

WA Electronic Crime Statutes (refer to '99 list)

(<http://www.leg.wa.gov/rcw/index.cfm>)

RCW 9.26A.100

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Access device" shall have the same meaning as that contained in RCW [9A.56.010](#).

(2) "Computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but does not mean an automated typewriter or typesetter, portable hand held calculator, or other similar device.

(3) "Computer trespass" shall have the same meaning as that contained in chapter [9A.52](#) RCW.

(4) "Credit card number" means the card number or coding appearing on a credit card or other form of authorization, including an identification card or plate issued to a person by any telecommunications provider that permits the person to whom it has been issued to obtain telecommunications service on credit. The term includes the number or description of the card or plate, even if the card or plate itself is not produced at the time the telecommunications service is obtained.

(5) "Publish" means the communication or dissemination of information to any one or more persons: (a) Orally, in person, or by telephone, radio, or television; (b) in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book; or (c) electronically, including by the use of recordings, computer networks, bulletin boards, or other means of electronic storage and retrieval.

(6) "Telecommunications" shall have the same meaning as that contained in RCW [80.04.010](#) and includes telecommunications service that originates, terminates, or both originates and terminates in this state.

(7) "Telecommunications company" shall have the same meaning as that contained in RCW [80.04.010](#).

(8) "Telecommunications device" means any operating procedure or code, instrument, apparatus, or equipment designed or adapted for a particular use, and which is intended or can be used in violation of this chapter, and includes, but is not limited to, computer hardware, software, and programs; electronic mail system; voice mail system; private branch exchange; or any other means of facilitating telecommunications service.

(9) "Telephone company" means any local exchange company, as defined in RCW [80.04.010](#).

[1990 c 11 § 1.]

RCW 9.26A.110

Fraud in obtaining telecommunications service -- Penalty.

(1) Every person who, with intent to evade the provisions of any order or rule of the Washington utilities and transportation commission or of any tariff, price list, contract, or any other filing lawfully submitted to the commission by any telephone, telegraph, or telecommunications company, or with intent to defraud, obtains telephone, telegraph, or telecommunications service from any telephone, telegraph, or telecommunications company through: (a) The use of a false or fictitious name or telephone number; (b) the unauthorized use of the name or telephone number of another; (c) the physical or electronic installation of, rearrangement of, or tampering with any equipment, or use of a telecommunications device; (d) the commission of computer trespass; or (e) any other trick, deceit, or fraudulent device, is guilty of a misdemeanor.

(2) If the value of the telephone, telegraph, or telecommunications service that any person obtains in violation of this section during a period of ninety days exceeds fifty dollars in the aggregate, then such person is guilty of a gross misdemeanor.

(3) If the value of the telephone, telegraph, or telecommunications service that any person obtains in violation of this section during a period of ninety days exceeds two hundred fifty dollars in the aggregate, then such person is guilty of a class C felony punishable according to chapter [9A.20](#) RCW.

(4) For any act that constitutes a violation of both this section and RCW [9.26A.115](#) the provisions of RCW [9.26A.115](#) shall be exclusive.

[2003 c 53 § 20; 1990 c 11 § 2; 1981 c 252 § 1; 1977 ex.s. c 42 § 1; 1974 ex.s. c 160 § 2; 1972 ex.s. c 75 § 1; 1955 c 114 § 1. Formerly RCW [9.45.240](#).]

NOTES:

Intent -- Effective date -- 2003 c 53: See notes following RCW [2.48.180](#).

Injunctive relief for violations: RCW [7.40.230](#).

RCW 9.26A.115

Fraud in obtaining telecommunications service -- Use of telecommunications device -- Penalty.

Every person is guilty of a class B felony punishable according to chapter [9A.20](#) RCW who:

(1) Makes, possesses, sells, gives, or otherwise transfers to another a telecommunications device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or

(2) Sells, gives, or otherwise transfers to another plans or instructions for making or assembling a telecommunications device described in subsection (1) of this section with knowledge or reason to believe that the plans may be used to make or assemble such device.

[2003 c 53 § 21.]

NOTES:

Intent -- Effective date -- 2003 c 53: See notes following RCW [2.48.180](#).

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.

[1983 1st ex.s. c 4 § 1; 1975 1st ex.s. c 260 § [9A.48.070](#).]

NOTES:

Severability -- 1983 1st ex.s. c 4: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 4 § 6.]

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.

[1994 c 261 § 17; 1979 c 145 § 2; 1975 1st ex.s. c 260 § [9A.48.080](#).]

NOTES:

Finding -- Intent -- 1994 c 261: See note following RCW [16.52.011](#).

Action by owner of stolen livestock: RCW [4.24.320](#).

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.

[2003 c 53 § 71; 1996 c 35 § 1; 1975 1st ex.s. c 260 § [9A.48.090](#).]

NOTES:

Intent -- Effective date -- 2003 c 53: See notes following RCW [2.48.180](#).

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.

[1984 c 273 § 4; 1981 c 260 § 2. Prior: 1979 ex.s. c 244 § 11; 1979 c 145 § 3; 1977 ex.s. c 174 § 1; 1975 1st ex.s. c 260 § [9A.48.100](#).]

NOTES:

Effective date -- 1979 ex.s. c 244: See RCW [9A.44.902](#).

Action by owner of stolen livestock: RCW [4.24.320](#).

Computer trespass: RCW [9A.52.110](#) through [9A.52.130](#).

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.

[2004 c 69 § 1; 1985 c 289 § 1. Prior: 1984 c 273 § 5; 1984 c 49 § 1; 1975 1st ex.s. c 260 § [9A.52.010](#).]

RCW 9A.52.110

Computer trespass in the first degree.

(1) A person is guilty of computer trespass in the first degree if the person, without authorization, intentionally gains access to a computer system or electronic data base of another; and

- (a) The access is made with the intent to commit another crime; or
 - (b) The violation involves a computer or data base maintained by a government agency.
- (2) Computer trespass in the first degree is a class C felony.

[1984 c 273 § 1.]

RCW 9A.52.120
Computer trespass in the second degree.

- (1) A person is guilty of computer trespass in the second degree if the person, without authorization, intentionally gains access to a computer system or electronic data base of another under circumstances not constituting the offense in the first degree.
- (2) Computer trespass in the second degree is a gross misdemeanor.

[1984 c 273 § 2.]

RCW 9A.52.130
Computer trespass -- Commission of other crime.

A person who, in the commission of a computer trespass, commits any other crime may be punished for that other crime as well as for the computer trespass and may be prosecuted for each crime separately.

[1984 c 273 § 3.]

NOTES:

Physical damage to computer programs: RCW [9A.48.100](#).