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**SUBSTITUTE HOUSE BILL 1145**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** House Public Safety & Emergency Preparedness (originally sponsored by Representatives Overstreet, Hurst, Klippert, Hinkle, Angel, Ross, Nealey, Warnick, Kirby, Short, Fagan, Hunt, Kelley, Eddy, Bailey, Kenney, McCune, and Condotta; by request of Attorney General)

READ FIRST TIME 02/16/11.

1       AN ACT Relating to mail theft; amending RCW 9A.56.010; adding new  
2 sections to chapter 9A.56 RCW; creating a new section; and prescribing  
3 penalties.

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

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

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

16       The following definitions are applicable in this chapter unless the  
17 context otherwise requires:

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

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

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

16 (4) "By color or aid of deception" means that the deception  
17 operated to bring about the obtaining of the property or services; it  
18 is not necessary that deception be the sole means of obtaining the  
19 property or services;

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

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

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

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

27 (d) Transfers or encumbers property without disclosing a lien,  
28 adverse claim, or other legal impediment to the enjoyment of the  
29 property, whether that impediment is or is not valid, or is or is not  
30 a matter of official record; or

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

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

36 (7) "Mail," in addition to its common meaning, means any letter,  
37 postal card, package, bag, or other item that is addressed to a

1 specific address for delivery by the United States postal service or  
2 any commercial carrier performing the function of delivering similar  
3 items to residences or businesses, provided the mail:

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

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

11 (b) Has been left for collection or delivery in any letter box,  
12 mail box, mail receptacle, or other authorized depository for mail, or  
13 given to a mail carrier, or left with any private business that  
14 provides mail boxes or mail addresses for customers or when left in a  
15 similar location for collection or delivery by any commercial carrier;  
16 or

17 (c) Is in transit with a postal service, mail carrier, letter  
18 carrier, commercial carrier, or that is at or in a postal vehicle,  
19 postal station, mail box, postal airplane, transit station, or similar  
20 location of a commercial carrier; or

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

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

27 (8) "Mail box," in addition to its common meaning, means any  
28 authorized depository or receptacle of mail for the United States  
29 postal service or authorized depository for a commercial carrier that  
30 provides services to the general public, including any address to which  
31 mail is or can be addressed, or a place where the United States postal  
32 service or equivalent commercial carrier delivers mail to its  
33 addressee;

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

1       (~~(8)~~) (10) "Obtain control over" in addition to its common  
2 meaning, means:

3       (a) In relation to property, to bring about a transfer or purported  
4 transfer to the obtainer or another of a legally recognized interest in  
5 the property; or

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

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

12       (~~(10)~~) (12) "Parking area" means a parking lot or other property  
13 provided by retailers for use by a customer for parking an automobile  
14 or other vehicle;

15       (~~(11)~~) (13) "Receive" includes, but is not limited to, acquiring  
16 title, possession, control, or a security interest, or any other  
17 interest in the property;

18       (~~(12)~~) (14) "Received by the intended addressee" means that the  
19 addressee, owner of the delivery mail box, or authorized agent has  
20 removed the delivered mail from its delivery mail box;

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

27       (~~(13)~~) (16) "Shopping cart" means a basket mounted on wheels or  
28 similar container generally used in a retail establishment by a  
29 customer for the purpose of transporting goods of any kind;

30       (~~(14)~~) (17) "Stolen" means obtained by theft, robbery, or  
31 extortion;

32       (~~(15)~~) (18) "Subscription television service" means cable or  
33 encrypted video and related audio and data services intended for  
34 viewing on a home television by authorized members of the public only,  
35 who have agreed to pay a fee for the service. Subscription services  
36 include but are not limited to those video services presently delivered  
37 by coaxial cable, fiber optic cable, terrestrial microwave, television  
38 broadcast, and satellite transmission;

1       (~~(16)~~) (19) "Telecommunication device" means (a) any type of  
2 instrument, device, machine, or equipment that is capable of  
3 transmitting or receiving telephonic or electronic communications; or  
4 (b) any part of such an instrument, device, machine, or equipment, or  
5 any computer circuit, computer chip, electronic mechanism, or other  
6 component, that is capable of facilitating the transmission or  
7 reception of telephonic or electronic communications;

8       (~~(17)~~) (20) "Telecommunication service" includes any service  
9 other than subscription television service provided for a charge or  
10 compensation to facilitate the transmission, transfer, or reception of  
11 a telephonic communication or an electronic communication;

12       (~~(18)~~) (21) Value. (a) "Value" means the market value of the  
13 property or services at the time and in the approximate area of the  
14 criminal act.

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

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

23       (ii) The value of a ticket or equivalent instrument which evidences  
24 a right to receive transportation, entertainment, or other service  
25 shall be deemed the price stated thereon, if any; and if no price is  
26 stated thereon, the value shall be deemed the price of such ticket or  
27 equivalent instrument which the issuer charged the general public;

28       (iii) The value of any other instrument that creates, releases,  
29 discharges, or otherwise affects any valuable legal right, privilege,  
30 or obligation shall be deemed the greatest amount of economic loss  
31 which the owner of the instrument might reasonably suffer by virtue of  
32 the loss of the instrument.

33       (c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4),  
34 whenever any series of transactions which constitute theft, would, when  
35 considered separately, constitute theft in the third degree because of  
36 value, and said series of transactions are a part of a criminal episode  
37 or a common scheme or plan, then the transactions may be aggregated in

1 one count and the sum of the value of all said transactions shall be  
2 the value considered in determining the degree of theft involved.

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

6 (d) Whenever any person is charged with possessing stolen property  
7 and such person has unlawfully in his possession at the same time the  
8 stolen property of more than one person, then the stolen property  
9 possessed may be aggregated in one count and the sum of the value of  
10 all said stolen property shall be the value considered in determining  
11 the degree of theft involved. Thefts committed by the same person in  
12 different counties that have been aggregated in one county may be  
13 prosecuted in any county in which one of the thefts occurred.

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

17 (~~(19)~~) (22) "Wrongfully obtains" or "exerts unauthorized control"  
18 means:

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

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

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

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

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

1           (2) Each item of mail stolen constitutes a separate and distinct  
2 crime and may be punished accordingly.

3           (3) Theft of mail is a class C felony.

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

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

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

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

17          (4) Each item of stolen mail possessed constitutes a separate and  
18 distinct crime and may be punished accordingly.

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

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