

(14) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of one percent.

Passed the House March 16, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

CHAPTER 140

[Substitute House Bill No. 508]

ACCESS DEVICE CRIMES—CREDIT CARD REDEFINED AS ACCESS DEVICE

AN ACT Relating to credit card fraud; amending RCW 9A.56.010, 9A.56.040, 9A.56.140, 9A.56.160, and 9A.60.010; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 9A.56.010, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 257, Laws of 1986 and RCW 9A.56.010 are each amended to read as follows:

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

(1) "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;

(2) "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;

(3) (~~"Credit card"~~) "Access device" means any (~~instrument or device, whether incomplete, revoked, or expired, whether known as a credit~~) card, (~~credit~~) plate, (~~charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining~~) 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, (including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer) or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(4) "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.

(5) "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;

(6) "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;

(7) "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, pledgee, 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 such use is unauthorized by the partnership agreement;

(8) "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;

(9) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(10) "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;

(11) "Stolen" means obtained by theft, robbery, or extortion;

(12) 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) 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 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.

(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.

(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;

(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) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle.

Sec. 2. Section 9A.56.040, chapter 260, Laws of 1975 1st ex. sess. as amended by section 15, chapter 47, Laws of 1982 1st ex. sess. and RCW 9A.56.040 are each amended to read as follows:

(1) A person is guilty of theft in the second degree if he commits theft of:

(a) Property or services which exceed(s) two hundred and fifty dollars in value, 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) ~~((A credit card))~~ An access device; or

(d) A motor vehicle, of a value less than one thousand five hundred dollars; or

(e) A firearm, of a value less than one thousand five hundred dollars.

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

Sec. 3. Section 9A.56.140, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.56.140 are each amended to read as follows:

(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 not an issuer or agent thereof has in his possession or under his control stolen ~~((credit cards))~~ access devices issued in the names of two or more persons, he shall be presumed to know that they are stolen. This presumption may be rebutted by evidence raising a reasonable inference that the possession of such stolen ~~((credit cards))~~ access devices was without knowledge that they were stolen.

Sec. 4. Section 9A.56.160, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.56.160 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the second degree if:

(a) He possesses stolen property which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or

(b) He possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He possesses a stolen ~~((credit card))~~ access device; or

(d) He possesses a stolen motor vehicle of a value less than one thousand five hundred dollars; or

(e) He possesses a stolen firearm.

(2) Possessing stolen property in the second degree is a class C felony.

Sec. 5. Section 9A.60.010, chapter 260, Laws of 1975 1st ex. sess. as amended by section 12, chapter 38, Laws of 1975-'76 2nd ex. sess. and RCW 9A.60.010 are each amended to read as follows:

The following definitions and the definitions of RCW 9A.56.010 are applicable in this chapter unless the context otherwise requires:

(1) "Written instrument" means: (a) Any paper, document, or other instrument containing written or printed matter or its equivalent; or (b) any (~~credit card~~) access device, as defined in RCW 9A.56.010(3), token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification;

(2) "Complete written instrument" means one which is fully drawn with respect to every essential feature thereof;

(3) "Incomplete written instrument" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument;

(4) To "falsely make" a written instrument means to make or draw a complete or incomplete written instrument which purports to be authentic, but which is not authentic either because the ostensible maker is fictitious or because, if real, he did not authorize the making or drawing thereof;

(5) To "falsely complete" a written instrument means to transform an incomplete written instrument into a complete one by adding or inserting matter, without the authority of anyone entitled to grant it;

(6) To "falsely alter" a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner;

(7) "Forged instrument" means a written instrument which has been falsely made, completed or altered.

Passed the House March 12, 1987.

Passed the Senate April 7, 1987.

Approved by the Governor April 22, 1987.

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CHAPTER 141

[House Bill No. 827]

SCHOOL DISTRICT PUPIL TRANSPORTATION CONTRACTS

AN ACT Relating to pupil transportation contracts; amending RCW 28A.58.131; and adding a new section to chapter 28A.58 RCW.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 210, Laws of 1977 ex. sess. as last amended by section 93, chapter 7, Laws of 1985 and RCW 28A.58.131 are each amended to read as follows: