

# SENATE BILL REPORT

## SB 5336

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As Amended by House, April 12, 2017

**Title:** An act relating to criminalizing damaging, destroying, tampering, or removing ballot return boxes or contents.

**Brief Description:** Criminalizing damaging, destroying, tampering, or removing ballot return boxes or contents.

**Sponsors:** Senators Miloscia, Hunt, Zeiger, Kuderer, Wellman and Fortunato; by request of Secretary of State.

**Brief History:**

**Committee Activity:** Law & Justice: 1/24/17, 2/01/17 [DP].

**Floor Activity:**

Passed Senate: 3/08/17, 49-0.

Passed House: 4/12/17, 97-1.

**Brief Summary of Bill**

- Adds criminal penalties for physically damaging or tampering with a ballot deposit box
- Increases the criminal penalty for removing a ballot from a ballot drop location.

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**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

**Staff:** Shani Bauer (786-7468)

**Background:** A person is guilty of malicious mischief in the first degree if the person knowingly and maliciously:

- causes physical damage to the property of another in an amount exceeding \$5,000;
- causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political

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- subdivision thereof, or a public utility or mode of public transportation, power, or communication; or
- causes an impairment of the safety, efficiency, or operation of an aircraft by physically damaging or tampering with the aircraft or aircraft equipment, fuel, lubricant, or parts.

Malicious mischief in the first degree is a Class B felony with a seriousness level of II.

A person is guilty of malicious mischief in the second degree if the person knowingly and maliciously:

- causes physical damage to the property of another in an amount exceeding \$750; or
- creates a substantial risk of interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication.

Malicious mischief in the second degree is a Class C felony with a seriousness level of I.

A person who removes a ballot from a ballot drop location is guilty of a gross misdemeanor. A gross misdemeanor is punishable by imprisonment in the county jail up to 364 days, by a fine not to exceed \$5,000, or both. A Class C felony, is punishable by confinement in a state correctional institution for five years, by a fine not to exceed \$10,000, or both.

**Summary of Bill:** A person is guilty of malicious mischief in the first degree if the person knowingly and maliciously causes an interruption or impairment of service rendered to the public by physically damaging, destroying, or removing without permission an official ballot deposit box or ballot drop box or damaging, destroying, removing without permission, or tampering with its contents.

A person is guilty of malicious mischief in the second degree if the person knowingly and maliciously created a substantial risk of interruption or impairment of service rendered to the public by physically damaging, destroying, or removing without permission an official ballot deposit box or ballot drop box or damaging, destroying, removing without permission, or tampering with its contents.

Any person who removes a ballot from a voting center or ballot drop location without permission is guilty of a Class C felony.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Washington is a vote by mail state. A large percentage of ballots actually go into the ballot drop box and not through the U.S. Mail.

Statewide, 57 percent of ballots are returned using the ballot box. In two counties, that percentage is over 70 percent. There are lots of laws that protect mail dropped in a mail box. However, these laws do not apply to ballots dropped in the drop box. This bill closes a loop hole and makes sure that ballots are not tampered with or stolen when dropped in a drop box by making penalties commensurate with federal penalties for tampering with the mail. Ballot drop boxes are designed to prevent tampering. This bill would add another layer of insurance that ballots placed in those boxes will be secure. Washington started looking at this issue when ballots were stolen from a ballot box in Oregon.

**Persons Testifying:** PRO: Senator Mark Miloscia, Prime Sponsor; David Elliot, Secretary of State's Office.

**Persons Signed In To Testify But Not Testifying:** No one.

**EFFECT OF HOUSE AMENDMENT(S):**

- Removes language stating that removal of a ballot box or ballot must be "without permission" in order to be considered malicious mischief.
- Requires any conduct relating to ballot boxes and ballots to be taken "without lawful authority" in order to be considered malicious mischief.