
SENATE BILL 6877

State of Washington

59th Legislature

2006 Regular Session

By Senator Kline

Read first time 01/31/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to crimes against personal property; amending RCW
2 9A.48.070, 9A.48.080, 9A.48.090, 9A.56.010, 9A.56.030, 9A.56.040,
3 9A.56.050, 9A.56.060, 9A.56.096, 9A.56.150, 9A.56.160, 9A.56.170, and
4 9A.82.050; adding a new section to chapter 9A.48 RCW; adding a new
5 section to chapter 9A.56 RCW; and prescribing penalties.

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

7 **Sec. 1.** RCW 9A.48.070 and 1983 1st ex.s. c 4 s 1 are each amended
8 to read as follows:

9 (1) A person is guilty of malicious mischief in the first degree if
10 he or she knowingly and maliciously:

11 (a) Causes physical damage to the property of another in an amount
12 exceeding ((one)) five thousand five hundred dollars;

13 (b) Causes an interruption or impairment of service rendered to the
14 public by physically damaging or tampering with an emergency vehicle or
15 property of the state, a political subdivision thereof, or a public
16 utility or mode of public transportation, power, or communication; or

17 (c) Causes an impairment of the safety, efficiency, or operation of
18 an aircraft by physically damaging or tampering with the aircraft or
19 aircraft equipment, fuel, lubricant, or parts.

1 (2) Malicious mischief in the first degree is a class B felony.

2 **Sec. 2.** RCW 9A.48.080 and 1994 c 261 s 17 are each amended to read
3 as follows:

4 (1) A person is guilty of malicious mischief in the second degree
5 if he or she knowingly and maliciously:

6 (a) Causes physical damage to the property of another in an amount
7 exceeding ~~((two))~~ nine hundred ~~((fifty))~~ dollars; or

8 (b) Creates a substantial risk of interruption or impairment of
9 service rendered to the public, by physically damaging or tampering
10 with an emergency vehicle or property of the state, a political
11 subdivision thereof, or a public utility or mode of public
12 transportation, power, or communication.

13 (2) Malicious mischief in the second degree is a class C felony.

14 **Sec. 3.** RCW 9A.48.090 and 2003 c 53 s 71 are each amended to read
15 as follows:

16 (1) A person is guilty of malicious mischief in the third degree if
17 he or she:

18 (a) Knowingly and maliciously causes physical damage to the
19 property of another, under circumstances not amounting to malicious
20 mischief in the first or second degree; or

21 (b) Writes, paints, or draws any inscription, figure, or mark of
22 any type on any public or private building or other structure or any
23 real or personal property owned by any other person unless the person
24 has obtained the express permission of the owner or operator of the
25 property, under circumstances not amounting to malicious mischief in
26 the first or second degree.

27 ~~((2))~~ Malicious mischief in the third degree ~~((under~~
28 ~~subsection (1)(a) of this section is a gross misdemeanor if the damage~~
29 ~~to the property is in an amount exceeding fifty dollars.~~

30 ~~(b) Malicious mischief in the third degree under subsection (1)(a)~~
31 ~~of this section is a misdemeanor if the damage to the property is fifty~~
32 ~~dollars or less.~~

33 ~~(c) Malicious mischief in the third degree under subsection (1)(b)~~
34 ~~of this section)) is a gross misdemeanor.~~

1 **Sec. 4.** RCW 9A.56.010 and 2002 c 97 s 1 are each amended to read
2 as follows:

3 The following definitions are applicable in this chapter unless the
4 context otherwise requires:

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

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

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

20 (4) "By color or aid of deception" means that the deception
21 operated to bring about the obtaining of the property or services; it
22 is not necessary that deception be the sole means of obtaining the
23 property or services;

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

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

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

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

31 (d) Transfers or encumbers property without disclosing a lien,
32 adverse claim, or other legal impediment to the enjoyment of the
33 property, whether that impediment is or is not valid, or is or is not
34 a matter of official record; or

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

37 (6) "Deprive" in addition to its common meaning means to make

1 unauthorized use or an unauthorized copy of records, information, data,
2 trade secrets, or computer programs;

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

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

9 (a) In relation to property, to bring about a transfer or purported
10 transfer to the obtainer or another of a legally recognized interest in
11 the property; or

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

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

18 (10) "Parking area" means a parking lot or other property provided
19 by retailers for use by a customer for parking an automobile or other
20 vehicle;

21 (11) "Receive" includes, but is not limited to, acquiring title,
22 possession, control, or a security interest, or any other interest in
23 the property;

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

30 (13) "Shopping cart" means a basket mounted on wheels or similar
31 container generally used in a retail establishment by a customer for
32 the purpose of transporting goods of any kind;

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

34 (15) "Subscription television service" means cable or encrypted
35 video and related audio and data services intended for viewing on a
36 home television by authorized members of the public only, who have
37 agreed to pay a fee for the service. Subscription services include but

1 are not limited to those video services presently delivered by coaxial
2 cable, fiber optic cable, terrestrial microwave, television broadcast,
3 and satellite transmission;

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

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

15 (18) Value. (a) "Value" means the market value of the property or
16 services at the time and in the approximate area of the 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) Except as provided in (f) of this subsection, whenever any
36 series of transactions which constitute theft, would, when considered
37 separately, constitute theft in the third degree because of value, and
38 said series of transactions are a part of a criminal episode or a

1 common scheme or plan, then the transactions may be aggregated in one
2 count and the sum of the value of all said transactions shall be the
3 value considered in determining the degree of theft involved.

4 For purposes of this subsection, "criminal episode" means a series
5 of thefts committed by the same person from one or more mercantile
6 establishments on three or more occasions within a five-day period.

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

13 (e) Property or services having value that cannot be ascertained
14 pursuant to the standards set forth above shall be deemed to be of a
15 value not exceeding ((two)) nine hundred ((and fifty)) dollars.

16 (f) A series of thefts committed by the same person from one or
17 more mercantile establishments over a period of one hundred eighty days
18 may be aggregated in one count and the sum of the value of all of the
19 property shall be the value considered in determining the degree of the
20 theft;

21 (19) "Wrongfully obtains" or "exerts unauthorized control" means:

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

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

31 (c) Having any property or services in one's possession, custody,
32 or control as partner, to secrete, withhold, or appropriate the same to
33 his or her use or to the use of any person other than the true owner or
34 person entitled thereto, where the use is unauthorized by the
35 partnership agreement.

36 **Sec. 5.** RCW 9A.56.030 and 2005 c 212 s 2 are each amended to read
37 as follows:

1 (1) A person is guilty of theft in the first degree if he or she
2 commits theft of:
3 (a) Property or services which exceed(s) (~~one~~) five thousand five
4 hundred dollars in value other than a firearm as defined in RCW
5 9.41.010;
6 (b) Property of any value other than a firearm as defined in RCW
7 9.41.010 taken from the person of another; or
8 (c) A search and rescue dog, as defined in RCW 9.91.175, while the
9 search and rescue dog is on duty.
10 (2) Theft in the first degree is a class B felony.

11 **Sec. 6.** RCW 9A.56.040 and 1995 c 129 s 12 are each amended to read
12 as follows:

13 (1) A person is guilty of theft in the second degree if he or she
14 commits theft of:
15 (a) Property or services which exceed(s) (~~two~~) nine hundred (~~and~~
16 ~~fifty~~) dollars in value other than a firearm as defined in RCW
17 9.41.010, but does not exceed (~~one~~) five thousand five hundred
18 dollars in value; or
19 (b) A public record, writing, or instrument kept, filed, or
20 deposited according to law with or in the keeping of any public office
21 or public servant; or
22 (c) An access device; or
23 (d) A motor vehicle, of a value less than (~~one~~) five thousand
24 five hundred dollars.
25 (2) Theft in the second degree is a class C felony.

26 **Sec. 7.** RCW 9A.56.050 and 1998 c 236 s 4 are each amended to read
27 as follows:

28 (1) A person is guilty of theft in the third degree if he or she
29 commits theft of property or services which (a) does not exceed (~~two~~)
30 nine hundred (~~and fifty~~) dollars in value, or (b) includes ten or
31 more merchandise pallets, or ten or more beverage crates, or a
32 combination of ten or more merchandise pallets and beverage crates.
33 (2) Theft in the third degree is a gross misdemeanor.

34 **Sec. 8.** RCW 9A.56.060 and 1982 c 138 s 1 are each amended to read
35 as follows:

1 (1) Any person who shall with intent to defraud, make, or draw, or
2 utter, or deliver to another person any check, or draft, on a bank or
3 other depository for the payment of money, knowing at the time of such
4 drawing, or delivery, that he or she has not sufficient funds in, or
5 credit with (~~said~~) the bank or other depository, to meet (~~said~~) the
6 check or draft, in full upon its presentation, (~~shall be~~) is guilty
7 of unlawful issuance of a bank check. The word "credit" as used herein
8 shall be construed to mean an arrangement or understanding with the
9 bank or other depository for the payment of such check or draft, and
10 the uttering or delivery of such a check or draft to another person
11 without such fund or credit to meet the same shall be prima facie
12 evidence of an intent to defraud.

13 (2) Any person who shall with intent to defraud, make, or draw, or
14 utter, or deliver to another person any check, or draft on a bank or
15 other depository for the payment of money and who issues a stop-payment
16 order directing the bank or depository on which the check is drawn not
17 to honor (~~said~~) the check, and who fails to make payment of money in
18 the amount of the check or draft or otherwise arrange a settlement
19 agreed upon by the holder of the check within twenty days of issuing
20 (~~said~~) the check or draft (~~shall be~~) is guilty of unlawful issuance
21 of a bank check.

22 (3) When any series of transactions which constitute unlawful
23 issuance of a bank check would, when considered separately, constitute
24 unlawful issuance of a bank check in an amount of (~~two~~) nine hundred
25 (~~fifty~~) dollars or less because of value, and the series of
26 transactions are a part of a common scheme or plan, the transactions
27 may be aggregated in one count and the sum of the value of all of the
28 transactions shall be the value considered in determining whether the
29 unlawful issuance of a bank check is to be punished as a class C felony
30 or a gross misdemeanor.

31 (4) Unlawful issuance of a bank check in an amount greater than
32 (~~two~~) nine hundred (~~fifty~~) dollars is a class C felony.

33 (5) Unlawful issuance of a bank check in an amount of (~~two~~) nine
34 hundred (~~fifty~~) dollars or less is a gross misdemeanor and shall be
35 punished as follows:

36 (a) The court shall order the defendant to make full restitution;

37 (b) The defendant need not be imprisoned, but the court shall
38 impose a minimum fine of five hundred dollars. Of the fine imposed, at

1 least fifty dollars shall not be suspended or deferred. Upon
2 conviction for a second offense within any twelve-month period, the
3 court may suspend or defer only that portion of the fine which is in
4 excess of five hundred dollars.

5 **Sec. 9.** RCW 9A.56.096 and 2003 c 53 s 77 are each amended to read
6 as follows:

7 (1) A person who, with intent to deprive the owner or owner's
8 agent, wrongfully obtains, or exerts unauthorized control over, or by
9 color or aid of deception gains control of personal property that is
10 rented or leased to the person, is guilty of theft of rental, leased,
11 or lease-purchased property.

12 (2) The finder of fact may presume intent to deprive if the finder
13 of fact finds either of the following:

14 (a) That the person who rented or leased the property failed to
15 return or make arrangements acceptable to the owner of the property or
16 the owner's agent to return the property to the owner or the owner's
17 agent within seventy-two hours after receipt of proper notice following
18 the due date of the rental, lease, or lease-purchase agreement; or

19 (b) That the renter or lessee presented identification to the owner
20 or the owner's agent that was materially false, fictitious, or not
21 current with respect to name, address, place of employment, or other
22 appropriate items.

23 (3) As used in subsection (2) of this section, "proper notice"
24 consists of a written demand by the owner or the owner's agent made
25 after the due date of the rental, lease, or lease-purchase period,
26 mailed by certified or registered mail to the renter or lessee at: (a)
27 The address the renter or lessee gave when the contract was made; or
28 (b) the renter or lessee's last known address if later furnished in
29 writing by the renter, lessee, or the agent of the renter or lessee.

30 (4) The replacement value of the property obtained must be utilized
31 in determining the amount involved in the theft of rental, leased, or
32 lease-purchased property.

33 (5)(a) Theft of rental, leased, or lease-purchased property is a
34 class B felony if the rental, leased, or lease-purchased property is
35 valued at (~~one~~) five thousand five hundred dollars or more.

36 (b) Theft of rental, leased, or lease-purchased property is a class

1 C felony if the rental, leased, or lease-purchased property is valued
2 at (~~two~~) nine hundred (~~fifty~~) dollars or more but less than (~~one~~)
3 five thousand five hundred dollars.

4 (c) Theft of rental, leased, or lease-purchased property is a gross
5 misdemeanor if the rental, leased, or lease-purchased property is
6 valued at less than (~~two~~) nine hundred (~~fifty~~) dollars.

7 (6) This section applies to rental agreements that provide that the
8 renter may return the property any time within the rental period and
9 pay only for the time the renter actually retained the property, in
10 addition to any minimum rental fee, to lease agreements, and to lease-
11 purchase agreements as defined under RCW 63.19.010. This section does
12 not apply to rental or leasing of real property under the residential
13 landlord-tenant act, chapter 59.18 RCW.

14 **Sec. 10.** RCW 9A.56.150 and 1995 c 129 s 14 are each amended to
15 read as follows:

16 (1) A person is guilty of possessing stolen property in the first
17 degree if he or she possesses stolen property other than a firearm as
18 defined in RCW 9.41.010 which exceeds (~~one~~) five thousand five
19 hundred dollars in value.

20 (2) Possessing stolen property in the first degree is a class B
21 felony.

22 **Sec. 11.** RCW 9A.56.160 and 1995 c 129 s 15 are each amended to
23 read as follows:

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

26 (a) He or she possesses stolen property other than a firearm as
27 defined in RCW 9.41.010 which exceeds (~~two~~) nine hundred (~~fifty~~)
28 dollars in value but does not exceed (~~one~~) five thousand five hundred
29 dollars in value; or

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

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

33 (d) He or she possesses a stolen motor vehicle of a value less than
34 (~~one~~) five thousand five hundred dollars.

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

1 **Sec. 12.** RCW 9A.56.170 and 1998 c 236 s 2 are each amended to read
2 as follows:

3 (1) A person is guilty of possessing stolen property in the third
4 degree if he or she possesses (a) stolen property which does not exceed
5 (~~two~~) nine hundred (~~fifty~~) dollars in value, or (b) ten or more
6 stolen merchandise pallets, or ten or more stolen beverage crates, or
7 a combination of ten or more stolen merchandise pallets and beverage
8 crates.

9 (2) Possessing stolen property in the third degree is a gross
10 misdemeanor.

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 9A.48 RCW
12 to read as follows:

13 (1) When any series of acts which constitute malicious mischief
14 would, when considered separately, constitute malicious mischief in the
15 second degree or third degree because of the value of the damages, and
16 the series of acts are a part of a common scheme or plan, the acts may
17 be aggregated in one count and the sum of the value of the damages of
18 all of the acts shall be the value considered in determining the degree
19 of the malicious mischief involved.

20 (2) Any series of acts committed by the same person in different
21 counties that have been aggregated in one county may be prosecuted in
22 any county in which one of the acts occurred.

23 NEW SECTION. **Sec. 14.** A new section is added to chapter 9A.56 RCW
24 to read as follows:

25 Any series of thefts committed by the same person in different
26 counties that have been aggregated in one county may be prosecuted in
27 any county in which one of the thefts occurred.

28 **Sec. 15.** RCW 9A.82.050 and 2003 c 53 s 86 are each amended to read
29 as follows:

- 30 (1) A person who:
- 31 (a) Knowingly initiates, organizes, plans, finances, directs,
32 manages, or supervises the theft of property for sale to others(~~(~~
33 ~~or~~));
 - 34 (b) Who knowingly traffics in stolen property; or

1 (c) Commits a series of thefts from one or more mercantile
2 establishments over a period of one hundred eighty days that have been
3 aggregated in one count under section 14 of this act,
4 is guilty of trafficking in stolen property in the first degree.
5 (2) Trafficking in stolen property in the first degree is a class
6 B felony.

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