
11 (RCW 9A.76.170(3)(c))
12 Burglary 2 (RCW 9A.52.030)
13 Communication with a Minor for
14 Immoral Purposes (RCW
15 9.68A.090)
16 Criminal Gang Intimidation (RCW
17 9A.46.120)
18 Custodial Assault (RCW 9A.36.100)
19 Cyberstalking (subsequent conviction
20 or threat of death) (RCW
21 9.61.260(3))
22 Escape 2 (RCW 9A.76.120)
23 Extortion 2 (RCW 9A.56.130)
24 Harassment (RCW 9A.46.020)
25 Intimidating a Public Servant (RCW
26 9A.76.180)
27 Introducing Contraband 2 (RCW
28 9A.76.150)
29 Malicious Injury to Railroad Property
30 (RCW 81.60.070)
31 Mortgage Fraud (RCW 19.144.080)
32 Negligently Causing Substantial Bodily
33 Harm By Use of a Signal
34 Preemption Device (RCW
35 46.37.674)
36 Organized Retail Theft 1 (RCW
37 9A.56.350(2))

1 Perjury 2 (RCW 9A.72.030)
2 Possession of Incendiary Device (RCW
3 9.40.120)
4 Possession of Machine Gun or Short-
5 Barreled Shotgun or Rifle (RCW
6 9.41.190)
7 Promoting Prostitution 2 (RCW
8 9A.88.080)
9 Retail Theft with (~~Extenuating~~)
10 Special Circumstances 1 (RCW
11 9A.56.360(2))
12 Securities Act violation (RCW
13 21.20.400)
14 Tampering with a Witness (RCW
15 9A.72.120)
16 Telephone Harassment (subsequent
17 conviction or threat of death)
18 (RCW 9.61.230(2))
19 Theft of Livestock 2 (RCW 9A.56.083)
20 Theft with the Intent to Resell 1 (RCW
21 9A.56.340(2))
22 Trafficking in Stolen Property 2 (RCW
23 9A.82.055)
24 Unlawful Hunting of Big Game 1
25 (RCW 77.15.410(3)(b))
26 Unlawful Imprisonment (RCW
27 9A.40.040)
28 Unlawful possession of firearm in the
29 second degree (RCW 9.41.040(2))
30 Unlawful Taking of Endangered Fish
31 or Wildlife 1 (RCW
32 77.15.120(3)(b))
33 Unlawful Trafficking in Fish, Shellfish,
34 or Wildlife 1 (RCW
35 77.15.260(3)(b))
36 Unlawful Use of a Nondesignated
37 Vessel (RCW 77.15.530(4))

1 Vehicular Assault, by the operation or
2 driving of a vehicle with disregard
3 for the safety of others (RCW
4 46.61.522)
5 Willful Failure to Return from Work
6 Release (RCW 72.65.070)
7 II Commercial Fishing Without a License
8 1 (RCW 77.15.500(3)(b))
9 Computer Trespass 1 (RCW
10 9A.52.110)
11 Counterfeiting (RCW 9.16.035(3))
12 Engaging in Fish Dealing Activity
13 Unlicensed 1 (RCW 77.15.620(3))
14 Escape from Community Custody
15 (RCW 72.09.310)
16 Failure to Register as a Sex Offender
17 (second or subsequent offense)
18 (RCW 9A.44.132)
19 Health Care False Claims (RCW
20 48.80.030)
21 Identity Theft 2 (RCW 9.35.020(3))
22 Improperly Obtaining Financial
23 Information (RCW 9.35.010)
24 Malicious Mischief 1 (RCW
25 9A.48.070)
26 Organized Retail Theft 2 (RCW
27 9A.56.350(3))
28 Possession of Stolen Property 1 (RCW
29 9A.56.150)
30 Possession of a Stolen Vehicle (RCW
31 9A.56.068)
32 Retail Theft with (~~Extenuating~~)
33 Special Circumstances 2 (RCW
34 9A.56.360(3))
35 Theft 1 (RCW 9A.56.030)
36 Theft of a Motor Vehicle (RCW
37 9A.56.065)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at one
3 thousand five hundred dollars or
4 more) (RCW 9A.56.096(5)(a))
5 Theft with the Intent to Resell 2 (RCW
6 9A.56.340(3))
7 Trafficking in Insurance Claims (RCW
8 48.30A.015)
9 Unlawful factoring of a credit card or
10 payment card transaction (RCW
11 9A.56.290(4)(a))
12 Unlawful Participation of Non-Indians
13 in Indian Fishery (RCW
14 77.15.570(2))
15 Unlawful Practice of Law (RCW
16 2.48.180)
17 Unlicensed Practice of a Profession or
18 Business (RCW 18.130.190(7))
19 Unlawful Purchase or Use of a License
20 (RCW 77.15.650(3)(b))
21 Unlawful Trafficking in Fish, Shellfish,
22 or Wildlife 2 (RCW
23 77.15.260(3)(a))
24 Voyeurism (RCW 9A.44.115)
25 I Attempting to Elude a Pursuing Police
26 Vehicle (RCW 46.61.024)
27 False Verification for Welfare (RCW
28 74.08.055)
29 Forgery (RCW 9A.60.020)
30 Fraudulent Creation or Revocation of a
31 Mental Health Advance Directive
32 (RCW 9A.60.060)
33 Malicious Mischief 2 (RCW
34 9A.48.080)
35 Mineral Trespass (RCW 78.44.330)
36 Possession of Stolen Property 2 (RCW
37 9A.56.160)

1 Reckless Burning 1 (RCW 9A.48.040)
2 Spotlighting Big Game 1 (RCW
3 77.15.450(3)(b))
4 Suspension of Department Privileges 1
5 (RCW 77.15.670(3)(b))
6 Taking Motor Vehicle Without
7 Permission 2 (RCW 9A.56.075)
8 Theft 2 (RCW 9A.56.040)
9 Theft of Rental, Leased, or Lease-
10 purchased Property (valued at two
11 hundred fifty dollars or more but
12 less than one thousand five
13 hundred dollars) (RCW
14 9A.56.096(5)(b))
15 Transaction of insurance business
16 beyond the scope of licensure
17 (RCW 48.17.063)
18 Unlawful Fish and Shellfish Catch
19 Accounting (RCW
20 77.15.630(3)(b))
21 Unlawful Issuance of Checks or Drafts
22 (RCW 9A.56.060)
23 Unlawful Possession of Fictitious
24 Identification (RCW 9A.56.320)
25 Unlawful Possession of Instruments of
26 Financial Fraud (RCW 9A.56.320)
27 Unlawful Possession of Payment
28 Instruments (RCW 9A.56.320)
29 Unlawful Possession of a Personal
30 Identification Device (RCW
31 9A.56.320)
32 Unlawful Production of Payment
33 Instruments (RCW 9A.56.320)
34 Unlawful Release of Deleterious Exotic
35 Wildlife (RCW 77.15.250(2)(b))
36 Unlawful Trafficking in Food Stamps
37 (RCW 9.91.142)

1 Unlawful Use of Food Stamps (RCW
2 9.91.144)
3 Unlawful Use of Net to Take Fish 1
4 (RCW 77.15.580(3)(b))
5 Unlawful Use of Prohibited Aquatic
6 Animal Species (RCW
7 77.15.253(3))
8 Vehicle Prowl 1 (RCW 9A.52.095)
9 Violating Commercial Fishing Area or
10 Time 1 (RCW 77.15.550(3)(b))

11 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2014.

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