

SSB 5022 - H COMM AMD
By Committee on Public Safety

ADOPTED 04/09/2013

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

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

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

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

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

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

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

21 (3) A person is guilty of retail theft with ~~((extenuating))~~ special
22 circumstances in the second degree if the theft involved constitutes
23 theft in the second degree. Retail theft with ~~((extenuating))~~ special
24 circumstances in the second degree is a class C felony.

25 (4) A person is guilty of retail theft with ~~((extenuating))~~ special
26 circumstances in the third degree if the theft involved constitutes
27 theft in the third degree. Retail theft with ~~((extenuating))~~ special
28 circumstances in the third degree is a class C felony.

29 (5) For the purposes of this section, "special circumstances" means

1 the particular aggravating circumstances described in subsection (1)(a)
2 through (c) of this section.

3 **Sec. 2.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are
4 each reenacted and amended to read as follows:
5

6 TABLE 2

7 CRIMES INCLUDED WITHIN
8 EACH SERIOUSNESS LEVEL

- 9 XVI Aggravated Murder 1 (RCW
10 10.95.020)
- 11 XV Homicide by abuse (RCW 9A.32.055)
12 Malicious explosion 1 (RCW
13 70.74.280(1))
14 Murder 1 (RCW 9A.32.030)
- 15 XIV Murder 2 (RCW 9A.32.050)
16 Trafficking 1 (RCW 9A.40.100(1))
- 17 XIII Malicious explosion 2 (RCW
18 70.74.280(2))
19 Malicious placement of an explosive 1
20 (RCW 70.74.270(1))
- 21 XII Assault 1 (RCW 9A.36.011)
22 Assault of a Child 1 (RCW 9A.36.120)
23 Malicious placement of an imitation
24 device 1 (RCW 70.74.272(1)(a))
25 Promoting Commercial Sexual Abuse
26 of a Minor (RCW 9.68A.101)
27 Rape 1 (RCW 9A.44.040)
28 Rape of a Child 1 (RCW 9A.44.073)
29 Trafficking 2 (RCW 9A.40.100(2))
- 30 XI Manslaughter 1 (RCW 9A.32.060)
31 Rape 2 (RCW 9A.44.050)
32 Rape of a Child 2 (RCW 9A.44.076)
33 Vehicular Homicide, by being under
34 the influence of intoxicating liquor
35 or any drug (RCW 46.61.520)

1 X Child Molestation 1 (RCW 9A.44.083)
2 Criminal Mistreatment 1 (RCW
3 9A.42.020)
4 Indecent Liberties (with forcible
5 compulsion) (RCW
6 9A.44.100(1)(a))
7 Kidnapping 1 (RCW 9A.40.020)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 Malicious explosion 3 (RCW
11 70.74.280(3))
12 Sexually Violent Predator Escape
13 (RCW 9A.76.115)
14 IX Abandonment of Dependent Person 1
15 (RCW 9A.42.060)
16 Assault of a Child 2 (RCW 9A.36.130)
17 Explosive devices prohibited (RCW
18 70.74.180)
19 Hit and Run--Death (RCW
20 46.52.020(4)(a))
21 Homicide by Watercraft, by being
22 under the influence of intoxicating
23 liquor or any drug (RCW
24 79A.60.050)
25 Inciting Criminal Profiteering (RCW
26 9A.82.060(1)(b))
27 Malicious placement of an explosive 2
28 (RCW 70.74.270(2))
29 Robbery 1 (RCW 9A.56.200)
30 Sexual Exploitation (RCW 9.68A.040)
31 VIII Arson 1 (RCW 9A.48.020)
32 Commercial Sexual Abuse of a Minor
33 (RCW 9.68A.100)
34 Homicide by Watercraft, by the
35 operation of any vessel in a
36 reckless manner (RCW
37 79A.60.050)

1 Manslaughter 2 (RCW 9A.32.070)
2 Promoting Prostitution 1 (RCW
3 9A.88.070)
4 Theft of Ammonia (RCW 69.55.010)
5 Vehicular Homicide, by the operation
6 of any vehicle in a reckless manner
7 (RCW 46.61.520)
8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor engaged
13 in sexually explicit conduct 1
14 (RCW 9.68A.050(1))
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Malicious placement of an explosive 3
25 (RCW 70.74.270(3))
26 Negligently Causing Death By Use of a
27 Signal Preemption Device (RCW
28 46.37.675)
29 Sending, bringing into state depictions
30 of minor engaged in sexually
31 explicit conduct 1 (RCW
32 9.68A.060(1))
33 Unlawful Possession of a Firearm in
34 the first degree (RCW 9.41.040(1))
35 Use of a Machine Gun in Commission
36 of a Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW 9A.72.160)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.070(1))
16 Rape of a Child 3 (RCW 9A.44.079)
17 Theft of a Firearm (RCW 9A.56.300)
18 Unlawful Storage of Ammonia (RCW
19 69.55.020)

20 V Abandonment of Dependent Person 2
21 (RCW 9A.42.070)
22 Advancing money or property for
23 extortionate extension of credit
24 (RCW 9A.82.030)
25 Bail Jumping with class A Felony
26 (RCW 9A.76.170(3)(b))
27 Child Molestation 3 (RCW 9A.44.089)
28 Criminal Mistreatment 2 (RCW
29 9A.42.030)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)
32 Dealing in Depictions of Minor
33 Engaged in Sexually Explicit
34 Conduct 2 (RCW 9.68A.050(2))

1 Domestic Violence Court Order
2 Violation (RCW 10.99.040,
3 10.99.050, 26.09.300, 26.10.220,
4 26.26.138, 26.50.110, 26.52.070,
5 or 74.34.145)
6 Driving While Under the Influence
7 (RCW 46.61.502(6))
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit (RCW
10 9A.82.020)
11 Extortionate Means to Collect
12 Extensions of Credit (RCW
13 9A.82.040)
14 Incest 2 (RCW 9A.64.020(2))
15 Kidnapping 2 (RCW 9A.40.030)
16 Perjury 1 (RCW 9A.72.020)
17 Persistent prison misbehavior (RCW
18 9.94.070)
19 Physical Control of a Vehicle While
20 Under the Influence (RCW
21 46.61.504(6))
22 Possession of a Stolen Firearm (RCW
23 9A.56.310)
24 Rape 3 (RCW 9A.44.060)
25 Rendering Criminal Assistance 1
26 (RCW 9A.76.070)
27 Sending, Bringing into State Depictions
28 of Minor Engaged in Sexually
29 Explicit Conduct 2 (RCW
30 9.68A.060(2))
31 Sexual Misconduct with a Minor 1
32 (RCW 9A.44.093)
33 Sexually Violating Human Remains
34 (RCW 9A.44.105)
35 Stalking (RCW 9A.46.110)
36 Taking Motor Vehicle Without
37 Permission 1 (RCW 9A.56.070)

1 IV Arson 2 (RCW 9A.48.030)
2 Assault 2 (RCW 9A.36.021)
3 Assault 3 (of a Peace Officer with a
4 Projectile Stun Gun) (RCW
5 9A.36.031(1)(h))
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW 9A.68.060)
13 Counterfeiting (RCW 9.16.035(4))
14 Endangerment with a Controlled
15 Substance (RCW 9A.42.100)
16 Escape 1 (RCW 9A.76.110)
17 Hit and Run--Injury (RCW
18 46.52.020(4)(b))
19 Hit and Run with Vessel--Injury
20 Accident (RCW 79A.60.200(3))
21 Identity Theft 1 (RCW 9.35.020(2))
22 Indecent Exposure to Person Under
23 Age Fourteen (subsequent sex
24 offense) (RCW 9A.88.010)
25 Influencing Outcome of Sporting Event
26 (RCW 9A.82.070)
27 Malicious Harassment (RCW
28 9A.36.080)
29 Possession of Depictions of a Minor
30 Engaged in Sexually Explicit
31 Conduct 2 (RCW 9.68A.070(2))
32 Residential Burglary (RCW
33 9A.52.025)
34 Robbery 2 (RCW 9A.56.210)
35 Theft of Livestock 1 (RCW 9A.56.080)
36 Threats to Bomb (RCW 9.61.160)

1 Trafficking in Stolen Property 1 (RCW
2 9A.82.050)
3 Unlawful factoring of a credit card or
4 payment card transaction (RCW
5 9A.56.290(4)(b))
6 Unlawful transaction of health
7 coverage as a health care service
8 contractor (RCW 48.44.016(3))
9 Unlawful transaction of health
10 coverage as a health maintenance
11 organization (RCW 48.46.033(3))
12 Unlawful transaction of insurance
13 business (RCW 48.15.023(3))
14 Unlicensed practice as an insurance
15 professional (RCW 48.17.063(2))
16 Use of Proceeds of Criminal
17 Profiteering (RCW 9A.82.080 (1)
18 and (2))
19 Vehicular Assault, by being under the
20 influence of intoxicating liquor or
21 any drug, or by the operation or
22 driving of a vehicle in a reckless
23 manner (RCW 46.61.522)
24 Viewing of Depictions of a Minor
25 Engaged in Sexually Explicit
26 Conduct 1 (RCW 9.68A.075(1))
27 Willful Failure to Return from
28 Furlough (RCW 72.66.060)
29 III Animal Cruelty 1 (Sexual Conduct or
30 Contact) (RCW 16.52.205(3))
31 Assault 3 (Except Assault 3 of a Peace
32 Officer With a Projectile Stun
33 Gun) (RCW 9A.36.031 except
34 subsection (1)(h))
35 Assault of a Child 3 (RCW 9A.36.140)
36 Bail Jumping with class B or C Felony
37 (RCW 9A.76.170(3)(c))

1 Burglary 2 (RCW 9A.52.030)
2 Communication with a Minor for
3 Immoral Purposes (RCW
4 9.68A.090)
5 Criminal Gang Intimidation (RCW
6 9A.46.120)
7 Custodial Assault (RCW 9A.36.100)
8 Cyberstalking (subsequent conviction
9 or threat of death) (RCW
10 9.61.260(3))
11 Escape 2 (RCW 9A.76.120)
12 Extortion 2 (RCW 9A.56.130)
13 Harassment (RCW 9A.46.020)
14 Intimidating a Public Servant (RCW
15 9A.76.180)
16 Introducing Contraband 2 (RCW
17 9A.76.150)
18 Malicious Injury to Railroad Property
19 (RCW 81.60.070)
20 Mortgage Fraud (RCW 19.144.080)
21 Negligently Causing Substantial Bodily
22 Harm By Use of a Signal
23 Preemption Device (RCW
24 46.37.674)
25 Organized Retail Theft 1 (RCW
26 9A.56.350(2))
27 Perjury 2 (RCW 9A.72.030)
28 Possession of Incendiary Device (RCW
29 9.40.120)
30 Possession of Machine Gun or Short-
31 Barreled Shotgun or Rifle (RCW
32 9.41.190)
33 Promoting Prostitution 2 (RCW
34 9A.88.080)
35 Retail Theft with (~~Extenuating~~)
36 Special Circumstances 1 (RCW
37 9A.56.360(2))

1 Securities Act violation (RCW
2 21.20.400)
3 Tampering with a Witness (RCW
4 9A.72.120)
5 Telephone Harassment (subsequent
6 conviction or threat of death)
7 (RCW 9.61.230(2))
8 Theft of Livestock 2 (RCW 9A.56.083)
9 Theft with the Intent to Resell 1 (RCW
10 9A.56.340(2))
11 Trafficking in Stolen Property 2 (RCW
12 9A.82.055)
13 Unlawful Hunting of Big Game 1
14 (RCW 77.15.410(3)(b))
15 Unlawful Imprisonment (RCW
16 9A.40.040)
17 Unlawful possession of firearm in the
18 second degree (RCW 9.41.040(2))
19 Unlawful Taking of Endangered Fish
20 or Wildlife 1 (RCW
21 77.15.120(3)(b))
22 Unlawful Trafficking in Fish, Shellfish,
23 or Wildlife 1 (RCW
24 77.15.260(3)(b))
25 Unlawful Use of a Nondesignated
26 Vessel (RCW 77.15.530(4))
27 Vehicular Assault, by the operation or
28 driving of a vehicle with disregard
29 for the safety of others (RCW
30 46.61.522)
31 Willful Failure to Return from Work
32 Release (RCW 72.65.070)
33 II Commercial Fishing Without a License
34 1 (RCW 77.15.500(3)(b))
35 Computer Trespass 1 (RCW
36 9A.52.110)
37 Counterfeiting (RCW 9.16.035(3))

1 Engaging in Fish Dealing Activity
2 Unlicensed 1 (RCW 77.15.620(3))
3 Escape from Community Custody
4 (RCW 72.09.310)
5 Failure to Register as a Sex Offender
6 (second or subsequent offense)
7 (RCW 9A.44.132)
8 Health Care False Claims (RCW
9 48.80.030)
10 Identity Theft 2 (RCW 9.35.020(3))
11 Improperly Obtaining Financial
12 Information (RCW 9.35.010)
13 Malicious Mischief 1 (RCW
14 9A.48.070)
15 Organized Retail Theft 2 (RCW
16 9A.56.350(3))
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Possession of a Stolen Vehicle (RCW
20 9A.56.068)
21 Retail Theft with (~~Extenuating~~)
22 Special Circumstances 2 (RCW
23 9A.56.360(3))
24 Theft 1 (RCW 9A.56.030)
25 Theft of a Motor Vehicle (RCW
26 9A.56.065)
27 Theft of Rental, Leased, or Lease-
28 purchased Property (valued at one
29 thousand five hundred dollars or
30 more) (RCW 9A.56.096(5)(a))
31 Theft with the Intent to Resell 2 (RCW
32 9A.56.340(3))
33 Trafficking in Insurance Claims (RCW
34 48.30A.015)
35 Unlawful factoring of a credit card or
36 payment card transaction (RCW
37 9A.56.290(4)(a))

1 Unlawful Participation of Non-Indians
2 in Indian Fishery (RCW
3 77.15.570(2))
4 Unlawful Practice of Law (RCW
5 2.48.180)
6 Unlicensed Practice of a Profession or
7 Business (RCW 18.130.190(7))
8 Unlawful Purchase or Use of a License
9 (RCW 77.15.650(3)(b))
10 Unlawful Trafficking in Fish, Shellfish,
11 or Wildlife 2 (RCW
12 77.15.260(3)(a))
13 Voyeurism (RCW 9A.44.115)
14 I Attempting to Elude a Pursuing Police
15 Vehicle (RCW 46.61.024)
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forgery (RCW 9A.60.020)
19 Fraudulent Creation or Revocation of a
20 Mental Health Advance Directive
21 (RCW 9A.60.060)
22 Malicious Mischief 2 (RCW
23 9A.48.080)
24 Mineral Trespass (RCW 78.44.330)
25 Possession of Stolen Property 2 (RCW
26 9A.56.160)
27 Reckless Burning 1 (RCW 9A.48.040)
28 Spotlighting Big Game 1 (RCW
29 77.15.450(3)(b))
30 Suspension of Department Privileges 1
31 (RCW 77.15.670(3)(b))
32 Taking Motor Vehicle Without
33 Permission 2 (RCW 9A.56.075)
34 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at two
3 hundred fifty dollars or more but
4 less than one thousand five
5 hundred dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063)
10 Unlawful Fish and Shellfish Catch
11 Accounting (RCW
12 77.15.630(3)(b))
13 Unlawful Issuance of Checks or Drafts
14 (RCW 9A.56.060)
15 Unlawful Possession of Fictitious
16 Identification (RCW 9A.56.320)
17 Unlawful Possession of Instruments of
18 Financial Fraud (RCW 9A.56.320)
19 Unlawful Possession of Payment
20 Instruments (RCW 9A.56.320)
21 Unlawful Possession of a Personal
22 Identification Device (RCW
23 9A.56.320)
24 Unlawful Production of Payment
25 Instruments (RCW 9A.56.320)
26 Unlawful Release of Deleterious Exotic
27 Wildlife (RCW 77.15.250(2)(b))
28 Unlawful Trafficking in Food Stamps
29 (RCW 9.91.142)
30 Unlawful Use of Food Stamps (RCW
31 9.91.144)
32 Unlawful Use of Net to Take Fish 1
33 (RCW 77.15.580(3)(b))
34 Unlawful Use of Prohibited Aquatic
35 Animal Species (RCW
36 77.15.253(3))
37 Vehicle Prowl 1 (RCW 9A.52.095)

1 Violating Commercial Fishing Area or
2 Time 1 (RCW 77.15.550(3)(b))

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

4 Correct the title.

EFFECT: Defines special circumstances in the underlying bill.

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