

A. Burglary

RCW 9A.52.010 – Definitions

The following definitions apply in this chapter:

- (1) "Premises" includes any building, dwelling, structure used for commercial aquaculture, or any real property;
- (2) "Enter". The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property;
- (3) "Enters or remains unlawfully". A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given by posting in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land. A license or privilege to enter or remain on improved and apparently used land that is open to the public at particular times, which is neither fenced nor otherwise enclosed in a manner to exclude intruders, is not a license or privilege to enter or remain on the land at other times if notice of prohibited times of entry is posted in a conspicuous manner;

- (4) "Data" means a representation of information, knowledge, facts, concepts, or instructions that are being prepared or

have been prepared in a formalized manner and are intended for use in a computer;

- (5) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data;
- (6) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, directly or by electronic means.

RCW 9A.52.020 – Burglary in the first degree

- (1) A person is guilty of burglary in the first degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a building and if, in entering or while in the building or in immediate flight there from, the actor or another participant in the crime (a) is armed with a deadly weapon, or (b) assaults any person.

RCW 9A.52.030 – Burglary in the second degree

- (1) A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a building other than a vehicle or a dwelling.
- (2) Burglary in the second degree is a class B felony.
- (2) Burglary in the first degree is a class A felony.

RCW 9A.52.040 – Inference of intent

In any prosecution for burglary, any person who enters or remains unlawfully in a building may be inferred to have acted with intent to commit a crime against a person or property therein, unless such entering or remaining shall be explained by evidence satisfactory to the trier of fact to have been made without such criminal intent.

RCW 9A.52.050 – Other crime in committing burglary punishable

Every person who, in the commission of a burglary shall commit any other crime, may be punished therefore as well as for the burglary, and may be prosecuted for each crime separately.

RCW 9A.52.060 – Making or having burglar tools

- (1) Every person who shall make or mend or cause to be made or mended, or have in his possession, any engine, machine, tool, false key, pick lock, bit, nippers, or implement adapted, designed, or commonly used for the commission of burglary under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a burglary, or knowing that the same is intended to be so used, shall be guilty of making or having burglar tools.
- (2) Making or having burglar tools is a gross misdemeanor.

B. Criminal Trespass

RCW 9A.52.070 – Criminal trespass in the first degree

- (1) A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a building.
- (2) Criminal trespass in the first degree is a gross misdemeanor.

RCW 9A.52.080 – Criminal trespass in the second degree

- (1) A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.
- (2) Criminal trespass in the second degree is a misdemeanor.

RCW 9A.52.090 – Criminal Trespass - Defenses

In any prosecution under RCW [9A.52.070](#) and [9A.52.080](#), it is a defense that:

- (1) A building involved in an offense under RCW [9A.52.070](#) was

abandoned; or

- (2) The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or
- (3) The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain; or
- (4) The actor was attempting to serve legal process which includes any document required or allowed to be served upon persons or property, by any statute, rule, ordinance, regulation, or court order, excluding delivery by the mails of the United States. This defense applies only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process.

C. Malicious Mischief

RCW 9A.48.070 Malicious mischief in the first degree

- (1) A person is guilty of malicious mischief in the first degree if he knowingly and maliciously:
 - (a) Causes physical damage to the property of another in an amount exceeding one thousand five hundred dollars;
 - (b) 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 subdivision thereof, or a public utility or mode of public transportation, power, or communication; or
 - (c) 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.
- (2) Malicious mischief in the first degree is a class B felony.

RCW 9A.48.080 – Malicious mischief in the second degree

- (1) A person is guilty of malicious mischief in the second degree if he or she knowingly and maliciously:
 - (a) Causes physical damage to the property of another in an amount exceeding two hundred fifty dollars; or
 - (b) 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.
- (2) Malicious mischief in the second degree is a class C felony.

RCW 9A.48.090 – Malicious mischief in the third degree

- (1) A person is guilty of malicious mischief in the third degree if he or she:
 - (a) Knowingly and maliciously causes physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree; or
 - (b) Writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person unless the person has obtained the express permission of the owner or operator of the property, under circumstances not amounting to malicious mischief in the first or second degree.
- (2)
 - (a) Malicious mischief in the third degree under subsection (1)(a) of this section is a gross misdemeanor if the damage to the property is in an amount exceeding fifty dollars.
 - (b) Malicious mischief in the third degree under subsection (1)(a) of this section is a misdemeanor if the damage to the property is fifty dollars or less.
 - (c) Malicious mischief in the third degree under subsection (1)(b) of this section is a gross misdemeanor.

RCW 9A.48.100 – Malicious mischief – “Physical damage” defined

For the purposes of RCW [9A.48.070](#) through [9A.48.090](#) inclusive:

- (1) "Physical damage", in addition to its ordinary meaning, shall include the total or partial alteration, damage, obliteration, or erasure of records, information, data, computer programs, or their computer representations, which are recorded for use in computers or the impairment, interruption, or interference with the use of such records, information, data, or computer programs, or the impairment, interruption, or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property as the consequence of an act;
- (2) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds two hundred fifty dollars, the defendant may be charged with and convicted of malicious mischief in the second degree.

D. Theft

RCW 9A.56.010 - Definitions

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

- (1) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;
- (2) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

- (3) "Beverage crate" means a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of," "owned by," or other markings or words identifying ownership;
- (4) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;
- (5) "Deception" occurs when an actor knowingly:
 - (a) Creates or confirms another's false impression which the actor knows to be false; or
 - (b) Fails to correct another's impression which the actor previously has created or confirmed; or
 - (c) Prevents another from acquiring information material to the disposition of the property involved; or
 - (d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or
 - (e) Promises performance which the actor does not intend to perform or knows will not be performed.
- (6) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;
- (7) "Merchandise pallet" means a wood or plastic carrier designed and manufactured as an item on which products can be placed before or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . .," "owned by . . .," or other markings or words identifying ownership;
- (8) "Obtain control over" in addition to its common meaning,

means:

- (a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or
 - (b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;
- (9) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;
- (10) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle;
- (11) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;
- (12) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;
- (13) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;
- (14) "Stolen" means obtained by theft, robbery, or extortion;
- (15) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

- (16) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;
- (17) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;
- (18) Value.
- (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.
- (b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:
- (i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;
- (ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

- (iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.
- (c) Except as provided in RCW [9A.56.340\(4\)](#) and [9A.56.350\(4\)](#), whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a criminal episode or a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

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

- (d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.
 - (e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;
- (19) "Wrongfully obtains" or "exerts unauthorized control" means:
- (a) To take the property or services of another;
 - (b) Having any property or services in one's possession,

custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

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

RCW 9A.56.020 – Theft - Definition, defense

- (1) "Theft" means:
 - (a) To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services; or
 - (b) By color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services; or
 - (c) To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him or her of such property or services.
- (2) In any prosecution for theft, it shall be a sufficient defense that:
 - (a) The property or service was appropriated openly and avowedly under a claim of title made in good faith, even though the claim be untenable; or
 - (b) The property was merchandise pallets that were

received by a pallet recycler or repairer in the ordinary course of its business.

RCW 9A.56.030 – Theft in the first degree – Other than firearm

- (1) A person is guilty of theft in the first degree if he or she commits theft of:
 - (a) Property or services which exceed(s) one thousand five hundred dollars in value other than a firearm as defined in RCW [9.41.010](#);
 - (b) Property of any value other than a firearm as defined in RCW [9.41.010](#) taken from the person of another; or
 - (c) A search and rescue dog, as defined in RCW [9.91.175](#), while the search and rescue dog is on duty.

- (2) Theft in the first degree is a class B felony.

RCW 9A.56.040 – Theft in the second degree – Other than firearm

- (1) A person is guilty of theft in the second degree if he or she commits theft of:
 - (a) Property or services which exceed(s) two hundred and fifty dollars in value other than a firearm as defined in RCW [9.41.010](#), but does not exceed one thousand five hundred dollars in value; or
 - (b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or
 - (c) An access device; or
 - (d) A motor vehicle, of a value less than one thousand five hundred dollars.

- (2) Theft in the second degree is a class C felony.

RCW 9A.56.050 – Theft in the third degree

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

**RCW 9A.56.140 – Possessing stolen property – Definition -
Presumption**

- (1) "Possessing stolen property" means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.
- (2) The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.
- (3) When a person has in his or her possession, or under his or her control, stolen access devices issued in the names of two or more persons, or ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates, as defined under RCW [9A.56.010](#), he or she is presumed to know that they are stolen.
- (4) The presumption in subsection (3) of this section is rebuttable by evidence raising a reasonable inference that the possession of such stolen access devices, merchandise pallets, or beverage crates was without knowledge that they were stolen.
- (5) In any prosecution for possessing stolen property, it is a sufficient defense that the property was merchandise pallets that were received by a pallet recycler or repairer in the ordinary course of its business.

**RCW 9A.56.150 – Possessing stolen property in the first
degree – Other than firearm**

- (1) A person is guilty of possessing stolen property in the first degree if he or she possesses stolen property other than a firearm as defined in RCW [9.41.010](#) which exceeds one thousand five hundred dollars in value.
- (2) Possessing stolen property in the first degree is a class B felony.

RCW 9A.56.160 – Possessing stolen property in the second degree – Other than firearm

- (1) A person is guilty of possessing stolen property in the second degree if:
 - (a) He or she possesses stolen property other than a firearm as defined in RCW [9.41.010](#) which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or
 - (b) He or she possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or
 - (c) He or she possesses a stolen access device; or
 - (d) He or she possesses a stolen motor vehicle of a value less than one thousand five hundred dollars.
- (2) Possessing stolen property in the second degree is a class C felony.

RCW 9A.56.170 – Possessing stolen property in the third degree

- (1) A person is guilty of possessing stolen property in the third degree if he or she possesses (a) stolen property which does not exceed two hundred fifty dollars in value, or (b) ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates.
- (2) Possessing stolen property in the third degree is a gross misdemeanor.