

SHB 1145 - S COMM AMD
By Committee on Judiciary

ADOPTED 04/05/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** It is important to the citizens of this
4 state to have confidence in the security of the mail. Mail contains
5 personal information, medical records, and financial documents. Theft
6 of mail has become a serious problem in our state because mail is a key
7 source of information for identity thieves. Currently, there is no law
8 that adequately addresses the seriousness of this crime. This act is
9 intended to accurately recognize the seriousness of taking personal,
10 medical, or financial identifying information and compromising the
11 integrity of our mail system.

12 **Sec. 2.** RCW 9A.56.010 and 2006 c 277 s 4 are each amended to read
13 as follows:

14 The following definitions are applicable in this chapter unless the
15 context otherwise requires:

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

21 (2) "Appropriate lost or misdelivered property or services" means
22 obtaining or exerting control over the property or services of another
23 which the actor knows to have been lost or mislaid, or to have been
24 delivered under a mistake as to identity of the recipient or as to the
25 nature or amount of the property;

26 (3) "Beverage crate" means a plastic or metal box-like container
27 used by a manufacturer or distributor in the transportation or
28 distribution of individually packaged beverages to retail outlets, and

1 affixed with language stating "property of," "owned by
2," or other markings or words identifying ownership;

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

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

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

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

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

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

18 (e) Promises performance which the actor does not intend to perform
19 or knows will not be performed;

20 (6) "Deprive" in addition to its common meaning means to make
21 unauthorized use or an unauthorized copy of records, information, data,
22 trade secrets, or computer programs;

23 (7) "Mail," in addition to its common meaning, means any letter,
24 postal card, package, bag, or other item that is addressed to a
25 specific address for delivery by the United States postal service or
26 any commercial carrier performing the function of delivering similar
27 items to residences or businesses, provided the mail:

28 (a)(i) Is addressed with a specific person's name, family name, or
29 company, business, or corporation name on the outside of the item of
30 mail or on the contents inside; and

31 (ii) Is not addressed to a generic unnamed occupant or resident of
32 the address without an identifiable person, family, or company,
33 business, or corporation name on the outside of the item of mail or on
34 the contents inside; and

35 (b) Has been left for collection or delivery in any letter box,
36 mail box, mail receptacle, or other authorized depository for mail, or
37 given to a mail carrier, or left with any private business that

1 provides mail boxes or mail addresses for customers or when left in a
2 similar location for collection or delivery by any commercial carrier;
3 or

4 (c) Is in transit with a postal service, mail carrier, letter
5 carrier, commercial carrier, or that is at or in a postal vehicle,
6 postal station, mail box, postal airplane, transit station, or similar
7 location of a commercial carrier; or

8 (d) Has been delivered to the intended address, but has not been
9 received by the intended addressee.

10 Mail, for purposes of this act, does not include magazines,
11 catalogs, direct mail inserts, newsletters, advertising circulars, or
12 any mail that is considered third class mail by the United States
13 postal service;

14 (8) "Mail box," in addition to its common meaning, means any
15 authorized depository or receptacle of mail for the United States
16 postal service or authorized depository for a commercial carrier that
17 provides services to the general public, including any address to which
18 mail is or can be addressed, or a place where the United States postal
19 service or equivalent commercial carrier delivers mail to its
20 addressee;

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

26 ~~((+8))~~ (10) "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 ~~((+9))~~ (11) "Owner" means a person, other than the actor, who has
34 possession of or any other interest in the property or services
35 involved, and without whose consent the actor has no authority to exert
36 control over the property or services;

37 ~~((+10))~~ (12) "Parking area" means a parking lot or other property

1 provided by retailers for use by a customer for parking an automobile
2 or other vehicle;

3 ~~((+11))~~ (13) "Receive" includes, but is not limited to, acquiring
4 title, possession, control, or a security interest, or any other
5 interest in the property;

6 ~~((+12))~~ (14) "Received by the intended addressee" means that the
7 addressee, owner of the delivery mail box, or authorized agent has
8 removed the delivered mail from its delivery mail box;

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

15 ~~((+13))~~ (16) "Shopping cart" means a basket mounted on wheels or
16 similar container generally used in a retail establishment by a
17 customer for the purpose of transporting goods of any kind;

18 ~~((+14))~~ (17) "Stolen" means obtained by theft, robbery, or
19 extortion;

20 ~~((+15))~~ (18) "Subscription television service" means cable or
21 encrypted video and related audio and data services intended for
22 viewing on a home television by authorized members of the public only,
23 who have agreed to pay a fee for the service. Subscription services
24 include but are not limited to those video services presently delivered
25 by coaxial cable, fiber optic cable, terrestrial microwave, television
26 broadcast, and satellite transmission;

27 ~~((+16))~~ (19) "Telecommunication device" means (a) any type of
28 instrument, device, machine, or equipment that is capable of
29 transmitting or receiving telephonic or electronic communications; or
30 (b) any part of such an instrument, device, machine, or equipment, or
31 any computer circuit, computer chip, electronic mechanism, or other
32 component, that is capable of facilitating the transmission or
33 reception of telephonic or electronic communications;

34 ~~((+17))~~ (20) "Telecommunication service" includes any service
35 other than subscription television service provided for a charge or
36 compensation to facilitate the transmission, transfer, or reception of
37 a telephonic communication or an electronic communication;

1 (~~(18)~~) (21) Value. (a) "Value" means the market value of the
2 property or services at the time and in the approximate area of the
3 criminal act.

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

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

12 (ii) The value of a ticket or equivalent instrument which evidences
13 a right to receive transportation, entertainment, or other service
14 shall be deemed the price stated thereon, if any; and if no price is
15 stated thereon, the value shall be deemed the price of such ticket or
16 equivalent instrument which the issuer charged the general public;

17 (iii) The value of any other instrument that creates, releases,
18 discharges, or otherwise affects any valuable legal right, privilege,
19 or obligation shall be deemed the greatest amount of economic loss
20 which the owner of the instrument might reasonably suffer by virtue of
21 the loss of the instrument.

22 (c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4),
23 whenever any series of transactions which constitute theft, would, when
24 considered separately, constitute theft in the third degree because of
25 value, and said series of transactions are a part of a criminal episode
26 or a common scheme or plan, then the transactions may be aggregated in
27 one count and the sum of the value of all said transactions shall be
28 the value considered in determining the degree of theft involved.

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

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

1 different counties that have been aggregated in one county may be
2 prosecuted in any county in which one of the thefts occurred.

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 ((+19+)) (22) "Wrongfully obtains" or "exerts unauthorized control"
7 means:

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

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

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

22 NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.56 RCW
23 to read as follows:

24 (1) A person is guilty of mail theft if he or she: (a) Commits
25 theft of mail addressed to three or more different addresses; and (b)
26 commits theft of a minimum of ten separate pieces of mail.

27 (2) Each set of ten separate pieces of stolen mail addressed to
28 three or more different mail boxes constitutes a separate and distinct
29 crime and may be punished accordingly.

30 (3) Mail theft is a class C felony.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.56 RCW
32 to read as follows:

33 (1) A person is guilty of possession of stolen mail if he or she:
34 (a) Possesses stolen mail addressed to three or more different mail
35 boxes; and (b) possesses a minimum of ten separate pieces of stolen
36 mail.

1 (2) "Possesses stolen mail" means to knowingly receive, retain,
2 possess, conceal, or dispose of stolen mail knowing that it has been
3 stolen, and to withhold or appropriate to the use of any person other
4 than the true owner, or the person to whom the mail is addressed.

5 (3) The fact that the person who stole the mail has not been
6 convicted, apprehended, or identified is not a defense to the charge of
7 possessing stolen mail.

8 (4) Each set of ten separate pieces of stolen mail addressed to
9 three or more different mail boxes constitutes a separate and distinct
10 crime and may be punished accordingly.

11 (5) Possession of stolen mail is a class C felony.

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

14 Every person who, in the commission of mail theft or possession of
15 stolen mail, shall commit any other crime, may be punished therefor as
16 well as for the mail theft or possession of stolen mail, and may be
17 prosecuted for each crime separately."

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18 On page 1, line 1 of the title, after "theft;" strike the remainder
19 of the title and insert "amending RCW 9A.56.010; adding new sections to
20 chapter 9A.56 RCW; creating a new section; and prescribing penalties."

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