

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.041(1)	Possession of Controlled Substance by Prisoner (State Facility)	C	*	0	0	3/26/1979
9.94.041(2)	Possession of Controlled Substance by Prisoner (County or Local Facility)	C	603*	358 adu 1 juv	413 adu 1 juv	7/23/1995

*CFC data does not distinguish between 9.94.041(1) and (2).

Recommendation: **Reduce to Misdemeanor**

Discussion:

- Possession is a misdemeanor now
- There are institutional tools to deal with this.

Added Pop % for comparison

Date	Sent Length
1999 - 2020	0 (21 cases)
	Less than 1 mo (98 cases)
	1 – 3.9 mos (263 cases)
	4 – 6.9 mos (66 cases)
	7 – 9.9 mos (17 cases)
	10 – 12.0 mos (55 cases)
	12.03 - 36 mos (9 cases)

Recommendation: **Leave as unranked class C felony**

Discussion:

- Applies to person in possession of item, not person who brought it in.
- Can affect safety of other people incarcerated.

RCW [9.94.041](#)

Narcotic drugs, controlled substances, alcohol, cannabis, other intoxicant, cell phone, or other form of electronic telecommunications device—Possession, etc., by prisoners—Penalty.

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any narcotic drug or controlled substance, as defined in chapter [69.50](#) RCW, alcohol, cannabis, or other intoxicant, or a cell phone or other form of an electronic telecommunications device, is guilty of a class C felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any narcotic drug or controlled substance, as defined in chapter [69.50](#) RCW, alcohol, cannabis, or other intoxicant, or a cell phone or other form of an electronic telecommunications device, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

(4) For the purposes of this section, "cannabis" has the meaning provided in RCW [69.50.101](#).

[[2022 c 16 § 3](#); [2016 c 199 § 1](#); [1995 c 314 § 5](#); [1979 c 121 § 2](#).]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.045	Possession of Controlled Substance in Prison by Non-prisoner	C	9	61	75	3/26/1979

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense is similar to RCW 69.50.4013
- Possession should be handled the same way.
- Needed to maintain safety and security in institutions.
- Being brought in for a reason – not personal use.

Conviction Year	County	Sent Length
2000	Snohomish	3
2000	Franklin	1
2002	Grays Harbor	3
2003	Walla Walla	1
2006	Grays Harbor	1.48
2007	Grays Harbor	0.1
2011	Mason	1.48
2012	Grays Harbor	6

RCW [9.94.045](#)

Narcotic drugs or controlled substances—Possession by person not a prisoner—Penalty.

A person, other than a person serving a sentence in a penal institution of this state, is guilty of possession of contraband on the premises of a state correctional institution in the second degree if, without authorization to do so, the person knowingly possesses or has under his or her control any narcotic drug or controlled substance, as defined in chapter [69.50](#) RCW, on or in the buildings, grounds, or any other real property subject to the care, control, or supervision of a state correctional institution.

Possession of contraband on the premises of a state correctional institution in the second degree is a class C felony.

[[1979 c 121 § 4.](#)]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
26.20.030	Family Abandonment	C	6	32	47	3/28/1984

Recommendation: **Repeal**

Conviction Year County Sent Length

Discussion:

- Philosophical question about how to help parents – other help can be offered instead of criminalizing this. Encompassed in state civil dependency system.
- Behavior should not be criminalized.
- Dependency system needs a lot of work. This is likely not applied equitably. Other laws deal with harm of children.

2007	Yakima	6
2013	Grant	1.77
201	Pierce	0

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not really duplicative but has elements of Abandonment of Dependent Person 3 (this offense is broader).
- Felony status is severe enough.
- Can be used when youth are released from state or county facility and adult refuses acceptance.

RCW 26.20.030

Family abandonment—Penalty—Exception.

(1) Except as provided in subsection (2) of this section, any person who has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it is guilty of the crime of family abandonment.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to RCW 13.34.360 is not subject to criminal liability under this section.

(3) The crime of family abandonment is a class C felony under chapter 9A.20 RCW.

[2002 c 331 § 6; 1984 c 260 § 26; 1973 1st ex.s. c 154 § 34; 1969 ex.s. c 207 § 2; 1955 c 249 § 1; 1953 c 255 § 1; 1943 c 158 § 1; 1913 c 28 § 1; Rem. Supp. 1943 § 6908. Prior: 1907 c 103 § 1, part.]

Prior Discussion on 6/10/2022:

Members discussed tabled item RCW 26.20.030 – Family Abandonment. Judge Amamilo talked about the difference between this statute and the dependency statute RCW 13.34.360. She expressed concern that in situations where a newborn is abandoned and left to die (with intent), what tool would be available to hold someone accountable if not this one.

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There was discussion on whether this behavior was included in other statutes. It was suggested that RCW 9A.42.080 Abandonment of a Dependent Person 3 would be the closest. Jon Tunheim wondered if the low number of convictions for Family Abandonment is due to prosecutors looking at RCW 9A.42.080 first and charging it there. That statute uses 'recklessly abandon" so they would not have to prove 'intentionally abandon' but it adds additional requirement that there be a risk of substantial bodily injury. Judge Wiggs asked if Jon thought the statutes were duplicative, noting that one is an unranked felony and in the criminal chapter while the other is a gross misdemeanor and in the domestic relations chapter. Jon suggested the Legislature should look at the two statutes as they have similar behavior but differing consequences.

Judge Saint Clair pointed out the disproportionality in the child welfare system and agreed the Legislature needs to review the alignment of these statutes. The penalties are essentially the same, but the collateral consequences are different.

Based on the difference in the number of charges versus convictions, Jon Tunheim inferred prosecutors may be diverting it or using some rehabilitative outcome and then dismissing it. If that is the case, he thought the gross misdemeanor would achieve the same end of getting the person rehabilitation. Judge Amamilo stated that the criminal charge and the dependency review occur simultaneously until the prosecution is convinced that there is enough intervention and/or the parent is removed from the child's life.

Keri-Anne reminded members that the final task from Rep. Goodman's request is to make recommendations to align criminal penalties outside the SRA into the SRA. She wondered if these statutes will be revisited again when that work is being completed. Judge Wiggs suggested tabling this item and revisiting during the final task work. Judge Saint Clair agreed that having the committee revisit its recommendation after hearing Judge Amamilo's comments from this meeting, would be a good idea.

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.76.023(2)(b)	Disarming a Law Enforcement or Corrections Officer and Firearm is Discharged	B	28	5	5	6/11/1998

Discovered there were 28 convictions. Will need a motion to remove from 11/12/21 blanket motion to repeal.

Recommendation: **Rank felony**

Discussion:

- Very serious offense.
- SGC voted to recommend ranking RCW 9A.76.023(2)(a) at SL 3 or higher to make equal with RCW 9A.36.031(3)(g) – Assault 3 [10/14/22]

Recommendation: **Leave as unranked class B felony**

Discussion:

- Could be duplicative, depending on the specific facts of the case.
- Could also be charged as Assault 1, 2, or 3, Resisting Arrest, and Obstructing a Police Officer. Hard to see how one could disarm a LEO without assaulting him or her.
- Could be used as 'safety valve' offense. Helpful in plea bargaining and for offenses with less culpability.
- Should not be ranked as it almost never happens or is charged under one of the other suggested duplicative offenses.

RCW [9A.76.023](#)

Disarming a law enforcement or corrections officer.

(1) A person is guilty of disarming a law enforcement officer if with intent to interfere with the performance of the officer's duties the person knowingly removes a firearm or weapon from the person of a law enforcement officer or corrections officer or deprives a law enforcement officer or corrections officer of the use of a firearm or weapon, when the officer is acting within the scope of the officer's duties, does not consent to the removal, and the person has reasonable cause to know or knows that the individual is a law enforcement or corrections officer.

(2)(a) Except as provided in (b) of this subsection, disarming a law enforcement or corrections officer is a class C felony.

(b) Disarming a law enforcement or corrections officer is a class B felony if the firearm involved is discharged when the person removes the firearm.

[2003 c 53 § 82; 1998 c 252 § 1.]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.88.010(2)(c)	Indecent Exposure to a Person Age 14 or Older (Subsequent Conviction or has Prior Sex Offense Conviction)	C	148	426 adu 16 juv	645 adu 22 juv	7/1/1990

Discovered there were 148 convictions from pre-1999 when it was unranked. Post 1999 the offense is ranked. Will need a motion to remove from 11/12/21 blanket motion to repeal.

RCW [9A.88.010](#)

Indecent exposure.

(1) A person is guilty of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent exposure.

(2)(a) Except as provided in (b) and (c) of this subsection, indecent exposure is a misdemeanor.

(b) Indecent exposure is a gross misdemeanor on the first offense if the person exposes himself or herself to a person under the age of fourteen years.

(c) Indecent exposure is a class C felony if the person has previously been convicted under this section or of a sex offense as defined in RCW [9.94A.030](#).

[[2003 c 53 § 92](#); [2001 c 88 § 2](#); [1990 c 3 § 904](#); [1987 c 277 § 1](#); [1975 1st ex.s. c 260 § 9A.88.010](#).]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
18.64.046(7)	Unlawful Selling of Ephedrine, Pseudoephedrine or Phenylpropanolamine by a Wholesaler	C	0	0	0	7/1/2004

Recommendation: Rank at seriousness level 3, increase to class B

Discussion:

- May be duplicative - Sale, transfer, or furnishing of substance for unlawful purpose, (RCW 69.43.070 Class B). This statute requires intent or knowledge that the transfer of the drugs be done with the knowledge that they will be used to manufacture a controlled substance.
- Also, Permit to sell, transfer, furnish, or receive substance (69.43.090 GM). This requires a permit to sell these drugs. However, the seller couldn't get a permit to sell them to non-business persons.)
- It targets companies that know better and have no excuse for illegally selling precursor drugs.
- It does not have the knowledge requirement of the other possible statutes that require the seller to intend or know that the drugs will be used to manufacture a controlled substance.
- Sales assisting in the manufacturing of meth. Sales of drugs by wholesalers is regulated. Rank same as Mfg Meth. There is no reason to punish companies more leniently for illegally selling precursor drugs than individuals who sell the final product.

RCW [18.64.046](#)

Wholesaler's license—Required—Authority of licensee—Penalty—Ephedrine/pseudoephedrine/phenylpropanolamine.

(1) The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW [43.70.250](#) and [43.70.280](#), a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

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(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW [43.70.250](#) and [43.70.280](#).

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The commission may suspend or revoke the license of any wholesaler that violates this section.

(5) The commission may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related companies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW [69.43.035](#).

(6) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(7)(a) No wholesaler may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, a practitioner as defined in RCW [18.64.011](#), or a traditional Chinese herbal practitioner as defined in RCW [69.43.105](#).

(b) A violation of this subsection is punishable as a class C felony according to chapter [9A.20](#) RCW, and each sale in violation of this subsection constitutes a separate offense.

[[2013 c 19 § 9](#); [2005 c 388 § 6](#); [2004 c 52 § 3](#); [2003 c 53 § 133](#); [1996 c 191 § 45](#); [1991 c 229 § 5](#); [1989 1st ex.s. c 9 § 417](#); [1984 c 153 § 7](#); [1979 c 90 § 18](#).]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.144.100(1)	Use or Investment of Proceeds from Mortgage Fraud Activities	B	0	0	0	6/12/2008

Recommendation: **Rank at seriousness level 3**

Discussion:

- Possibly the laws that prohibit the mortgage fraud itself.
- The procuring of the fraudulent mortgage may be done by separate departments and person than those that reinvest the money in a large company.
- Seems like a serious crime if done knowingly.
- Should be ranked at least as high as Theft 1 (SL 2)
- Based on pattern of activity, more serious than one-time Theft offense.

RCW [19.144.100](#)

Unlawful actions—Proceeds and interest in real property—Criminal penalties.

(1)(a) It is unlawful for a person to use or invest proceeds, or any part of proceeds, knowing that the proceeds, or any part of the proceeds, were derived, directly or indirectly, from a pattern of mortgage fraud activity, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(b) A violation of this subsection is a class B felony.

(2)(a) It is unlawful for a person to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property knowing the interest or control was obtained through a pattern of mortgage fraud.

(b) A violation of this subsection is a class B felony.

(3)(a) It is unlawful for a person to knowingly conspire or attempt to violate subsection (1) or (2) of this section.

(b) A violation of this subsection is a class C felony.

[[2008 c 108 § 11.](#)]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.144.100(2)	Control of Real Property Resulting from Mortgage Fraud Activities	B	0	0	0	6/12/2008

Recommendation: **Rank at seriousness level 3**

Discussion:

- Possibly forgery depending on the specific facts (RCW 9A.60.020)
- Seems like a serious crime if done knowingly.
- Should be ranked at least as high as Theft 1 (SL 2)
- Based on pattern of activity, more serious than one-time Theft offense.

RCW [19.144.100](#)

Unlawful actions—Proceeds and interest in real property—Criminal penalties.

(1)(a) It is unlawful for a person to use or invest proceeds, or any part of proceeds, knowing that the proceeds, or any part of the proceeds, were derived, directly or indirectly, from a pattern of mortgage fraud activity, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(b) A violation of this subsection is a class B felony.

(2)(a) It is unlawful for a person to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property knowing the interest or control was obtained through a pattern of mortgage fraud.

(b) A violation of this subsection is a class B felony.

(3)(a) It is unlawful for a person to knowingly conspire or attempt to violate subsection (1) or (2) of this section.

(b) A violation of this subsection is a class C felony.

[[2008 c 108 § 11.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
29A.84.140	Unqualified Voting Registration	C	0	2	2	7/22/2001

Recommendation: **Reduce to Misdemeanor**

Discussion:

- Originally a misdemeanor.
- Will change as of 2023 to exclude sign up to vote when obtaining Enhanced DL and Identicards.
- Helps bring integrity to elections.
- How difficult to prove intent?

Recommendation: **Repeal**

Discussion:

- Very rare occurrence.
- Issue has been manufactured for political purposes.
- No damage is done to anyone unless the person actually votes. If the person does vote, that is a separate crime.
- Why is it a crime to register?

RCW [29A.84.140](#)

Unqualified registration. *(Effective until September 1, 2023.)*

A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a class C felony. This section does not apply to persons age sixteen or seventeen signing up to register to vote as authorized under RCW [29A.08.170](#).

[[2018 c 109 § 13](#); [2005 c 246 § 22](#); [2003 c 111 § 2108](#). Prior: [2001 c 41 § 13](#). Formerly RCW [29.85.249](#).]

RCW [29A.84.140](#)

Unqualified registration. *(Effective September 1, 2023.)*

A person who knows that he or she does not possess the legal qualifications of a voter and who registers to vote is guilty of a class C felony. This section does not apply to persons age sixteen or seventeen signing up to register to vote as authorized under RCW [29A.08.170](#) or [29A.08.355](#)(2).

[[2020 c 208 § 20](#); [2018 c 109 § 13](#); [2005 c 246 § 22](#); [2003 c 111 § 2108](#). Prior: [2001 c 41 § 13](#). Formerly RCW [29.85.249](#).]

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**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.60.070	Issuing a False Academic Credential	C	0	0	0	6/7/2006

Recommendation: **Reduce to Misdemeanor**

Discussion:

- Knowingly using a false academic credential is a GM

Recommendation: **Repeal**

Discussion:

- Knowingly using a false academic credential is a GM

Recommendation: **Leave as unranked class C felony**

Discussion:

- Concerns regarding false ability to do public health/safety jobs.

RCW [9A.60.070](#)

False academic credentials—Unlawful issuance or use—Definitions—Penalties.

(1) A person is guilty of issuing a false academic credential if the person knowingly:

(a) Grants or awards a false academic credential or offers to grant or award a false academic credential in violation of this section;

(b) Represents that a credit earned or granted by the person in violation of this section can be applied toward a credential offered by another person;

(c) Grants or offers to grant a credit for which a representation as described in (b) of this subsection is made; or

(d) Solicits another person to seek a credential or to earn a credit the person knows is offered in violation of this section.

(2) A person is guilty of knowingly using a false academic credential if the person knowingly uses a false academic credential or falsely claims to have a credential issued by an institution of higher education that is accredited by an accrediting association recognized as such by rule of the student achievement council:

(a) In a written or oral advertisement or other promotion of a business; or

(b) With the intent to:

Cases = number of cases filed;

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Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

- (i) Obtain employment;
 - (ii) Obtain a license or certificate to practice a trade, profession, or occupation;
 - (iii) Obtain a promotion, compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;
 - (iv) Obtain admission to an educational program in this state; or
 - (v) Gain a position in government with authority over another person, regardless of whether the person receives compensation for the position.
- (3) The definitions in this subsection apply throughout this section and RCW [28B.85.220](#).
- (a) "False academic credential" means a document that provides evidence or demonstrates completion of an academic or professional course of instruction beyond the secondary level that results in the attainment of an academic certificate, degree, or rank, and that is not issued by a person or entity that: (i) Is an entity accredited by an agency recognized as such by rule of the student achievement council or has the international equivalents of such accreditation; or (ii) is an entity authorized as a degree-granting institution by the student achievement council; or (iii) is an entity exempt from the requirements of authorization as a degree-granting institution by the student achievement council; or (iv) is an entity that has been granted a waiver by the student achievement council from the requirements of authorization by the council. Such documents include, but are not limited to, academic certificates, degrees, coursework, degree credits, transcripts, or certification of completion of a degree.
 - (b) "Grant" means award, bestow, confer, convey, sell, or give.
 - (c) "Offer," in addition to its usual meanings, means advertise, publicize, or solicit.
 - (d) "Operate" includes but is not limited to the following:
 - (i) Offering courses in person, by correspondence, or by electronic media at or to any Washington location for degree credit;
 - (ii) Granting or offering to grant degrees in Washington;
 - (iii) Maintaining or advertising a Washington location, mailing address, computer server, or telephone number, for any purpose, other than for contact with the institution's former students for any legitimate purpose related to the students having attended the institution.
- (4) Issuing a false academic credential is a class C felony.
- (5) Knowingly using a false academic credential is a gross misdemeanor.

[[2012 c 229 § 501](#); [2006 c 234 § 2](#).]

Cases = number of cases filed;

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**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
70.155.140	Shipping or Transporting Tobacco Products Ordered Through Mail or Internet	C	0	0	0	7/26/2009

Recommendation: **Reduce to misdemeanor**

Discussion:

- Regulatory

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative

RCW [70.155.140](#)

Shipping or transporting tobacco products ordered or purchased by mail or through the internet prohibited—Penalty.

(1) A person may not:

(a) Ship or transport, or cause to be shipped or transported, any tobacco product ordered or purchased by mail or through the internet to anyone in this state other than a licensed wholesaler or retailer; or

(b) With knowledge or reason to know of the violation, provide substantial assistance to a person who is in violation of this section.

(2)(a) A person who knowingly violates subsection (1) of this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

(b) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated subsection (1) of this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court. For purposes of this subsection, each shipment or transport of tobacco products constitutes a separate violation.

(3) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of subsection (1) of this section and to compel compliance with subsection (1) of this section.

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Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

(4) Any violation of subsection (1) of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW [19.86.020](#). Standing to bring an action to enforce RCW [19.86.020](#) for violation of subsection (1) of this section lies solely with the attorney general. Remedies provided by chapter [19.86](#) RCW are cumulative and not exclusive.

(5)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated subsection (1) of this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

(6) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state.

[[2009 c 278 § 2](#).]

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**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.91.170(5)	Intentional Infliction, Injury or Death to a Dog Guide or Service Animal	C	0	1	1	7/22/2001

Recommendation: **Repeal**

Discussion:

- Duplicated under Harming a Policy Dog (RCW 9A.76.200) [*proposed recommendation is to leave as unranked offense*] and Animal Cruelty 1 (RCW 16.52.205) [*accepted recommendation to rank at SL 3*]
- However, this statute also applies where one merely "disables" a dog. But disabling the dog is not defined in the statute and one wonders whether, as a practical matter, it is possible to do without injuring the dog.
- Seems like an anachronistic law.
- Not sure why this statute is necessary in light of the fact it has never been charged and could almost always be charged under the other two listed crimes.

Recommendation: **Rank at seriousness level 3**

Discussion:

- To make commensurate to proposed recommendation for Animal Cruelty 1 (RCW 16.52.205).

RCW [9.91.170](#)

Interfering with dog guide or service animal.

(1)(a) Any person who has received notice that his or her behavior is interfering with the use of a dog guide or service animal who continues with reckless disregard to interfere with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the dog guide or service animal user or his or her dog guide or service animal is guilty of a misdemeanor, except as provided in (b) of this subsection.

(b) A second or subsequent violation of this subsection is a gross misdemeanor.

(2)(a) Any person who, with reckless disregard, allows his or her dog to interfere with the use of a dog guide or service animal by obstructing, intimidating, or otherwise jeopardizing the safety of the dog guide or service animal user or his or her dog guide or service animal is guilty of a misdemeanor, except as provided in (b) of this subsection.

(b) A second or subsequent violation of this subsection is a gross misdemeanor.

(3) Any person who, with reckless disregard, injures, disables, or causes the death of a dog guide or service animal is guilty of a gross misdemeanor.

Cases = number of cases filed;

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Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

(4) Any person who, with reckless disregard, allows his or her dog to injure, disable, or cause the death of a dog guide or service animal is guilty of a gross misdemeanor.

(5) Any person who intentionally injures, disables, or causes the death of a dog guide or service animal is guilty of a class C felony punishable according to chapter [9A.20](#) RCW.

(6) Any person who wrongfully obtains or exerts unauthorized control over a dog guide or service animal with the intent to deprive the dog guide or service animal user of his or her dog guide or service animal is guilty of theft in the first degree, RCW [9A.56.030](#).

(7)(a) In any case in which the defendant is convicted of a violation of this section, he or she shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the dog guide or service animal user and the dog guide or service animal which arise out of or are related to the criminal offense.

(b) Restitution for a conviction under this section shall include, but is not limited to:

(i) The value of the replacement of an incapacitated or deceased dog guide or service animal, the training of a replacement dog guide or service animal, or retraining of the affected dog guide or service animal and all related veterinary and care expenses; and

(ii) Medical expenses of the dog guide or service animal user, training of the dog guide or service animal user, and compensation for wages or earned income lost by the dog guide or service animal user.

(8) Nothing in this section shall affect any civil remedies available for violation of this section.

(9) For purposes of this section, the following definitions apply:

(a) "Dog guide" means a dog that is trained or in training for the purpose of guiding blind persons or a dog trained or in training for the purpose of assisting hearing impaired persons.

(b) "Service animal" means an animal that is trained or in training for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

(c) "Notice" means a verbal or otherwise communicated warning prescribing the behavior of another person and a request that the person stop their behavior.

(d) "Value" means the value to the dog guide or service animal user and does not refer to cost or fair market value.

[[2017 c 170 § 1](#); [2003 c 53 § 52](#); [2001 c 112 § 2](#).]

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Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.91.175(3)	Intentionally Injures, Disables or Causes Death of an On-Duty Search and Rescue Dog	C	0	0	0	7/24/2005

Recommendation: **Repeal**

Discussion:

- Duplicated under Harming a Policy Dog (RCW 9A.76.200) [*proposed recommendation is to leave as unranked offense*] and Animal Cruelty 1 (RCW 16.52.205) [*accepted recommendation to rank at SL 3*]
- However, this statute also applies where one merely "disables" a dog. But disabling the dog is not defined in the statute and one wonders whether, as a practical matter, it is possible to do without injuring the dog.
- Seems like an anachronistic law.
- Not sure why this statute is necessary in light of the fact it has never been charged and could almost always be charged under the other two listed crimes.

Recommendation: **Rank at seriousness level 3**

Discussion:

- To make commensurate to proposed recommendation for Animal Cruelty 1 (RCW 16.52.205).

RCW [9.91.175](#)

Interfering with search and rescue dog.

(1)(a)(i) Any person who has received notice that his or her behavior is interfering with the use of an on-duty search and rescue dog who continues with reckless disregard to interfere with the use of an on-duty search and rescue dog by obstructing, intimidating, or otherwise jeopardizing the safety of the search and rescue dog user or his or her search and rescue dog is guilty of a misdemeanor punishable according to chapter [9A.20](#) RCW, except when (a)(ii) of this subsection applies.

(ii) A second or subsequent violation of (a)(i) of this subsection is a gross misdemeanor punishable according to chapter [9A.20](#) RCW.

(b)(i) Any person who, with reckless disregard, allows his or her dog to interfere with the use of an on-duty search and rescue dog by obstructing, intimidating, or otherwise jeopardizing the safety of the search and rescue dog user or his or her search and rescue dog is guilty of a misdemeanor punishable according to chapter [9A.20](#) RCW, except when (b)(ii) of this subsection applies.

(ii) A second or subsequent violation of (b)(i) of this subsection is a gross misdemeanor punishable according to chapter [9A.20](#) RCW.

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Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

(2)(a) Any person who, with reckless disregard, injures, disables, or causes the death of an on-duty search and rescue dog is guilty of a gross misdemeanor punishable according to chapter [9A.20](#) RCW.

(b) Any person who, with reckless disregard, allows his or her dog to injure, disable, or cause the death of an on-duty search and rescue dog is guilty of a gross misdemeanor punishable according to chapter [9A.20](#) RCW.

(3) Any person who intentionally injures, disables, or causes the death of an on-duty search and rescue dog is guilty of a class C felony.

(4) Any person who wrongfully obtains or exerts unauthorized control over an on-duty search and rescue dog with the intent to deprive the dog user of his or her search and rescue dog is guilty of theft in the first degree under RCW [9A.56.030](#).

(5)(a) In any case in which the defendant is convicted of a violation of this section, he or she shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the search and rescue dog user and the dog that arise out of, or are related to, the criminal offense.

(b) Restitution for a conviction under this section shall include, but is not limited to:

(i) The value of the replacement of an incapacitated or deceased dog, the training of a replacement search and rescue dog, or retraining of the affected dog and all related veterinary and care expenses; and

(ii) Medical expenses of the search and rescue dog user, training of the dog user, and compensation for any wages or earned income lost by the search and rescue dog user as a result of a violation of subsection (1), (2), (3), or (4) of this section.

(6) Nothing in this section affects any civil remedies available for violation of this section.

(7) For purposes of this section, "search and rescue dog" means a dog that is trained for the purpose of search and rescue of persons lost or missing.

[[2005 c 212 § 1](#).]

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**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.210.040	Unused Property, Merchants – Prohibited Sales (Third or Subsequent Offense within 5 Years)	C	0	0	0	7/22/2001

Recommendation: **Repeal if zero convictions in 20 years (check 2021 convictions)**

Discussion:

- This bill requires registration with the state for the sale of baby food, infant formula, cosmetics, nonprescription drugs, and medical devices at flea markets.
- Was this bill passed at the behest of regular merchants to protect their business?
- Was there an actual threat posed by these sales?
- Designed to regulate competition. How does it increase public safety?

Recommendation: **Leave as unranked class C felony**

Discussion:

- Unknown if this is being charged elsewhere or being plead down to gross misdemeanor.
- Someone must have thought it was a risk to public safety in 2001.

RCW [19.210.040](#)

Penalties.

- (1) A first violation of this chapter is a misdemeanor.
- (2) A second violation of this chapter within five years is a gross misdemeanor.
- (3) A third or subsequent violation of this chapter within five years is a class C felony.

[[2001 c 160 § 4.](#)]

RCW [19.210.020](#)

Prohibited sales.

No unused property merchant shall offer at an unused property market for sale or knowingly permit the sale of baby food, infant formula, cosmetics, nonprescription drugs, or medical devices. This section does not apply to a person who keeps available for public inspection a written authorization identifying that person as an authorized representative of the manufacturer or distributor of such product, as long as the authorization is not false, fraudulent, or fraudulently obtained.

[[2001 c 160 § 2.](#)]

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**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
38.42.050	False Affidavit under Service Member Civil Relief Act	C	0	0	0	5/3/2005

Recommendation: **Repeal**

Discussion:

- Repeal if applied under Perjury statute since it's never been charged or convicted.

Recommendation: **Leave as unranked class C felony**

Discussion:

- Leave as unranked if not applied under Perjury.

RCW [38.42.050](#)

Protection of service members and their dependents against default judgments.

(1) This section applies to any civil action or proceeding in which a service member or his or her dependent is a defendant and does not make an appearance under applicable court rules or by law.

(2) In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit:

(a) Stating whether the defendant is in military service, or is a dependent of a service member in military service, and showing necessary facts to support the affidavit; or

(b) If the plaintiff is unable to determine whether the defendant is in military service or is a dependent of a service member in military service, stating that the plaintiff is unable to determine whether the defendant is in military service or is a dependent of a service member in military service.

(3)(a) To determine whether or not a defendant is a dependent of a service member in the military service under this chapter, the plaintiff may serve on or mail via first-class mail to the defendant a written notice in substantially the following form:

"NOTICE: State and federal law provide protections to defendants who are in the military service, and to their dependents. Dependents of a service member are the service member's spouse, the service member's minor child, or an individual for whom the service member provided more than one-half of the individual's support for one hundred eighty days immediately preceding an application for relief.

One protection provided is the protection against the entry of a default judgment in certain circumstances. This notice pertains only to a defendant who is a dependent of a member of the national guard or a military **reserve**

Cases = number of cases filed;

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Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

component under a call to active service, or a national guard member under a call to service authorized by the governor of the state of Washington, for a period of more than thirty consecutive days. Other defendants in military service also have protections against default judgments not covered by this notice. If you are the dependent of a member of the national guard or a military reserve component under a call to active service, or a national guard member under a call to service authorized by the governor of the state of Washington, for a period of more than thirty consecutive days, you should notify the plaintiff or the plaintiff's attorneys in writing of your status as such within twenty days of the receipt of this notice. If you fail to do so, then a court or an administrative tribunal may presume that you are not a dependent of an active duty member of the national guard or reserves, or a national guard member under a call to service authorized by the governor of the state of Washington, and proceed with the entry of an order of default and/or a default judgment without further proof of your status. Your response to the plaintiff or plaintiff's attorneys about your status does not constitute an appearance for jurisdictional purposes in any pending litigation nor a waiver of your rights."

(b) If the notice is either served on the defendant twenty or more days prior to an application for an order of default or a default judgment, or mailed to the defendant more than twenty-three days prior to such application, and the defendant fails to timely respond, then for purposes of entry of an order of default or default judgment, the court or administrative tribunal may presume that the defendant is not a dependent of a service member in the military service under this chapter.

(c) Nothing prohibits the plaintiff from allowing a defendant more than twenty days to respond to the notice, or from amending the notice to so provide.

(4) If in an action covered by this section it appears that the defendant is in military service or is a dependent of a service member in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a service member or his or her dependent cannot locate the service member or dependent, actions by the attorney in the case do not waive any defense of the service member or dependent or otherwise bind the service member or dependent.

(5) In an action covered by this section in which the defendant is in military service or is a dependent of a service member in military service, the court shall grant a stay of proceedings until one hundred eighty days after termination of or release from military service, upon application of defense counsel, or on the court's own motion, if the court determines that:

(a) There may be a defense to the action and a defense cannot be presented without presence of the defendant;
or

(b) After due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists. The defendant's failure to communicate or cooperate with counsel after having been contacted is not grounds to find that counsel has been unable to contact the defendant or that counsel has been unable to determine if a meritorious defense exists.

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(6) No bar to entry of judgment under subsection (4) of this section or requirement for grant of stay under subsection (5) of this section precludes the entry of temporary orders in domestic relations cases. If a court or administrative tribunal enters a temporary order as allowed under this subsection, it shall include a finding that failure to act, despite the absence of the service member, would result in manifest injustice to the other interested parties. Temporary orders issued without the service member's participation shall not set any precedent for the final disposition of the matters addressed therein.

(7) If a service member or dependent who is a defendant in an action covered by this section receives actual notice of the action, the service member or dependent may request a stay of proceedings pursuant to RCW [38.42.060](#).

(8) A person who makes or uses an affidavit permitted under this section knowing it to be false, is guilty of a class C felony.

(9) If a default judgment is entered in an action covered by this section against a service member or his or her dependent during the service member's period of military service or within one hundred eighty days after termination of or release from military service, the court entering the judgment shall, upon application by or on behalf of the service member or his or her dependent, reopen the judgment for the purpose of allowing the service member or his or her dependent to defend the action if it appears that:

(a) The service member or dependent was materially affected by reason of that military service in making a defense to the action; and

(b) The service member or dependent has a meritorious or legal defense to the action or some part of it.

(10) If a court vacates, sets aside, or reverses a default judgment against a service member or his or her dependent and the vacating, setting aside, or reversing is because of a provision of this chapter, that action does not impair a right or title acquired by a bona fide purchaser for value.

[[2012 c 24 § 2](#); [2006 c 80 § 1](#); [2005 c 254 § 5](#).]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.41.030(2)(a)	Sale, Delivery or Possession with Intent to Sell Legend Drug without Prescription	B	77	132 adu 142 juv	193 adu 179 juv	4/26/1973

Recommendation: **Repeal**

Discussion:

- Outdated statute.
- Sharing with or handing to friend/relative is illegal.
- Legend drug better/safer than fentanyl

Date	Sent Length
1999 - 2019	0 (7 cases)
	Less than 1 mo (18 cases)
	1 – 3.9 mos (23 cases)
	4 – 6.9 mos (3 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (2 cases)
	12.03 mos (1 case)

RCW [69.41.030](#)

Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty. *(Effective until July 1, 2023.)*

(1) It shall be unlawful for any person to sell, deliver, or knowingly possess any legend drug except upon the order or prescription of a physician under chapter [18.71](#) RCW, an osteopathic physician and surgeon under chapter [18.57](#) RCW, an optometrist licensed under chapter [18.53](#) RCW who is certified by the optometry board under RCW [18.53.010](#), a dentist under chapter [18.32](#) RCW, a podiatric physician and surgeon under chapter [18.22](#) RCW, a veterinarian under chapter [18.92](#) RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter [18.79](#) RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter [18.64](#) RCW to the extent permitted by drug therapy guidelines or protocols established under RCW [18.64.011](#) and authorized by the commission and approved by a practitioner authorized to prescribe drugs, a physician assistant under chapter [18.71A](#) RCW when authorized by the Washington medical commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER,

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

That nothing in this chapter or chapter [18.64](#) RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners: PROVIDED FURTHER, That nothing in this chapter prohibits possession or delivery of legend drugs by an authorized collector or other person participating in the operation of a drug take-back program authorized in chapter [69.48](#) RCW.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter [9A.20](#) RCW.

(b) A violation of this section involving possession is a misdemeanor. The prosecutor is encouraged to divert such cases for assessment, treatment, or other services.

[[2021 c 311 § 12](#); ([2021 c 311 § 11](#) expired July 1, 2022); [2020 c 80 § 41](#); [2019 c 55 § 9](#); [2018 c 196 § 22](#); [2016 c 148 § 11](#). Prior: [2013 c 71 § 1](#); [2013 c 12 § 1](#); prior: [2011 1st sp.s. c 15 § 79](#); [2011 c 336 § 837](#); [2010 c 83 § 1](#); prior: [2003 c 142 § 3](#); [2003 c 53 § 323](#); [1996 c 178 § 17](#); [1994 sp.s. c 9 § 737](#); [1991 c 30 § 1](#); [1990 c 219 § 2](#); [1987 c 144 § 1](#); [1981 c 120 § 1](#); [1979 ex.s. c 139 § 2](#); [1977 c 69 § 1](#); [1973 1st ex.s. c 186 § 3](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.43.070(1)	Unlawful Delivery of Precursor Drug with Intent to Use	B	14*	0	0	3/21/1988

RCW 69.43.070(2) - Unlawful Receipt of Precursor Drug with Intent to Use [Repeal per 11/12/21 motion]

*Convictions collected under RCW, not by subsection

Recommendation: **Repeal**

Discussion:

- Believe it’s public health issue and should not be criminalized

Year	County	Sent Length
2001	Snohomish	12
2001	Grant	6
2001	Benton	6
2004	Kitsap	0.49
2004	Grant	0.07
2005	Whatcom	30
2005	Whatcom	20
2005	Whatcom	20
2006	Whatcom	6
2006	Pierce	0.1

RCW [69.43.070](#)

Sale, transfer, or furnishing of substance for unlawful purpose—Receipt of substance with intent to use unlawfully—Class B felony.

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in RCW [69.43.010](#) with knowledge or the intent that the recipient will use the substance unlawfully to manufacture a controlled substance under chapter [69.50](#) RCW is guilty of a class B felony under chapter [9A.20](#) RCW.

(2) Any person who receives any substance listed in RCW [69.43.010](#) with intent to use the substance unlawfully to manufacture a controlled substance under chapter [69.50](#) RCW is guilty of a class B felony under chapter [9A.20](#) RCW.

[[1988 c 147 § 7.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.43.080	False Statement in Report of Precursor Drugs	C	1	11	22	3/21/1988

Recommendation: **Repeal**

Discussion:

Year	County	Sent Length
2009	Walla Walla	6

- Believe it's public health issue and should not be criminalized
- Only one conviction in 20 years

RCW [69.43.080](#)

False statement in report or record—Class C felony.

It is unlawful for any person knowingly to make a false statement in connection with any report or record required under this chapter. A violation of this section is a class C felony under chapter [9A.20](#) RCW.

[[1988 c 147 § 8.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.50.402	Dispensing Violation (VUCSA)	C	7*	450 adu 5 juv	561 adu 6 juv	5/21/1971

*There were 36 cases with "Maintain Place Drugs (pre 7/25/99) [Ranked at SL 3 as of 7/25/99]

Recommendation: **Repeal**

Discussion:

- Believe it's public health issue and should not be criminalized

Year	County	Sent Length
2014	Clark	0
1999	Yakima	3

RCW [69.50.402](#)

Prohibited acts: B—Penalties.

(1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW [69.50.308](#);

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the commission pursuant to chapter [34.05](#) RCW; or

(ii) Any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the commission pursuant to chapter [34.05](#) RCW;

except for the treatment of narcolepsy, or for the treatment of hyperkinesia, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the treatment of any other disease states or conditions for which the United States food and drug administration has approved an indication, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the commission before the investigation has been begun: PROVIDED, That the commission, in consultation with the Washington medical commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter [34.05](#) RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners:

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

AND PROVIDED, FURTHER, That investigations by the commission of abuse of prescriptive authority by physicians, licensed pursuant to chapter [18.71](#) RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the Washington medical commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction **may be imprisoned for not more than two years**, fined not more than two thousand dollars, or both.

[[2019 c 55 § 12](#); [2016 c 150 § 1](#); [2013 c 19 § 107](#); [2010 c 177 § 7](#); [2003 c 53 § 338](#); [1994 sp.s. c 9 § 740](#); [1980 c 138 § 6](#); [1979 ex.s. c 119 § 1](#); [1971 ex.s. c 308 § 69.50.402.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.50.416	Controlled Substance Label Violation	C	9	0	0	7/25/1993

Recommendation: **Repeal**

Discussion:

- Believe it’s public health issue and should not be criminalized
- Could be disproportionate to elderly people

Year	County	Sent Length
2001	Thurston	5.26
2003	Spokane	0.36
2001	Pierce	0.16
2011	Pacific	0.16
2014	Pend Oreille	0.03
2013	Spokane	0
2016	Mason	0
2018	Whitman	0
2019	Columbia	0

RCW [69.50.416](#)

Counterfeit substances prohibited—Penalties.

(1) It is unlawful for any person knowingly or intentionally to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed, or dispensed the substance.

(2) It is unlawful for any person knowingly or intentionally to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof.

(3) A person who violates this section is guilty of a class C felony and upon conviction **may be imprisoned for not more than two years**, fined not more than two thousand dollars, or both.

[[2003 c 53 § 344](#); [1993 c 187 § 22](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.50.465	Conducting or Maintaining a Marijuana Club	C	1	0	0	7/1/2015

Recommendation: **Repeal**

Discussion:

Year	County	Sent Length
2019	Douglas	3

- There may be other statutes that offer more severe penalties than this that are used

RCW [69.50.465](#)

Conducting or maintaining cannabis club—Penalty.

(1) It is unlawful for any person to conduct or maintain a cannabis club by himself or herself or by associating with others, or in any manner aid, assist, or abet in conducting or maintaining a cannabis club.

(2) It is unlawful for any person to conduct or maintain a public place where cannabis is held or stored, except as provided for a licensee under this chapter, or consumption of cannabis is permitted.

(3) Any person who violates this section is guilty of a class C felony punishable under chapter [9A.20](#) RCW.

(4) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Cannabis club" means a club, association, or other business, for profit or otherwise, that conducts or maintains a premises for the primary or incidental purpose of providing a location where members or other persons may keep or consume cannabis on the premises.

(b) "Public place" means, in addition to the definition provided in RCW [66.04.010](#), any place to which admission is charged or for which any pecuniary gain is realized by the owner or operator of such place.

[[2022 c 16 § 96](#); [2015 2nd sp.s. c 4 § 1401](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.51A.240	Medical Marijuana – Unlawful Actions	C	2	2	2	7/1/2016

Recommendation: **Repeal**

Discussion:

RCW [69.51A.240](#)

Unlawful actions—Criminal penalty.

(1) It is unlawful for a person to knowingly or intentionally:

- (a) Access the medical cannabis authorization database for any reason not authorized under RCW [69.51A.230](#);
- (b) Disclose any information received from the medical cannabis authorization database in violation of RCW [69.51A.230](#) including, but not limited to, qualifying patient or designated provider names, addresses, or amount of cannabis for which they are authorized;
- (c) Produce a recognition card or to tamper with a recognition card for the purpose of having it accepted by a cannabis retailer holding a medical cannabis endorsement in order to purchase cannabis as a qualifying patient or designated provider or to grow cannabis plants in accordance with this chapter;
- (d) If a person is a designated provider to a qualifying patient, sell, donate, or supply cannabis produced or obtained for the qualifying patient to another person, or use the cannabis produced or obtained for the qualifying patient for the designated provider's own personal use or benefit; or
- (e) If the person is a qualifying patient, sell, donate, or otherwise supply cannabis produced or obtained by the qualifying patient to another person.

(2) A person who violates this section is guilty of a class C felony.

[[2022 c 16 § 128](#); [2015 c 70 § 23](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.52.030(3)	Advertising Imitation Controlled Substances	C	1	0	0	7/1/1982

Recommendation: **Repeal**

Discussion:

Year	County	Sent Length
2013	Clark	6*

*plus Deadly Weapon enhancement

RCW [69.52.030](#)

Violations—Exceptions.

(1) It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall, upon conviction, be guilty of a class C felony.

(2) Any person eighteen years of age or over who violates subsection (1) of this section by distributing an imitation controlled substance to a person under eighteen years of age is guilty of a class B felony.

(3) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale imitation controlled substances. Any person who violates this subsection is guilty of a class C felony.

(4) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act pursuant to RCW [69.50.301](#) or [69.50.303](#) who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in RCW [69.50.101](#), in the course of professional practice or research.

(5) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

[[2020 c 18 § 25](#); [1983 1st ex.s. c 4 § 5](#); [1982 c 171 § 4](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.53.030	Unlawful Use of Fortified Building	C	1	20	23	5/18/1987

Recommendation: **Repeal**

Discussion:

Year	County	Sent Length
2018	Pierce	2

RCW [69.53.030](#)

Unlawful use of fortified building—Penalty.

(1) It is unlawful for any person to use a building, room, space, or enclosure specifically designed to suppress law enforcement entry in order to unlawfully manufacture, deliver, sell, store, or give away any controlled substance under chapter [69.50](#) RCW, legend drug under chapter [69.41](#) RCW, or imitation controlled substance under chapter [69.52](#) RCW.

(2) A violation of this section is a class C felony punishable under chapter [9A.20](#) RCW.

[[1987 c 458 § 9.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.45.210	Altering Sample or Certificate of Assay	C	0	0	0	7/1/2004

Recommendation: **Repeal**

Discussion:

- Possibly duplicated under Theft
- Seems like an anachronistic law. Not sure if its current usefulness.

RCW [9.45.210](#)

Altering sample or certificate of assay.

Any person who shall interfere with or in any manner change samples of ores or bullion produced for sampling, or change or alter samples or packages of ores or bullion which have been purchased for assaying, or who shall change or alter any certificate of sampling or assaying, with intent to cheat, wrong or defraud, is guilty of a class C felony, punishable by imprisonment in a state correctional facility for not less than one year nor more than five years, or by a fine of not less than fifty nor more than one thousand dollars, or by both such fine and imprisonment.

[[2003 c 53 § 32](#); [1890 p 99 § 2](#); RRS § 2712.]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.45.220	Making False Sample or Assay or Ore	C	0	0	0	7/1/2004

Recommendation: **Repeal**

Discussion:

- Possibly duplicated under Theft
- Seems like an anachronistic law. Not sure if its current usefulness.

RCW [9.45.220](#)

Making false sample or assay of ore.

Any person who shall, with intent to cheat, wrong or defraud, make or publish a false sample of ore or bullion, or who shall make or publish or cause to be published a false assay of ore or bullion, is guilty of a class C felony, punishable by imprisonment in a state correctional facility for not less than one year nor more than five years, or by a fine of not less than fifty nor more than one thousand dollars, or by both such fine and imprisonment.

[[2003 c 53 § 33](#); [1890 p 99 § 3](#); RRS § 2713.]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
46.12.750(3)	Unlawful Sale of Vehicle Certificate of Ownership	C	0	8	8	7/1/2011

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not used since effective date

RCW [46.12.750](#)

Penalty for false statements, illegal transfers, alterations, or forgeries—Exception.

(1) A person is guilty of a class B felony if the person:

- (a) Knowingly makes any false statement of a material fact, either on an application for a certificate of title or in any transfer of a certificate of title;
- (b) Intentionally acquires or passes ownership of a vehicle which that person knows or has reason to believe has been stolen;
- (c) Receives or transfers possession of a stolen vehicle from or to another person;
- (d) Possesses any vehicle which that person knows or has reason to believe has been stolen;
- (e) Alters or forges or causes the alteration or forgery of:
 - (i) A certificate of title or registration certificate issued by the department;
 - (ii) An assignment of a certificate of title or registration certificate; or
 - (iii) A release or notice of release of an encumbrance referred to on a certificate of title or registration certificate; or
- (f) Holds or uses a certificate of title, registration certificate, assignment, release, or notice of release, knowing that it has been altered or forged.

(2) A person convicted of violating subsection (1) of this section must be punished by a fine of not more than five thousand dollars or by imprisonment for not more than ten years, or both such fine and imprisonment. This subsection does not exclude any other offenses or penalties prescribed by any existing or future law for the larceny or unauthorized taking of a vehicle.

(3) It is a class C felony for a person to sell or convey a vehicle certificate of title except in conjunction with the sale or transfer of the vehicle for which the certificate was originally issued.

(4) This section does not apply to an officer of the law engaged at the time in the performance of official authorized law enforcement activities.

[[2010 c 161 § 319](#); [2003 c 53 § 236](#); [1961 c 12 § 46.12.210](#). Prior: [1937 c 188 § 12](#); RRS § 6312-12. Formerly RCW [46.12.210](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
51.48.020(1)	Evading Industrial Insurance Premiums	C	44	0	0	7/1/1961

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense not duplicative
- Seems necessary for a very specific series of actions.

Date	Sent Length
2000 - 2018	0 (3 cases)
	Less than 1 mo (3 cases)
	1 – 3.9 mos (10 cases)
	4 – 6.9 mos (5 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (4 cases)
	12.03 - 36 mos (0 cases)

RCW [51.48.020](#)

Employer's false reporting or failure to secure payment of compensation—False information by claimants—Unlawful actions—Penalties.

(1)(a) Any employer, who knowingly misrepresents to the department the amount of his or her payroll or employee hours upon which the premium under this title is based, shall be liable to the state for up to ten times the amount of the difference in premiums paid and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department.

(b) An employer is guilty of a class C felony, if:

(i) The employer, with intent to evade determination and payment of the correct amount of the premiums, knowingly makes misrepresentations regarding payroll or employee hours; or

(ii) The employer engages in employment covered under this title and, with intent to evade determination and payment of the correct amount of the premiums, knowingly fails to secure payment of compensation under this title or knowingly fails to report the payroll or employee hours related to that employment.

(c) Upon conviction under (b) of this subsection, the employer shall be ordered by the court to pay the premium due and owing, a penalty in the amount of one hundred percent of the premium due and owing, and interest on the premium and penalty from the time the premium was due until the date of payment. The court shall:

(i) Collect the premium and interest and transmit it to the department of labor and industries; and

(ii) Collect the penalty and disburse it pro rata as follows: One-third to the investigative agencies involved; one-third to the prosecuting authority; and one-third to the general fund of the county in which the matter was prosecuted.

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

Payments collected under this subsection must be applied until satisfaction of the obligation in the following order: Premium payments; penalty; and interest.

(d) An employer found to have violated this subsection shall, in addition to any other penalties, be subject to the penalties in RCW [39.12.055](#).

(2) Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title [9A](#) RCW.

[[2008 c 120 § 9](#); [1997 c 324 § 1](#); [1995 c 160 § 4](#); [1987 c 221 § 1](#); [1977 ex.s. c 323 § 22](#); [1971 ex.s. c 289 § 63](#); [1961 c 23 § 51.48.020](#). Prior: 1947 c 247 § 1(4d), part; Rem. Supp. 1947 § 7676d, part.]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
51.48.103(2)	Engaging in Business after Certificate of Coverage Revocation	C	6	12	13	3/7/1986

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense not duplicative
- Specific to industrial insurance.
- Offense bumps original act from gross misdemeanor to class C felony behavior after revocation.

Conviction Year	County	Sent Length
2005	Spokane	0.03
2008	Jefferson	0
2013	Pierce	0
2015	Clark	1
2015	Kitsap	0.33

RCW [51.48.103](#)

Engaging in business without certificate of coverage—Unlawful actions—Penalties.

(1) It is a gross misdemeanor:

- (a) For any employer to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title;
- (b) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title without having obtained a certificate of coverage as provided for in this title.

(2) It is a class C felony punishable according to chapter [9A.20](#) RCW:

- (a) For any employer to engage in business subject to this title after the employer's certificate of coverage has been revoked by order of the department;
- (b) For the president, vice president, secretary, treasurer, or other officer of any company to cause or permit the company to engage in business subject to this title after revocation of a certificate of coverage.

(3) An employer found to have violated this section shall, in addition to any other penalties, be subject to the penalties in RCW [39.12.055](#).

[[2008 c 120 § 8](#); [2003 c 53 § 283](#); [1986 c 9 § 12](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
51.48.270	False Statement or Concealing Information by Employee	C	2	23	127	4/1/1986

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense not duplicative
- Specific to industrial insurance.

Conviction Year	County	Sent Length
2009	Pierce	3
2011	Thurston	0

RCW [51.48.270](#)

Criminal liability of persons making false statements or concealing information.

Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an injured worker or beneficiary, that:

- (1) Knowingly makes or causes to be made any false statement or representation of a material fact in any application for any payment under this title; or
- (2) At any time knowingly makes or causes to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact in connection with such application or payment; or
- (3) Having knowledge of the occurrence of any event affecting (a) the initial or continued right to any payment, or (b) the initial or continued right to any such payment of any other individual in whose behalf he or she has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized;

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW [9A.20.030](#).

[[1987 c 470 § 2](#); [1986 c 200 § 5](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.25.155(2)	Interference with Person Performing Official Duties with a Deadly Weapon	B	0	26	26	7/1/2004

Recommendation: **Leave as unranked class B felony**

Discussion:

- Assault 3 and Obstruction are similar and possibly duplicative.
- This could be used as a middle ground due to the deadly weapon element.
- Keep to further plea negotiations if not interested in pursuing DW enhancement.
- General description to catch official duties not specifically included in Assault 3.

RCW [69.25.155](#)

Interference with person performing official duties.

(1) Notwithstanding any other provision of law, any person who forcibly assaults, resists, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his or her official duties under this chapter is guilty of a class C felony and shall be punished by a fine of not more than five thousand dollars or imprisonment in a state correctional facility for not more than three years, or both.

(2) Whoever, in the commission of any act described in subsection (1) of this section, uses a deadly or dangerous weapon is guilty of a class B felony and shall be punished by a fine of not more than ten thousand dollars or by imprisonment in a state correctional facility for not more than ten years, or both.

[[2003 c 53 § 318.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
70.245.200(2)	Coerce Patient to Request Life-ending Medication	A	1	0	0	11/4/2008

Recommendation: **Leave as unranked class A felony**

Conviction Year	County	Sent Length
2012	Grant	3

Discussion:

- Related to Physician-Assisted Death Initiative 1000.
- Measure allows mentally competent, terminally, ill adults to request and self-administer a lethal overdose of medication.
- Coercing another to take medication to end one’s life – a murder?

RCW [70.245.200](#)

Willful alteration/forgery—Coercion or undue influence—Penalties—Civil damages—Other penalties not precluded.

(1) A person who without authorization of the patient willfully alters or forges a request for medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death is guilty of a class A felony.

(2) A person who coerces or exerts undue influence on a patient to request medication to end the patient's life, or to destroy a rescission of a request, is guilty of a class A felony.

(3) This chapter does not limit further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person.

(4) The penalties in this chapter do not preclude criminal penalties applicable under other law for conduct that is inconsistent with this chapter.

[[2009 c 1 § 20](#) (Initiative Measure No. 1000, approved November 4, 2008).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
70.345.030	Retail Sales, Distribution or Delivery Sales of Vapor Products without a License	C	0	0	0	6/28/2016

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of RCW 70.345.090

RCW [70.345.030](#)

License required—Must allow inspections—Sale of certain substances prohibited—Penalties.

(1)(a) No person may engage in or conduct business as a retailer, distributor, or delivery seller in this state without a valid license issued under this chapter, except as otherwise provided by law. Any person who sells vapor products to ultimate consumers by a means other than delivery sales must obtain a retailer's license under this chapter. Any person who meets the definition of distributor under this chapter must obtain a distributor's license under this chapter. Any person who conducts delivery sales of vapor products must obtain a delivery sale license.

(b) A violation of this subsection is punishable as a class C felony according to chapter [9A.20](#) RCW.

(2) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may refuse to allow the enforcement officers of the board, on demand, to make full inspection of any place of business or vehicle where any of the vapor products regulated under this chapter are sold, stored, transported, or handled, or otherwise hinder or prevent such inspection. A person who violates this subsection is guilty of a gross misdemeanor.

(3) Any person licensed under this chapter as a distributor, any person licensed under this chapter as a retailer, and any person licensed under this chapter as a delivery seller may not operate in any other capacity unless the additional appropriate license is first secured, except as otherwise provided by law. A violation of this subsection is a misdemeanor.

(4) No person engaged in or conducting business as a retailer, distributor, or delivery seller in this state may sell or give, or permit to sell or give, a product that contains any amount of any cannabinoid, synthetic cannabinoid, cathinone, or methcathinone, unless otherwise provided by law. A violation of this subsection (4) is punishable according to RCW [69.50.401](#).

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(5) The penalties provided in this section are in addition to any other penalties provided by law for violating the provisions of this chapter or the rules adopted under this chapter.

[[2019 c 445 § 211](#); [2016 sp.s. c 38 § 6](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
70.345.090	Engaging in Delivery Sales of Vapor Products without a License or Proper Shipping Documentation	C	0	0	0	6/28/2016

Recommendation: **Leave as unranked class C felony**

Discussion:

- Age cannot be ascertained at purchase.

RCW [70.345.090](#)

Mail and internet sales—License required—Age and identity verification—Penalties—Enforcement—Application of consumer protection act—Rules.

(1) No person may conduct a delivery sale or otherwise ship or transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person unless such seller has a valid delivery sale license as required under this chapter.

(2) No person may conduct a delivery sale or otherwise ship or transport, or cause to be shipped or transported, any vapor product ordered or purchased by mail or through the internet to any person under the minimum age required for the legal sale of vapor products as provided under RCW [70.345.140](#).

(3) A delivery sale licensee must provide notice on its mail order or internet sales forms of the minimum age required for the legal sale of vapor products in Washington state as provided by RCW [70.345.140](#).

(4) A delivery sale licensee must not accept a purchase or order from any person without first obtaining the full name, birthdate, and residential address of that person and verifying this information through an independently operated third-party database or aggregate of databases, which includes data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication.

(5) A delivery sale licensee must accept payment only through a credit or debit card issued in the purchaser's own name. The licensee must verify that the card is issued to the same person identified through identity and age verification procedures in subsection (4) of this section.

(6) Before a delivery sale licensee delivers an initial purchase to any person, the licensee must verify the identity and delivery address of the purchaser by mailing or shipping to the purchaser a notice of sale and certification form confirming that the addressee is in fact the person placing the order. The purchaser must return the signed certification form to the licensee before the initial shipment of product. Certification forms are not required for repeat customers. In the alternative, before a seller delivers an initial purchase to any person, the seller must first obtain from the prospective customer an electronic certification, such as by email, that includes a

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Sentencing Guidelines Commission

Criminal Code Review Committee's Recommendations on Unranked Offenses

declaration that, at a minimum, the prospective customer is over the minimum age required for the legal sale of a vapor product, and the credit or debit card used for payment has been issued in the purchaser's name.

(7) A delivery sale licensee must include on shipping documents a clear and conspicuous statement which includes, at a minimum, that the package contains vapor products, Washington law prohibits sales to those under the minimum age established by this chapter, and violations may result in sanctions to both the licensee and the purchaser.

(8) For purposes of this subsection (8) [this section], "vapor products" has the same meaning as provided in RCW [82.25.005](#).

(9) A person who knowingly violates this section is guilty of a class C felony, except that the maximum fine that may be imposed is five thousand dollars.

(10) In addition to or in lieu of any other civil or criminal remedy provided by law, a person who has violated this section is subject to a civil penalty of up to five thousand dollars for each violation. The attorney general, acting in the name of the state, may seek recovery of the penalty in a civil action in superior court.

(11) The attorney general may seek an injunction in superior court to restrain a threatened or actual violation of this section and to compel compliance with this section.

(12) Any violation of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW [19.86.020](#). Standing to bring an action to enforce RCW [19.86.020](#) for violation of this section lies solely with the attorney general. Remedies provided by chapter [19.86](#) RCW are cumulative and not exclusive.

(13)(a) In any action brought under this section, the state is entitled to recover, in addition to other relief, the costs of investigation, expert witness fees, costs of the action, and reasonable attorneys' fees.

(b) If a court determines that a person has violated this section, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the general fund.

(14) Unless otherwise expressly provided, the penalties or remedies, or both, under this section are in addition to any other penalties and remedies available under any other law of this state.

(15) A licensee who violates this section is subject to license suspension or revocation by the board.

(16) The board may adopt by rule additional requirements for mail or internet sales.

(17) The board must not adopt rules prohibiting internet sales.

[[2019 c 445 § 212](#); [2016 sp.s. c 38 § 17](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
82.24.570(2)	Manufacture, Sell or Possess Counterfeit Cigarettes	C	0	0	0	7/27/2003

Recommendation: **Leave as unranked class C felony**

Discussion:

- Created to collect on tobacco products sold, used, consumed, handled, or distributed within WA, and collect taxes from the distributor.
- They were requested by cigarette manufacturers because there was a huge increase in counterfeit cigarettes, which were difficult to tell from the real thing.
- The offenses provided enforcement tools and protected a tax revenue.

RCW [82.24.570](#)

Counterfeit cigarette offenses—Penalties.

(1) It is unlawful for any person to knowingly manufacture, sell, or possess counterfeit cigarettes. A cigarette is "counterfeit" if:

- (a) The cigarette or its packaging bears any reproduction or copy of a trademark, service mark, trade name, label, term, design, or work adopted or used by a manufacturer to identify its own cigarettes; and
- (b) The cigarette is not manufactured by the owner or holder of that trademark, service mark, trade name, label, term, design, or work, or by any authorized licensee of that person.

(2) Any person who violates the provisions of this section is guilty of a class C felony which is punishable by up to five years in prison and a fine of up to ten thousand dollars.

(3) Any person who is convicted of a second or subsequent violation of the provisions of this section is guilty of a class B felony which is punishable by up to ten years in prison and a fine of up to twenty thousand dollars.

[[2003 c 114 § 6.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
82.24.570(3)	Manufacture, Sell or Possess Counterfeit Cigarettes (Subsequent Violation)	B	0	0	0	7/27/2003

Recommendation: **Leave as unranked class B felony**

Discussion:

- Created to collect on tobacco products sold, used, consumed, handled, or distributed within WA, and collect taxes from the distributor.
- They were requested by cigarette manufacturers because there was a huge increase in counterfeit cigarettes, which were difficult to tell from the real thing.
- The offenses provided enforcement tools and protected a tax revenue.

RCW [82.24.570](#)

Counterfeit cigarette offenses—Penalties.

(1) It is unlawful for any person to knowingly manufacture, sell, or possess counterfeit cigarettes. A cigarette is "counterfeit" if:

(a) The cigarette or its packaging bears any reproduction or copy of a trademark, service mark, trade name, label, term, design, or work adopted or used by a manufacturer to identify its own cigarettes; and

(b) The cigarette is not manufactured by the owner or holder of that trademark, service mark, trade name, label, term, design, or work, or by any authorized licensee of that person.

(2) Any person who violates the provisions of this section is guilty of a class C felony which is punishable by up to five years in prison and a fine of up to ten thousand dollars.

(3) Any person who is convicted of a second or subsequent violation of the provisions of this section is guilty of a class B felony which is punishable by up to ten years in prison and a fine of up to twenty thousand dollars.

[[2003 c 114 § 6.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.037	Unlawful Wagers of a Sporting Event, Athletic Event, or Competition	C	0	0	0	3/25/2020

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly accomplice to Theft but may be hard to prove.
- Law prohibits bribery or accepting bribes to influence the outcome of a sporting event.

RCW [9.46.037](#)

Sports wagering—Prohibited activities—Penalty.

(1) No person shall offer, promise, give, or attempt to give any thing of value to any person for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which a wager may be made.

(2) No person shall place, increase, or decrease a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given any thing of value for the purpose of influencing the outcome of a sporting event, athletic event, or competition upon which the wager is placed, increased, or decreased.

(3) No person shall offer, promise, give, or attempt to give any thing of value to obtain confidential or insider information not available to the public with intent to use the information to gain a wagering advantage on a sporting event, athletic event, or competition.

(4) No person shall accept or agree to accept, any thing of value for the purpose of wrongfully influencing his or her play, action, decision making, or conduct in any sporting event, athletic event, or competition upon which a wager may be made.

(5) Any person who violates this section shall be guilty of a class C felony subject to the penalty set forth in RCW [9A.20.021](#).

[[2020 c 127 § 5](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.160	Gambling without License	B	1	6	10	4/26/1973

Recommendation: **Leave as unranked class B felony**

Conviction Year	County	Sent Length
2013	Thurston	3

Discussion:

- Offense is not duplicative.
- Are all gambling offenses unranked? Yes, with the exception of Cheating 1 (class C; SL 4)

RCW [9.46.160](#)

Conducting activity without license.

Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

[[1991 c 261 § 3](#); [1975 1st ex.s. c 166 § 9](#); [1973 1st ex.s. c 218 § 16](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.215	Ownership or Interest in Gambling Device	C	5	6	6	4/1/1994

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?
- Is it possible to impose up to \$100,00 fine for class C felony?

Conviction Year	County	Sent Length
2003	King	0
2003	King	0
2004	Pierce	0.03
2005	Clark	0.66
2013	Clallam	0.23

RCW [9.46.215](#)

Ownership or interest in gambling device—Penalty—Exceptions.

(1) Whoever knowingly owns, manufactures, possesses, buys, sells, rents, leases, finances, holds a security interest in, stores, repairs, or transports any gambling device or offers or solicits any interest therein, whether through an agent or employee or otherwise, is guilty of a class C felony and shall be fined not more than one hundred thousand dollars or imprisoned not more than five years or both.

(2) This section does not apply to persons licensed by the commission, or who are otherwise authorized by this chapter, or by commission rule, to conduct gambling activities without a license, respecting devices that are to be used, or are being used, solely in that activity for which the license was issued, or for which the person has been otherwise authorized if:

- (a) The person is acting in conformance with this chapter and the rules adopted under this chapter; and
- (b) The devices are a type and kind traditionally and usually employed in connection with the particular activity.

(3) This section also does not apply to any act or acts by the persons in furtherance of the activity for which the license was issued, or for which the person is authorized, when the activity is conducted in compliance with this chapter and in accordance with the rules adopted under this chapter.

(4) In the enforcement of this section direct possession of any such a gambling device is presumed to be knowing possession thereof.

[[2003 c 53 § 35](#); [1994 c 218 § 9](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.220	Professional Gambling 1	B	14	48	75	7/28/1991

Recommendation: **Leave as unranked class B felony**

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?

Conviction Year	County	Sent Length
2000	King	0
2000	Spokane	0.59
2001	King	0.07
2005	Pierce	0.03
2007	Cowlitz	2.3
2007	Pierce	1
2007	Klickitat	1
2010	Pierce	1
2012	King	0.07
2020	Chelan	6

RCW [9.46.220](#)

Professional gambling in the first degree.

(1) A person is guilty of professional gambling in the first degree if he or she engages in, or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

- (a) Acts in concert with or conspires with five or more people;
- (b) Personally accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events;
- (c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding five thousand dollars during any thirty-day period on future contingent events;
- (d) Operates, manages, or profits from the operation of a premises or location where persons are charged a fee to participate in card games, lotteries, or other gambling activities that are not authorized by this chapter or licensed by the commission; or
- (e) Engages in bookmaking as defined in RCW [9.46.0213](#).

(2) However, this section shall not apply to those activities enumerated in RCW [9.46.0305](#) through [9.46.0361](#) or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the first degree is a class B felony subject to the penalty set forth in RCW [9A.20.021](#).

[[2020 c 127 § 8](#); [1997 c 78 § 2](#); [1994 c 218 § 11](#); [1991 c 261 § 10](#); [1987 c 4 § 42](#); [1973 1st ex.s. c 218 § 22](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.221	Professional Gambling 2	C	26	44	65	7/28/1991

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?

Conviction Year	County	Sent Length
2004	Pierce	0.03
2005	Kittitas	0.07
2011	King	0
2011	King	0
2012	Snohomish	1.48
2012	Snohomish	1
2014	Clark	23.98
2015	Thurston	1
2019	Pierce	0.0329

RCW [9.46.221](#)

Professional gambling in the second degree.

(1) A person is guilty of professional gambling in the second degree if he or she engages in or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

- (a) Acts in concert with or conspires with less than five people; or
- (b) Accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or
- (c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or
- (d) Maintains a "gambling premises" as defined in this chapter; or
- (e) Maintains gambling records as defined in RCW [9.46.0253](#).

(2) However, this section shall not apply to those activities enumerated in RCW [9.46.0305](#) through [9.46.0361](#) or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the second degree is a class C felony subject to the penalty set forth in RCW [9A.20.021](#).

[[1997 c 78 § 3](#); [1994 c 218 § 12](#); [1991 c 261 § 11](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.46.240	Transmission or Receiving Gambling Information by Internet	C	2	8	9	4/26/1973

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense is not duplicative.
- Is this a malum prohibitum crime that criminalizes conduct voluntarily engaged in that is permitted under many circumstances?

Conviction Year	County	Sent Length
2010	Pierce	0
2012	King	0

RCW [9.46.240](#)

Gambling information, transmitting or receiving.

(1) Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunications transmission system, or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a class C felony subject to the penalty set forth in RCW [9A.20.021](#).

(2) This section shall not apply to such information transmitted or received or equipment or devices installed or maintained relating to activities authorized by this chapter including, but not limited to, sports wagering authorized under RCW [9.46.0364](#) and [9.46.0368](#), or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted under this chapter and conducted in accordance with tribal-state compacts.

[[2020 c 127 § 10](#); [2006 c 290 § 2](#); [1991 c 261 § 9](#); [1987 c 4 § 44](#); [1973 1st ex.s. c 218 § 24](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.053(2)	Minor Dealing in Depictions of Another Minor 12 Years or Younger Engaged in Sexually Explicit Conduct 1	B	0*	7 juv	10 juv	7/28/2019

*Data represents adult convictions only

Recommendation: **Leave as unranked class B felony**

Discussion:

- May be duplicated under Sexual Exploitation of Minor and Accomplish Liability thereto.
- Statute is overbroad in that it criminalizes dumb but common conduct of teenagers taking sexually suggestive pictures of themselves or others and sharing them online.
- It is extremely harsh in that each picture is a separate offense.

RCW [9.68A.053](#)

Sexually explicit images—Crimes by minors—Penalties.

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a gross misdemeanor.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e); or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
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(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter [9A.20](#) RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter [9A.20](#) RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter [9A.20](#) RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

[[2019 c 128 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.053(3)	Minor Dealing in Depictions of Another Minor 12 Years or Younger Engaged in Sexually Explicit Conduct 2	B	0*	1 juv	2 juv	7/28/2019

*Data represents adult convictions only

Recommendation: **Leave as unranked class B felony**

Discussion:

- May be duplicated under Sexual Exploitation of Minor and Accomplish Liability thereto.
- Statute is overbroad in that it criminalizes dumb but common conduct of teenagers taking sexually suggestive pictures of themselves or others and sharing them online.
- It is extremely harsh in that each picture is a separate offense.

RCW [9.68A.053](#)

Sexually explicit images—Crimes by minors—Penalties.

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a gross misdemeanor.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e); or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter [9A.20](#) RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter [9A.20](#) RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter [9A.20](#) RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

[[2019 c 128 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.053(4)	Minor Financing or Selling Depictions of Another Minor Engaged in Sexually Explicit Conduct	B	0	1	1	7/28/2019

Recommendation: **Leave as unranked class B felony**

Discussion:

- May be duplicated under Sexual Exploitation of Minor and Accomplish Liability thereto.
- Statute is overbroad in that it criminalizes dumb but common conduct of teenagers taking sexually suggestive pictures of themselves or others and sharing them online.
- It is extremely harsh in that each picture is a separate offense.

RCW [9.68A.053](#)

Sexually explicit images—Crimes by minors—Penalties.

(1)(a)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the first degree is a gross misdemeanor.

(b)(i) A person under the age of eighteen commits the crime of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree when he or she knowingly distributes, publishes, transfers, disseminates, or exchanges a visual or printed matter that depicts another minor thirteen years of age or older engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(ii) Minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct in the second degree is a misdemeanor.

(2)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells a visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e); or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (e).

(b) Minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter [9A.20](#) RCW.

(3)(a) A person under age eighteen commits the crime of minor dealing in depictions of another minor twelve years of age or younger engaged in sexually explicit conduct in the second degree when he or she:

(i) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g); or

(ii) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts another minor twelve years of age or younger engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g).

(b) Minor dealing in depictions of a minor twelve years of age or younger engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter [9A.20](#) RCW.

(4)(a) Any person under the age of eighteen commits the crime of minor financing or selling depictions of another minor engaged in sexually explicit conduct when he or she finances, attempts to finance, or sells a visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor financing or selling depictions of another minor engaged in sexually explicit conduct is a class B felony punishable under chapter [9A.20](#) RCW.

(5)(a) A person under the age of eighteen commits the crime of minor selling depictions of himself or herself engaged in sexually explicit conduct when he or she sells a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (a) through (g).

(b) Minor selling depictions of himself or herself engaged in sexually explicit conduct is a misdemeanor.

(6) This section does not apply to a person under eighteen years of age who finances, attempts to finance, develops, duplicates, publishes, prints, disseminates, exchanges, or possesses a visual or printed matter that depicts himself or herself engaged in an act of sexually explicit conduct as defined in RCW [9.68A.011](#)(4).

(7) For the purposes of determining the unit of prosecution under this section, each depiction or image of visual or printed matter constitutes a separate offense.

[[2019 c 128 § 4.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.075(2)	Viewing Depictions of Minor Engaged in Sexually Explicit Conduct 2 (Eff 6/10/10)	C	67	162 adu 8 juv	222 adu 13 juv	6/10/2010

Recommendation: **Leave as unranked class C felony**

Discussion:

- Unless people believe that viewing these pictures contributed to the exploitation of minors, then it could be charged as one or more of the alternate offenses.
- If there is a particularly egregious example of this crime, it is a class B and can be subject to an exceptional sentence up to 10 years.

RCW [9.68A.075](#)

Viewing depictions of a minor engaged in sexually explicit conduct.

(1) Except as provided in subsections (5) and (6) of this section, a person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in

RCW [9.68A.011](#)(4) (a) through (e) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the first degree, a class B felony punishable under chapter [9A.20](#) RCW.

(2) Except as provided in subsections (5) and (6) of this section, a person who intentionally views over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct as defined in RCW [9.68A.011](#)(4) (f) or (g) is guilty of viewing depictions of a minor engaged in sexually explicit conduct in the second degree, a class C felony punishable under chapter [9A.20](#) RCW.

(3) For the purposes of determining whether a person intentionally viewed over the internet a visual or printed matter depicting a minor engaged in sexually explicit conduct in subsection (1) or (2) of this section, the trier of fact shall consider the title, text, and content of the visual or printed matter, as well as the internet history, search terms, thumbnail images, downloading activity, expert computer forensic testimony, number of visual or printed matter depicting minors engaged in sexually explicit conduct, defendant's access to and control over the electronic device and its contents upon which the visual or printed matter was found, or any other relevant evidence. The state must prove beyond a reasonable doubt that the viewing was initiated by the user of the computer where the viewing occurred.

(4) For the purposes of this section, each separate internet session of intentionally viewing over the internet visual or printed matter depicting a minor engaged in sexually explicit conduct constitutes a separate offense.

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Date	Sent Length
2011 - 2020	0 (7 cases)
	Less than 1 mo (5 cases)
	1 – 3.9 mos (12 cases)
	4 – 6.9 mos (5 cases)
	7 – 9.9 mos (2 cases)
	10 – 12.0 mos (4 cases)
	53 mos (1 cases)

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(5) This section does not apply to a minor who intentionally views over the internet visual or printed matter depicting a minor thirteen years of age or older engaged in sexually explicit conduct.

(6) This section does not apply to a person under thirteen years of age who intentionally views over the internet visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

[[2019 c 128 § 7](#); [2010 c 227 § 7](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.68A.102	Promoting Travel for Commercial Sexual Abuse of a Minor	C	3	7 adu 1 juv	11 adu 1 juv	7/22/2007

Recommendation: **Leave as unranked class C felony**

Discussion:

Conviction Year	County	Sent Length
2008	King	3
2016	Pacific	12.03
2017	Spokane	4.3

- Could also be charged under Sexual Exploitation of a Minor (9.68A.040), Commercial Sexual Abuse of a Minor (9.68A.100), Communication with a Minor for Immoral Purposes (9.68A.090), Promoting Commercial Sexual Abuse of a Minor (9.68A.101), Permitting Commercial Sexual Abuse of a Minor (9.68A.103), and Allowing Minor on the Premises of Live Erotic Performance (9.68A.150) If there is a particularly egregious example of this crime, it is a class B and can be subject to an exceptional sentence up to 10 years.

RCW [9.68A.102](#)

Promoting travel for commercial sexual abuse of a minor—Penalty—Consent of minor does not constitute defense.

(1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

(2) Promoting travel for commercial sexual abuse of a minor is a class C felony.

(3) Consent of a minor to the travel for commercial sexual abuse, or the sexually explicit act or sexual conduct itself, does not constitute a defense to any offense listed in this section.

(4) For purposes of this section, "travel services" has the same meaning as defined in RCW [19.138.021](#).

[[2013 c 302 § 4](#); [2007 c 368 § 5](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.010	Prison Riot	B	64	0	0	3/17/1955

Recommendation: **Leave as unranked class B felony**

Discussion:

- Offense not duplicative.

RCW [9.94.010](#)

Prison riot—Penalty.

(1) Whenever two or more inmates of a correctional institution assemble for any purpose, and act in such a manner as to disturb the good order of the institution and contrary to the commands of the officers of the institution, by the use of force or violence, or the threat thereof, and whether acting in concert or not, they shall be guilty of prison riot.

(2) Every inmate of a correctional institution who is guilty of prison riot or of voluntarily participating therein by being present at, or by instigating, aiding, or abetting the same, is guilty of a class B felony and shall be punished by imprisonment in a state correctional institution for not less than one year nor more than ten years, which shall be in addition to the sentence being served.

[[2003 c 53 § 53](#); [1995 c 314 § 1](#); [1955 c 241 § 1](#).]

Date	Sent Length
2002 - 2020	0 (3 cases)
	Less than 1 mo (0 cases)
	1 – 3.9 mos (9 cases)
	4 – 6.9 mos (2 cases)
	7 – 9.9 mos (1 cases)
	10 – 12.0 mos (4 cases)
	12.03 - 24 mos (23 cases)

Additional: 6 cases of Attempted; 2 cases of Conspiracy

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.030	Holding Hostages or Interfering with Officer's Duty	B	16	17	23	3/17/1955

Recommendation: **Leave as unranked class B felony**

Discussion:

- Offense is similar to Unlawful Imprisonment (RCW 9A.40.040).
- Two behaviors under one statute; one is similar to Unlawful Imprisonment, but the other is not.

Conviction Year	County	Sent Length
2005	Clark	0.76
2005	Kittitas	0.56
2009	Walla Walla	12
2009	Thurston	6
2010	Clark	24
2012	Clark	4.44
2013	King	8.34
2013	Grant	3
2014	Clark	5
2015	Grant	8
2015	Cowlitz	5
2015	Grant	1.48
2015	Grant	0.66
2018	Walla Walla	12.03

RCW [9.94.030](#)

Holding person hostage—Interference with officer's duties.

Whenever any inmate of a correctional institution shall hold, or participate in holding, any person as a hostage, by force or violence, or the threat thereof, or shall prevent, or participate in preventing an officer of such institution from carrying out his or her duties, by force or violence, or the threat thereof, he or she shall be guilty of a class B felony and upon conviction shall be punished by imprisonment in a state correctional institution for not less than one year nor more than ten years.

[[2003 c 53 § 54](#); [1995 c 314 § 3](#); [1992 c 7 § 20](#); [1957 c 112 § 1](#); [1955 c 241 § 3](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.040(1)	Possession of Weapons by Prisoners (State Facility)	B	108	10 adu 3 juv	11 adu 3 juv	3/17/1955

Recommendation: **Leave as unranked class B felony**

Discussion:

- Offense is similar to RCW 9.94.040(2).
- Bring into alignment to same class
- Prison = more serious offense, person has higher CHS so keep at class B.

RCW [9.94.040](#)

Weapons—Possession, etc., by prisoner prohibited—Penalty.

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another, is guilty of a class B felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any weapon, firearm, or any instrument that, if used, could produce serious bodily injury to the person of another, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

[[2005 c 361 § 1](#); [1995 c 314 § 4](#); [1979 c 121 § 1](#); [1977 ex.s. c 43 § 1](#); [1975-'76 2nd ex.s. c 38 § 18](#). Prior: [1955 c 241 § 4](#).]

Date	Sent Length
2000 - 2020	0 (3 cases)
	Less than 1 mo (12 cases)
	1 – 3.9 mos (43 cases)
	4 – 6.9 mos (17 cases)
	7 – 9.9 mos (2 cases)
	10 – 12.0 mos (17 cases)
	12.03 – 12.05 mos (4 cases)

Additional: 1 case w/DW not FA

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.040(2)	Possession of Weapons by Prisoners (County or Local Facility)	C	16	524 adu 10 juv	607 adu 10 juv	7/23/1995

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense is similar to RCW 9.94.040(1).
- Bring into alignment to same class

RCW [9.94.040](#)

Weapons—Possession, etc., by prisoner prohibited—Penalty.

(1) Every person serving a sentence in any state correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or carries upon his or her person or has under his or her control any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another, is guilty of a class B felony.

(2) Every person confined in a county or local correctional institution who, without legal authorization, while in the institution or while being conveyed to or from the institution, or while under the custody or supervision of institution officials, officers, or employees, or while on any premises subject to the control of the institution, knowingly possesses or has under his or her control any weapon, firearm, or any instrument that, if used, could produce serious bodily injury to the person of another, is guilty of a class C felony.

(3) The sentence imposed under this section shall be in addition to any sentence being served.

[[2005 c 361 § 1](#); [1995 c 314 § 4](#); [1979 c 121 § 1](#); [1977 ex.s. c 43 § 1](#); 1975-'76 2nd ex.s. c 38 § 18. Prior: [1955 c 241 § 4](#).]

Conviction Year	County	Sent Length
2008	Stevens	6
2009	King	3
2009	Pierce	2.79
2009	Okanogan	1
2009	Mason	0.03
2010	Jefferson	1.74
2010	Mason	1
2010	King	1
2011	Okanogan	12
2011	Spokane	0.36
2016	Whatcom	4.5
2017	Okanogan	12
2017	Franklin	1
2020	Walla Walla	3
2020	Spokane	0.7

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.94.043	Possession of Weapons in Prison by Non-prisoner	B	1	2	3	3/26/1979

Recommendation: **Leave as unranked class B felony**

Discussion:

- Offense is not duplicative.

RCW [9.94.043](#)

Deadly weapons—Possession on premises by person not a prisoner—Penalty.

A person, other than a person serving a sentence in a penal institution of this state, is guilty of possession of contraband on the premises of a state correctional institution in the first degree if, without authorization to do so, the person knowingly possesses or has under his or her control a deadly weapon on or in the buildings or adjacent grounds subject to the care, control, or supervision of a state correctional institution. Deadly weapon is used as defined in RCW [9A.04.110](#): PROVIDED, That such correctional buildings, grounds, or property are properly posted pursuant to RCW [9.94.047](#), and such person has knowingly entered thereon: PROVIDED FURTHER, That the provisions of this section do not apply to a person licensed pursuant to RCW [9.41.070](#) who, upon entering the correctional institution premises, proceeds directly along an access road to the administration building and promptly checks his or her firearm(s) with the appropriate authorities. The person may reclaim his or her firearm(s) upon leaving, but he or she must immediately and directly depart from the premises.

Possession of contraband on the premises of a state correctional institution in the first degree is a class B felony.

[[1979 c 121 § 3.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.40.070	Custodial Interference 2 (Subsequent Offense)	C	2	50 adu 2 juv	58 adu 2 juv	3/2/1984

Recommendation: **Leave as unranked class C felony**

Conviction Year	County	Sent Length
2012	Grant	11.4

Discussion:

- Offense is not duplicative.

RCW [9A.40.070](#)

Custodial interference in the second degree.

(1) A relative of a person is guilty of custodial interference in the second degree if, with the intent to deny access to such person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person. This subsection shall not apply to a parent's noncompliance with a court order making residential provisions for the child.

(2) A parent of a child is guilty of custodial interference in the second degree if: (a) The parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to time with the child pursuant to a court order making residential provisions for the child; or (b) the parent has not complied with the residential provisions of a court-ordered parenting plan after a finding of contempt under RCW [26.09.160](#)(3); or (c) if the court finds that the parent has engaged in a pattern of willful violations of a court order making residential provisions for the child.

(3) Nothing in subsection (2)(b) of this section prohibits conviction of custodial interference in the second degree under subsection (2)(a) or (c) of this section in absence of findings of contempt.

(4)(a) The first conviction of custodial interference in the second degree is a gross misdemeanor.

(b) The second or subsequent conviction of custodial interference in the second degree is a class C felony.

[[2015 c 38 § 3](#); [2003 c 53 § 66](#); [1989 c 318 § 2](#); [1984 c 95 § 2](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.44.100(1)(d-f)	Indecent Liberties – without Forcible Compulsion	B	42	0	0	7/25/1993

Recommendation: **Leave as unranked class B felony**

Discussion:

- This offense essentially applies to offenders who are health care workers, so it does not duplicate in that sense, however the same could be accomplished with Assault with Sexual Motivation, but the penalties would be different.
- Bring into alignment to same class.
- Cases such as doctor or massage therapist touching inappropriately (health care workers).

Date	Sent Length
2004 - 2019	0 (1 cases)
	Less than 1 mo (2 cases)
	1 – 3.9 mos (7 cases)
	4 – 6.9 mos (7 cases)
	7 – 9.9 mos (2 cases)
	10 – 12.0 mos (7 cases)
	12.03+ mos (0 cases)

RCW [9A.44.100](#)

Indecent liberties.

(1) A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who has supervisory authority over the victim; or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony.

[[2021 c 142 § 10](#); [2013 c 94 § 2](#); [2007 c 20 § 2](#); [2003 c 53 § 67](#); [2001 2nd sp.s. c 12 § 359](#); [1997 c 392 § 515](#); [1993 c 477 § 3](#); [1988 c 146 § 2](#); [1988 c 145 § 10](#); [1986 c 131 § 1](#); [1975 1st ex.s. c 260 § 9A.88.100](#). Formerly RCW [9A.88.100](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.44.196	Criminal Trespass Against Children	C	33	43	49	3/20/2006

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offenses is similar to Criminal Trespass 1 & 2, except it adds the additional elements of the trespasser being a sex offender and the location of trespass need to be a place where children congregate.
- This offense targets sex offenders where it is unnecessary, in that most all sex offenders are on Community Supervision and have a condition that prohibits them from engaging in behavior that result in a conviction of this offense.
- Adding the two elements mentioned above also make this offense difficult to investigate because it requires the trespassing entity to know that the person is a sex offender, which is not always easily accessible information. This may be the reason there are so few convictions.
- Could be reduced to a misdemeanor like other two criminal trespassing offenses.

Date	Sent Length
2009 - 2020	0 (1 cases)
	Less than 1 mo (8 cases)
	1 – 3.9 mos (15 cases)
	4 – 6.9 mos (1 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (3 cases)
	12.03 - 48 mos (2 cases)

RCW [9A.44.196](#)

Criminal trespass against children.

(1) A person is guilty of the crime of criminal trespass against children if he or she:

(a) Is a covered offender as defined in RCW [9A.44.190](#); and

(b)(i) Is personally served with written notice complying with the requirements of RCW [9A.44.193](#) that excludes the covered offender from the legal premises of the covered entity and remains upon or reenters the legal premises of the covered entity; or

(ii) Is personally served with written notice complying with the requirements of RCW [9A.44.193](#) that imposes conditions of entry and use on the covered offender and violates the conditions of entry and use.

(2) Criminal trespass against children is a class C felony.

[[2006 c 126 § 6](#); [2006 c 125 § 4](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.49.020	Unlawful Discharge of a Laser 1	C	18	41 adu 16 juv	46 adu 20 juv	7/25/1999

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense is not duplicative.
- Lasers are becoming less expensive, more accessible, and being used to intimidate and harass.
- Law enforcement reasonably believe they are the target of a laser sighting device on a firearm.
- Lasers jeopardize the safety of others when pointed at someone operating a car, plane, bus, etc.
- FAA reported 6852 laser incidents in 2020, 6136 in 2019, 5663 in 2018, 6754 in 2017, and 7398 in 2016.
- Should have a state-level offense.

Conviction Year	County	Sent Length
2000	King	6
2000	King	2
2002	King	0.1
2007	Clark	12.03
2009	Kitsap	0.46
2011	Grant	7
2011	Grays Harbor	3
2012	Pacific	0
2014	Grays Harbor	3
2015	Pierce	6
2015	Chelan	0.49
2016	Clark	3
2016	Stevens	0.16
2017	Kitsap	3
2017	Spokane	1.5
2017	Spokane	0.0657
2018	Kitsap	1.3142
2018	Island	0.4928

CW [9A.49.020](#)

Unlawful discharge of a laser in the first degree.

(1) A person is guilty of unlawful discharge of a laser in the first degree if he or she knowingly and maliciously discharges a laser, under circumstances not amounting to malicious mischief in the first degree:

- (a) At a law enforcement officer or other employee of a law enforcement agency who is performing his or her official duties in uniform or exhibiting evidence of his or her authority, and in a manner that would support that officer's or employee's reasonable belief that he or she is targeted with a laser sighting device or system; or
- (b) At a law enforcement officer or other employee of a law enforcement agency who is performing his or her official duties, causing an impairment of the safety or operation of a law enforcement vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the officer or employee; or
- (c) At a pilot, causing an impairment of the safety or operation of an aircraft or causing an interruption or impairment of service rendered to the public by negatively affecting the pilot; or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(d) At a firefighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district who is performing his or her official duties, causing an impairment of the safety or operation of an emergency vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the firefighter or employee; or

(e) At a transit operator or driver of a public or private transit company while that person is performing his or her official duties, causing an impairment of the safety or operation of a transit vehicle or causing an interruption or impairment of service rendered to the public by negatively affecting the operator or driver; or

(f) At a school bus driver employed by a school district or private company while the driver is performing his or her official duties, causing an impairment of the safety or operation of a school bus or causing an interruption or impairment of service by negatively affecting the bus driver.

(2) Except as provided in RCW [9A.49.040](#), unlawful discharge of a laser in the first degree is a class C felony.

[[1999 c 180 § 3](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.68.030	Receiving or Granting Unlawful Compensation	C	4	3	3	7/1/1976

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense may fall under Fraud Chapters (9A.56, 9A.82, 9A.60).
- Is similar to criminal conflict of interest

Conviction Year	County	Sent Length
2003	King	3
2008	Grant	2
2019	Whatcom	0.5
2019	Thurston	0

RCW [9A.68.030](#)

Receiving or granting unlawful compensation.

(1) A person is guilty of receiving or granting unlawful compensation if:

- (a) Being a public servant, he or she requests, accepts, or agrees to accept compensation for advice or other assistance in preparing a bill, contract, claim, or transaction regarding which he or she knows he or she is likely to have an official discretion to exercise; or
- (b) He or she knowingly offers, pays, or agrees to pay compensation to a public servant for advice or other assistance in preparing or promoting a bill, contract, claim, or other transaction regarding which the public servant is likely to have an official discretion to exercise.

(2) Receiving or granting unlawful compensation is a class C felony.

[[2011 c 336 § 388](#); [1975 1st ex.s. c 260 § 9A.68.030](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.76.130(3)(b)	Escape 3 (Third or Subsequent Offense)	C	14	19 adu 6 juv	19 adu 6 juv	7/24/2015

Recommendation: **Leave as unranked class C felony**

Discussion:

- Could be punished as a violation of conditions of pre-trial release or probation, Obstruction of a LEO (9A.76.020), Resisting Arrest (9A.76.040), Bail Jumping (9A.76.190), and Failure to Appear or Surrender (9A.76.190).
- Turned what had been misdemeanor conduct into a felony.
- Unintended consequence of reducing charge: restricting who is eligible?
- Non-incarcerative option: program could exclude those with 2 prior Escape 3.
- Meant to add structure to EHM programs and greater accountability.
- Should individuals be restricted from programs for past behavior?

Conviction Year	County	Sent Length
2016	Clark	12.03
2017	Clark	12
2017	Clark	1.5
2017	Clark	1
2018	Clark	28
2018	Clark	7.3
2018	Clark	5
2018	Clark	1
2019	Spokane	1.3
2019	Lincoln	0.3
2020	Spokane	3
2020	Pacific	2

RCW [9A.76.130](#)

Escape in the third degree.

(1) A person is guilty of escape in the third degree if he or she:

(a) Escapes from custody; or

(b) Knowingly violates the terms of an electronic monitoring program.

(2) Escape in the third degree is a misdemeanor, except as provided in subsection (3) of this section.

(3)(a) If the person has one prior conviction for escape in the third degree, escape in the third degree is a gross misdemeanor.

(b) If the person has two or more prior convictions for escape in the third degree, escape in the third degree is a class C felony.

[[2015 c 287 § 11](#); [2011 c 336 § 403](#); [1975 1st ex.s. c 260 § 9A.76.130](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.76.200	Harming a Police Dog/Horse or an Accelerant Detection Dog	C	66	34 adu 1 juv	50 adu 1 juv	3/11/1982

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense may be duplicative. Malicious Mischief 1, 2, and 3. (RCW 9A.48.070, .080, and .090)
- MM1 Similarities - includes restitution. Differences - 1st degree is a Class B and has standard ranges from 0 to 57 months. The max fine is 20,000. Also, must show damage exceeds 5,000 and maximum penalty is 10 years.
- For MM2, Similarities - both are Class C felonies, max fine is 10,000 and includes restitution. Differences - Standard ranges are from 0 to 29 months. Must show damage amount exceeds 750.
- For MM3, Similarities - sentencing range is 0 to 12 months and no damage amount need be shown. Differences - Is a gross misdemeanor and the maximum sentence is 12 months.
- See also Animal Cruelty 1 (16.52.205) - Similarities - is also unranked unless the cruelty involves sex. Then it is a class C. Is specific to animals. Elements are similar in that they include inflicting pain, injury or killing by causing undue suffering. Differences - is easier to charge because there is no requirement for malice.
- Animal Cruelty 2 (16.52.207) - Is a gross misdemeanor. No need to show malice. Only need show knowingly, recklessly or with criminal negligence the infliction of unnecessary suffering or pain.
- If the rule requires that Harming a Police Dog always be charged instead of Malicious Mischief, then it shouldn't be repealed because doing so would allow greater penalties by the charging of MM1 or 2.

Date	Sent Length
2001 - 2019	0 (0 cases)
	Less than 1 mo (3 cases)
	1 – 3.9 mos (12 cases)
	4 – 6.9 mos (1 cases)
	7 – 9.9 mos (0 cases)
	10 – 12.0 mos (5 cases)
	14 - 50 mos (2 cases)

RCW [9A.76.200](#)

Harming a police dog, accelerant detection dog, or police horse—Penalty.

(1) A person is guilty of harming a police dog, accelerant detection dog, or police horse, if he or she maliciously injures, disables, shoots, or kills by any means any dog or horse that the person knows or has reason to know to

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be a police dog or accelerant detection dog, as defined in RCW [4.24.410](#), or police horse, as defined in subsection (2) of this section, whether or not the dog or horse is actually engaged in police or accelerant detection work at the time of the injury.

(2) "Police horse" means any horse used or kept for use by a law enforcement officer in discharging any legal duty or power of his or her office.

(3) Harming a police dog, accelerant detection dog, or police horse is a class C felony.

(4)(a) In addition to the criminal penalty provided in this section for harming a police dog:

(i) The court may impose a civil penalty of up to five thousand dollars for harming a police dog.

(ii) The court shall impose a civil penalty of at least five thousand dollars and may increase the penalty up to a maximum of ten thousand dollars for killing a police dog.

(b) Moneys collected must be distributed to the jurisdiction that owns the police dog.

[[2012 c 94 § 2](#); [2003 c 269 § 1](#); [1993 c 180 § 2](#); [1989 c 26 § 2](#); [1982 c 22 § 2](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.82.045	Collection of Unlawful Debt	C	15	16	17	7/1/1985

Recommendation: **Leave as unranked class C felony**

Discussion:

- Original debt is not legal.
- Serious behavior.

RCW [9A.82.045](#)

Collection of unlawful debt.

It is unlawful for any person knowingly to collect any unlawful debt. A violation of this section is a class C felony.

[[2001 c 222 § 7](#). Prior: [1985 c 455 § 6](#).]

Conviction Year	County	Sent Length
2007	Snohomish	2
2009	Spokane	2
2012	Grant	1.35
2013	Grant	0.46
2014	Grant	3
2014	Grant	1
2014	Grant	0
2015	Cowlitz	8
2015	King	0
2017	Grant	2.4
2017	Pierce	1.5
2017	Grant	0
2019	Chelan	0

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.88.085	Promoting Travel for Prostitution	C	10	18	19	6/7/2006

Recommendation: **Leave as unranked class C felony**

Discussion:

- Offense may be charged under Promoting Prostitution 2 (RCW 9A.88.080(1)(b) "advances prostitution")
- Seems hierarchical with Promoting Prostitution 1 and 2.

Conviction Year	County	Sent Length
2011	King	6
2011	Clark	1
2012	King	4
2016	Clark	8
2016	Clark	4
2016	Pierce	2.63
2016	Pierce	0.03
2016	Pierce	0.03
2017	King	5

RCW [9A.88.085](#)

Promoting travel for prostitution.

(1) A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be patronizing a prostitute or promoting prostitution, if occurring in the state.

(2) For purposes of this section, "travel services" has the same meaning as defined in RCW [19.138.021](#).

(3) Promoting travel for prostitution is a class C felony.

[[2006 c 250 § 2.](#)]

NOTES:

Finding—2006 c 250: "The legislature finds that the sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, including activities relating to prostitution, pornography, sex tourism, and other commercial sexual services. Prostitution and related activities contribute to the trafficking in persons, as does sex tourism. Therefore, discouraging sex tourism is key to reducing the demand for sex trafficking.

While prostitution is illegal in developing nations that are the primary destination of sex tourism, sex tourism is a major component of the local economy. The laws target female workers rather than the male customers, and economic opportunities for females are limited. Developed nations create the demand for sex tourism, yet often fail to criminalize the practice, or the existing laws fail to specifically target the sellers of travel who organize, facilitate, and promote sex tourism." [[2006 c 250 § 1.](#)]

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Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
18.04.370(1)(b)	Unlawful Use of a Professional Title	C	0	0	0	7/1/2001

Recommendation: **Leave as unranked class C felony**

Discussion:

- Purpose of the law was to bring Washington into conformity with national standards for accountants.
- The law seems to be part of a statutory scheme to enforce honest and competent audits of companies' financial statements.
- Is a class C felony but maximum penalty is 2 years

RCW [18.04.370](#)

Penalty.

(1) Any person who violates any provision of this chapter shall be guilty of a crime, as follows:

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than six months, or to both such fine and imprisonment.

(b) Notwithstanding (a) of this subsection, any person who uses a professional title intended to deceive the public, in violation of RCW [18.04.345](#), having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both such fine and imprisonment.

(c) Notwithstanding (a) of this subsection, any person whose license was suspended or revoked by the board and who uses the CPA professional title intending to deceive the public, in violation of RCW [18.04.345](#), having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both fine and imprisonment.

(2) With the exception of first time violations of RCW [18.04.345](#), subject to subsection (3) of this section whenever the board has reason to believe that any person is violating the provisions of this chapter it shall certify the facts to the prosecuting attorney of the county in which such person resides or may be apprehended and the prosecuting attorney shall cause appropriate proceedings to be brought against such person.

(3) The board may elect to enter into a stipulated agreement and orders of assurance with persons in violation of RCW [18.04.345](#) who have not previously been found to have violated the provisions of this chapter. The

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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board may order full restitution to injured parties as a condition of a stipulated agreement and order of assurance.

(4) Nothing herein contained shall be held to in any way affect the power of the courts to grant injunctive or other relief as above provided.

[[2022 c 85 § 18](#); [2004 c 159 § 5](#). Prior: [2003 c 290 § 5](#); [2003 c 53 § 120](#); [2001 c 294 § 19](#); [1983 c 234 § 19](#); [1949 c 226 § 36](#); Rem. Supp. 1949 § 8269-43.]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
18.04.370(1)(c)	Unlawful Use of a Professional Title	C	0	1	1 (2013)	7/1/2001

Recommendation: **Leave as unranked class C felony**

Discussion:

- May possibly be duplicated under Obtaining a Signature by Deception or Duress (RCW 9A.60.030 Class C); Criminal Impersonation 1 (RCW 9A.60.040 Class C); or Theft 1 or 2 (RCW 9A.56.030 and .040 Class B and C).
- Purpose of the law was to bring Washington into conformity with national standards for accountants.
- The law seems to be part of a statutory scheme to enforce honest and competent audits of companies' financial statements.
- A felony seems a little harsh although one could cause a lot of damage by falsely representing one's self as a licensed CPA.
- Could be a deterrent for CPA's, accountants, and bookkeepers.
- Is a class C felony but maximum penalty is 2 years

RCW [18.04.370](#)

Penalty.

(1) Any person who violates any provision of this chapter shall be guilty of a crime, as follows:

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than six months, or to both such fine and imprisonment.

(b) Notwithstanding (a) of this subsection, any person who uses a professional title intended to deceive the public, in violation of RCW [18.04.345](#), having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both such fine and imprisonment.

(c) Notwithstanding (a) of this subsection, any person whose license was suspended or revoked by the board and who uses the CPA professional title intending to deceive the public, in violation of RCW [18.04.345](#), having previously entered into a stipulated agreement and order of assurance with the board, is guilty of a class C felony, and upon conviction thereof, is subject to a fine of not more than thirty thousand dollars, or to imprisonment for not more than two years, or to both fine and imprisonment.

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

(2) With the exception of first time violations of RCW [18.04.345](#), subject to subsection (3) of this section whenever the board has reason to believe that any person is violating the provisions of this chapter it shall certify the facts to the prosecuting attorney of the county in which such person resides or may be apprehended and the prosecuting attorney shall cause appropriate proceedings to be brought against such person.

(3) The board may elect to enter into a stipulated agreement and orders of assurance with persons in violation of RCW [18.04.345](#) who have not previously been found to have violated the provisions of this chapter. The board may order full restitution to injured parties as a condition of a stipulated agreement and order of assurance.

(4) Nothing herein contained shall be held to in any way affect the power of the courts to grant injunctive or other relief as above provided.

[[2022 c 85 § 18](#); [2004 c 159 § 5](#). Prior: [2003 c 290 § 5](#); [2003 c 53 § 120](#); [2001 c 294 § 19](#); [1983 c 234 § 19](#); [1949 c 226 § 36](#); Rem. Supp. 1949 § 8269-43.]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.110.075(2)	Disclosures Knowingly Not Provided at Sale of Business Opportunity (Violation of RCW 19.110.070)	B	0	0	0	7/1/2004

Recommendation: **Leave as unranked class B felony**

Discussion:

- Not duplicative.
- Not sure precisely what business transactions this law is directed at or how much of a problem this is - sales of franchises?
- Without knowing more, we would fall back on the idea that criminal laws directed at businesses are more likely to have a deterrent effect because businesses are more likely to know about them.

RCW [19.110.075](#)

Business opportunity fraud—Penalties.

(1) Any person who violates RCW [19.110.050](#) or [19.110.070](#) is guilty of a gross misdemeanor.

(2) Any person who knowingly violates RCW [19.110.050](#) or [19.110.070](#) is guilty of a class B felony punishable according to chapter [9A.20](#) RCW.

(3) No indictment or information for a felony may be returned under this chapter more than five years after the alleged violation.

[[2003 c 53 § 156.](#)]

RCW [19.110.070](#)

Disclosure document required—Contents.

The seller shall provide the purchaser a written disclosure document at least forty-eight hours before the purchaser signs a business opportunity contract. The cover sheet of the disclosure document shall be entitled: "DISCLOSURES REQUIRED BY THE STATE OF WASHINGTON." The following statement shall appear under the title: "The state of Washington has not reviewed and does not approve, recommend, endorse, or sponsor any business opportunity. The information contained in this disclosure has not been verified by the state. If you have any questions about this investment, see an attorney before you sign a contract." The cover sheet shall contain only the required title and statement, and both shall be in at least ten point type. The disclosure document shall include at least the following information:

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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- (1) The official name, address, and principal place of business of the seller and of any parent or affiliated company, or any predecessors;
- (2) The names, addresses, and titles of the seller's officers, directors, trustees, general partners, general managers, principal executives, and any other persons responsible for the seller's business opportunity activities;
- (3) A statement disclosing which, if any, of the persons listed in subsections (1) or (2) of this section:
 - (a) Has, at any time during the previous ten years, been convicted of a felony or pleaded nolo contendere to a felony charge if the felony involved fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade;
 - (b) Has, at any time during the previous ten years, been held liable in a civil action resulting in a final judgment or has settled out of court any civil action or is a party to any civil action involving allegations of fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade, or any civil action which was brought by a present or former purchaser or purchasers and which involves or involved the business opportunity;
 - (c) Is subject to any currently effective state or federal agency or court injunctive or restrictive order, or is a party to a proceeding currently pending in which such order is sought, relating to or affecting business opportunities activities or the business opportunity seller-purchaser relationship, or involving fraud (including violation of any franchise or business opportunity law or unfair or deceptive practices law), embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade.

The statement shall include the identity and location of the court or agency, the date of conviction, judgment, or decision, the penalty imposed, the damages assessed, the terms of settlement or the terms of the order, and the date, nature, terms, and conditions of each such order or ruling;

- (4) A statement disclosing which, if any, of the persons listed in subsections (1) and (2) of this section has, at any time during the previous ten years:
 - (a) Filed in bankruptcy; or
 - (b) Been adjudged bankrupt; or
 - (c) Been reorganized due to insolvency; or
 - (d) Been a principal, director, executive officer, or partner of any other person who has filed in bankruptcy, been adjudged bankrupt, or been reorganized due to insolvency;
- (5) A statement of when, where, and how long the seller has:
 - (a) Offered, sold, or leased business opportunity plans; and
 - (b) Offered, sold, or leased the specific business opportunity plan offered to the purchaser; and

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Charges = number of charges filed; can have multiple charges per case

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- (c) Operated a business of the type offered to the purchaser;
- (6) A statement disclosing:
 - (a) The total number of business opportunities which the seller has sold or leased; and
 - (b) The number of failures of business opportunities which the seller has sold or leased;
- (7) The terms and conditions of payment, including the initial payment, downpayment, and any additional or recurring payments;
- (8) A copy of any statement concerning estimated or projected sales or earnings, the data on which the estimations or projections are based, and an explanation of the extent to which the data relates to the actual operations of the business opportunity offered to the purchaser;
- (9) A copy of the bond or written notice of the depository, the name of the trustee, and account number of the trust account, if the seller is required by RCW [19.110.100](#) to establish either a bond or trust account;
- (10) A copy of the seller's current (not more than three months old) financial statement and any amendments necessary to reflect material changes in the seller's financial condition;
- (11) An unexecuted copy of any business opportunity contract or agreement which the purchaser may be required to sign;
- (12) Any additional information which the director requires by rule or order.

[[1981 c 155 § 7.](#)]

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Charges = number of charges filed; can have multiple charges per case

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Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.110.075(2)	Disclosures Knowingly Not Provided at Sale of Business Opportunity (Violation of RCW 19.110.050)	B	0	0	0	7/1/2004

Recommendation: **Leave as unranked class B felony**

Discussion:

- Not duplicative.
- Not sure precisely what business transactions this law is directed at or how much of a problem this is - sales of franchises?
- Without knowing more, we would fall back on the idea that criminal laws directed at businesses are more likely to have a deterrent effect because businesses are more likely to know about them.

RCW [19.110.075](#)

Business opportunity fraud—Penalties.

(1) Any person who violates RCW [19.110.050](#) or [19.110.070](#) is guilty of a gross misdemeanor.

(2) Any person who knowingly violates RCW [19.110.050](#) or [19.110.070](#) is guilty of a class B felony punishable according to chapter [9A.20](#) RCW.

(3) No indictment or information for a felony may be returned under this chapter more than five years after the alleged violation.

[[2003 c 53 § 156.](#)]

RCW [19.110.050](#)

Persons proposing to sell or lease business opportunity—Registration required—Application—Renewal—Denial, suspension, or revocation of registration.

(1) Any person who proposes to sell or lease a business opportunity must register prior to advertising, soliciting, or making any offer, sale, or lease in this state.

(2) Any person proposing to sell or lease a business opportunity must apply for registration by filing with the director:

- (a) A copy of the disclosure document required by RCW [19.110.070](#);
- (b) An irrevocable consent to service of process;

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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- (c) The prescribed registration fee; and
- (d) Copies of all advertisements intended to be used in connection with the offer and sale of the business opportunity.

(3) If the application meets the requirements for registration, the director shall issue a registration number to the applicant. The applicant must include the number in every advertisement in this state.

(4) Registration is effective for one year. An applicant must renew registration annually unless the director extends the duration of registration in order to stagger renewal periods. The renewal application must contain:

- (a) Any new information necessary to comply with the disclosure requirements of RCW [19.110.070](#);
- (b) The prescribed renewal fee; and
- (c) Copies of any and all advertisements intended to be used in connection with the offer and sale of the business opportunity.

(5) The applicant must amend the registration whenever there is any material change in the required information.

(6) The applicant must file copies of all advertisements offering business opportunities seven days before their intended use.

(7) The director may issue an order denying, suspending, or revoking any applicant's registration if the director finds that the order is in the public interest and that:

- (a) The registration application is incomplete or contains any statement which is false or misleading with respect to any material fact; or
- (b) Any provision of this chapter or any rule or order lawfully imposed under this chapter has been violated; or
- (c) The business opportunity includes or would include activities which are illegal; or
- (d) The business opportunity has worked or tended to work a fraud on purchasers or would so operate.

(8) The director shall promptly notify the applicant of any order denying, suspending, or revoking registration. The applicant may request a hearing within fifteen days of notification. If the applicant does not request a hearing, the order remains in effect until the director modifies or vacates it. The applicant shall be notified of the right to request a hearing within fifteen days.

[[1981 c 155 § 5.](#)]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.225.110	Uniform Athlete Agent Act Violation	C	0	0	0	6/13/2002

Recommendation: **Leave as unranked class C felony**

Discussion:

- Yes, duplicative of RCW 9A.60.030 Obtaining a Signature by Deception or Duress

RCW [19.225.110](#)

Criminal/civil penalties.

The commission of any act prohibited by RCW [19.225.100](#) by an athlete agent is a class C felony punishable according to chapter [9A.20](#) RCW. In addition to any criminal penalties, the court may assess a civil penalty of up to ten thousand dollars for a violation of RCW [19.225.100](#).

[[2002 c 131 § 12.](#)]

RCW [19.225.100](#)

Prohibited acts.

An athlete agent may not intentionally:

- (1) Give a student athlete or, if the athlete is a minor, a parent or guardian of the athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the athlete, parent, or guardian to enter into an agency contract;
- (2) Furnish anything of value to a student athlete or another individual, if to do so may result in loss of the athlete's eligibility to participate in the athlete's sport, unless:
 - (a) The agent notifies the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll, not later than seventy-two hours after giving the thing of value; and
 - (b) The athlete or, if the athlete is a minor, a parent or guardian of the athlete acknowledges to the agent in a record that receipt of the thing of value may result in loss of the athlete's eligibility to participate in the athlete's sport;

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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- (3) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency contract unless providing the athlete with the athlete agent disclosure form as provided in RCW [19.225.030](#);
- (4) Refuse or willfully fail to retain or produce in response to subpoena the records required by RCW [19.225.090](#);
- (5) Fail to disclose information required by RCW [19.225.040](#);
- (6) Provide materially false or misleading information in an athlete agent disclosure form;
- (7) Predate or postdate an agency contract;
- (8) Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may result in loss of the athlete's eligibility to participate in the athlete's sport;
- (9) Encourage another individual to do any of the acts described in subsections (1) through (8) of this section on behalf of the agent;
- (10) Encourage another individual to assist any other individual in doing any of the acts described in subsections (1) through (8) of this section on behalf of the agent;
- (11) Ask or allow a student athlete to waive or attempt to waive rights under this chapter;
- (12) Fail to give notice required under RCW [19.225.070](#); or
- (13) Engage in the business of an athlete agent in this state: (a) At any time after conviction under RCW [19.225.110](#); or (b) within five years of entry of a civil judgment under RCW [19.225.120](#).

[[2020 c 157 § 1](#); [2016 sp.s. c 13 § 10](#); [2002 c 131 § 11](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.230.300	False Statement, Misrepresentation or Fales Certification of Uniform Money Services Record	C	0	0	0	10/1/2003

Recommendation: **Leave as unranked class C felony**

Discussion:

- Duplicative of Offering False Instrument for Filing or Record (RCW 40.16.030) and possibly federal crimes.
- This bill was a response to 9/11 and was intended to be broader than federal law.
- Covers money transfer services.
- In addition to addressing concerns about who the money goes to, it also seems to address protection of customers transferring the money from small, previously unregulated money transfer businesses according to the Bill Report.

RCW [19.230.300](#)

Criminal penalties.

(1) A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this chapter or that intentionally makes a false entry or omits a material entry in that record is guilty of a class C felony under chapter [9A.20](#) RCW.

(2) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a gross misdemeanor under chapter [9A.20](#) RCW.

(3) A person that knowingly engages in an activity for which a license is required under this chapter without being licensed under this chapter and who receives no more than five hundred dollars in compensation within a thirty-day period from this activity is guilty of a misdemeanor under chapter [9A.20](#) RCW.

[[2003 c 287 § 32.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.310.120	Unlawfully Engaging in Business as an Exchange Facilitator (RCW 19.310.100(1)-(9))	B	0	0	0	7/26/2009

Recommendation: **Leave as unranked class B felony**

Discussion:

- Not duplicative
- This is a complicated law regarding like kind exchanges of property that are done for tax purposes.
- Not sure any of us criminal practitioners are qualified to say much about the necessity of this law.

RCW [19.310.120](#)

Prima facie evidence of fraud—Violations—Penalty—Cure for violations.

(1) Failure to fulfill the requirements under RCW [19.310.040](#) constitutes prima facie evidence that the exchange facilitator intended to defraud a client who suffered a subsequent loss of the asset entrusted to the exchange facilitator.

(2) A person who engages in business as an exchange facilitator and who knowingly violates RCW [19.310.100](#) (1) through (9) or fails to comply with the requirements under RCW [19.310.040](#) is guilty of a class B felony under chapter [9A.20](#) RCW. However, an exchange facilitator is not guilty of a class B felony for failure to comply with the requirements under RCW [19.310.040](#) if: (a) Failure to comply is due to the cancellation or amendment of the fidelity bond by the bond issuer; and (b) the exchange facilitator:

- (i) Within thirty days, takes all reasonable steps to comply with the requirements under RCW [19.310.040](#); and
- (ii) Deposits any new exchange funds into a qualified escrow account or qualified trust until a fidelity bond is obtained that meets the requirements under RCW [19.310.040](#)(1)(a)(i).

[[2013 c 228 § 7](#); [2012 c 34 § 4](#); [2009 c 70 § 13](#).]

RCW [19.310.040](#)

Duties of exchange facilitator—Fidelity bonds.

(1) A person who engages in business as an exchange facilitator must:

Cases = number of cases filed;

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(a)(i) Maintain a fidelity bond or bonds in an amount of not less than one million dollars executed by an insurer authorized to do business in this state for the benefit of a client of the exchange facilitator that suffers a direct financial loss as a result of the exchange facilitator's covered dishonest act. Such fidelity bond must cover the acts of employees of an exchange facilitator and owners of a nonpublicly traded exchange facilitator; or

(ii) Deposit all exchange funds in a qualified escrow account or qualified trust, as both terms are defined under treasury regulation section 1.1031(k)-1(g)(3), with a financial institution. If an exchange facilitator deposits exchange funds in a qualified escrow account or qualified trust:

(A) A withdrawal of exchange funds requires the exchange facilitator and the client to independently authenticate a record, as defined under RCW [62A.9A-102](#), of the transaction; and

(B) The client of the exchange facilitator must receive independently from the depository financial institution, by any commercially reasonable means, a current statement for verification of the deposited exchange funds; and

(b) Disclose on the company website and contractual agreement the following statement in large, bold, or otherwise conspicuous typeface calculated to draw the eye: "Washington state law, RCW [19.310.040](#), requires an exchange facilitator to either maintain a fidelity bond in an amount of not less than one million dollars that protects clients against losses caused by criminal acts of the exchange facilitator, or to hold all client funds in a qualified escrow account or qualified trust that requires your consent for withdrawals. All exchange funds must be deposited in a separately identified account using your taxpayer identification number. You must receive written notification of how your exchange funds have been deposited. Your exchange facilitator is required to provide you with written directions of how to independently verify the deposit of the exchange funds. Exchange facilitation services are not regulated by any agency of the state of Washington or of the United States government. It is your responsibility to determine that your exchange funds will be held in a safe manner." If recommending other products or services, the exchange facilitator must disclose to the client that the exchange facilitator may receive a financial benefit, such as a commission or referral fee, as a result of such recommendation. The exchange facilitator must not recommend or suggest to a client the use of services of another organization or business entity in which the exchange facilitator has a direct or indirect interest without full disclosure of such interest at the time of recommendation or suggestion.

(2) An exchange facilitator must provide evidence to each client that the requirements of this section are satisfied before entering into an exchange agreement.

(3) Upon request of a current or prospective client, or the attorney general under chapter [19.86](#) RCW, the exchange facilitator must offer evidence proving that the requirements of this section are satisfied at the time of the request.

[[2013 c 228 § 2](#); [2012 c 34 § 2](#); [2009 c 70 § 5](#).]

NOTES:

Findings—2012 c 34: "The legislature finds that exchange facilitators are a specialized business in Washington state that involves the transfer of certain assets of citizens for investment purposes. In 2009 legislation was

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passed that provided enhanced reporting requirements, as well as civil and criminal penalties, to serve as additional protections for citizens involved in these types of transactions. The legislature finds that current law is still inadequate to protect those who trust these companies with assets they may have spent a lifetime accumulating. Additional protections are required to properly regulate the companies engaged in these transactions." [[2012 c 34 § 1.](#)]

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
19.60.067(2)	Second-hand Precious Metal Dealer Violations (Subsequent Violation)	C	0	0	0	7/22/2011

Recommendation: **Leave as unranked class C felony**

Discussion:

- Duplicated under RCW 9A.56.150 and .160 – Possession of Stolen Property 1 and 2.
- Can be hard to provide knowledge when charging a pawnbroker or other business.
- Purpose of this bill was to regulate the increasing number of "cash for gold" businesses that opened in 2011 up in response to the rising prices of gold.
- The legislature believed this contributed to increasing burglaries and thefts of gold and precious metals.
- Leaving as unranked could be a compromise resolution for the parties.

RCW [19.60.067](#)

Secondhand precious metal dealers—Prohibited acts—Penalty.

(1) It is a gross misdemeanor for:

(a) A secondhand precious metal dealer to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under RCW [19.60.025](#), [19.60.057](#), [19.60.042](#), [19.60.077](#), and [19.60.095](#) involving property consisting of precious metal;

(b) A secondhand precious metal dealer to receive any precious metal property from any person known to the secondhand precious metal dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another; or

(c) A secondhand precious metal dealer to knowingly violate any other provision relating to precious metals under RCW [19.60.025](#), [19.60.057](#), [19.60.042](#), [19.60.077](#), and [19.60.095](#).

(2) It is a class C felony for a secondhand precious metal dealer to commit a second or subsequent violation of subsection (1) of this section involving property consisting of a precious metal.

[[2011 c 289 § 7.](#)]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
29A.84.030	Election or Mail Ballot Violation	C	0	0	0	7/22/2001

Recommendation: **Leave as unranked class C felony**

Discussion:

- Probably not duplicative.

RCW [29A.84.030](#)

Penalty.

A person who willfully violates any provision of this title regarding the conduct of mail ballot primaries or elections is guilty of a class C felony punishable under RCW [9A.20.021](#).

[[2003 c 111 § 2103](#); [2001 c 241 § 21](#). Formerly RCW [29.38.070](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
29A.84.150	Misuse or Alteration of Registration Database	C	0	0	0	1/1/2006

Recommendation: **Leave as unranked class C felony**

Discussion:

- Statute was part of a law that crated a statewide voter database.

RCW [29A.84.150](#)

Misuse, alteration of registration database.

Any state or local election officer, or a designee, who has access to any county or statewide voter registration database who knowingly uses or alters information in the database inconsistent with the performance of his or her duties is guilty of a class C felony, punishable under RCW [9A.20.021](#).

[[2004 c 267 § 138](#).]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
29A.84.545	Unauthorized Removal of Paper Record from Electronic Voting Device	C	0	0	0	7/24/2005

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.
- Law was intended to assure accurate elections and recounts, if necessary.
- May provide paper trail in addition to electronic trail.

RCW [29A.84.545](#)

Paper record from direct recording electronic voting device—Removing from voting center.

Anyone who, without authorization, removes from a voting center a paper record produced by a direct recording electronic voting device is guilty of a class C felony punishable under RCW [9A.20.021](#).

[[2011 c 10 § 73](#); [2005 c 242 § 6](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
29A.84.711	Fraud in Certification of Nomination or Ballot	C	0	0	0	6/10/2004

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Offering False Instrument for Filing or Record (RCW 40.16.030)
- Law was designed to assure accurate elections.
- Offense seems pretty serious.
- Hard to say to whom it applies.

RCW [29A.84.711](#)

Documents regarding nomination, election, candidacy—Frauds and falsehoods.

Every person who:

- (1) Knowingly and falsely issues a certificate of nomination or election; or
- (2) Knowingly provides false information on a minor party or independent candidate certificate of nomination is guilty of a class C felony punishable under RCW [9A.20.021](#).

[[2013 c 11 § 84](#); [2004 c 271 § 186](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
30B.12.050	State Trust Company – False Entry, Conceal or Destroy Records	B	0	0	0	1/5/2015

Recommendation: **Leave as unranked class B felony**

Discussion:

- Probably not duplicative.
- Only effective for past 8 years.

RCW [30B.12.050](#)

Certain criminal offenses.

(1) An officer, director, manager, managing participant, employee, shareholder, or participant of a state trust company commits an offense if the person knowingly:

(a) Conceals information or a fact, or removes, destroys, or conceals a book or record of the state trust company for the purpose of concealing information or a fact from the director or an agent of the director; or

(b) For the purpose of concealing, removes or destroys any book or record of the state trust company that is material to a pending or anticipated legal or administrative proceeding.

(2) An officer, director, manager, managing participant, or employee of a state trust company commits an offense if the person knowingly makes a false entry in the books or records or in any report or statement of the state trust company.

(3) An offense under this section is a class B felony.

[[2014 c 37 § 351](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
30B.44B.110(2)	State Trust Company – Transfer of Assets	B	0	0	0	7/28/2019

Recommendation: **Leave as unranked class B felony**

Discussion:

- Probably not duplicative.
- Only effective for 3 years.

RCW [30B.44B.110](#)

Preferences prohibited—Penalty.

(1) Any transfer of its property or assets by a state trust company, made (a) in contemplation of insolvency or after it shall have become insolvent, (b) within ninety days before the date the director takes possession of such state trust company, and (c) with a view to the preference of one creditor over another or to prevent the equal distribution of its property and assets among its creditors, shall be void.

(2) Every director, officer, or employee of a state trust company making any such transfer of assets is guilty of a class B felony punishable according to chapter [9A.20](#) RCW.

[[2019 c 389 § 72.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
42.17A.750	False Documents Registered with Public Disclosure Commission	C	0	0	0	1/1/2012

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Offering a False Instrument for Filing or Recording (RCW 40.16.030)
- This law is intended to ensure the filing of accurate documents related to campaign contributions.
- This statute requires actual malice as an element of the crime while Offering False Instrument for Filing or Record requires only knowledge. It would probably require an expert in election law to explain why this conduct would not always be covered by the Offering False Instrument statute.
- Can be used during election campaigns.

RCW [42.17A.750](#)

Civil remedies and sanctions—Referral for criminal prosecution.

(1) In addition to the penalties in subsection (2) of this section, and any other remedies provided by law, one or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(a) If the court finds that the violation of any provision of this chapter by any candidate, committee, or incidental committee probably affected the outcome of any election, the result of that election may be held void and a special election held within sixty days of the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(b) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, the lobbyist's or sponsor's registration may be revoked or suspended and the lobbyist or sponsor may be enjoined from receiving compensation or making expenditures for lobbying. The imposition of a sanction shall not excuse the lobbyist from filing statements and reports required by this chapter.

(c) A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each violation. However, a person or entity who violates RCW [42.17A.405](#) may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(d) When assessing a civil penalty, the court may consider the nature of the violation and any relevant circumstances, including the following factors:

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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- (i) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, resulted from a knowing or intentional effort to conceal, deceive or mislead, or from collusive behavior, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;
 - (ii) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period or otherwise had a significant or material impact on the public;
 - (iii) Experience with campaign finance law and procedures or the financing, staffing, or size of the respondent's campaign or organization;
 - (iv) The amount of financial activity by the respondent during the statement period or election cycle;
 - (v) Whether the late or unreported activity was within three times the contribution limit per election, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;
 - (vi) Whether the respondent or any person benefited politically or economically from the noncompliance;
 - (vii) Whether there was a personal emergency or illness of the respondent or member of the respondent's immediate family;
 - (viii) Whether other emergencies such as fire, flood, or utility failure prevented filing;
 - (ix) Whether there was commission staff or equipment error, including technical problems at the commission that prevented or delayed electronic filing;
 - (x) The respondent's demonstrated good-faith uncertainty concerning commission staff guidance or instructions;
 - (xi) Whether the respondent is a first-time filer;
 - (xii) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action and a demonstrated wish to acknowledge and take responsibility for the violation;
 - (xiii) Penalties imposed in factually similar cases; and
 - (xiv) Other factors relevant to the particular case.
- (e) A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each delinquency continues.
- (f) Each state agency director who knowingly fails to file statements required by RCW [42.17A.635](#) shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars per statement. These penalties are in addition to any other civil remedies or sanctions imposed on the agency.

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(g) A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

(h) Any state agency official, officer, or employee who is responsible for or knowingly directs or expends public funds in violation of RCW [42.17A.635](#) (2) or (3) may be subject to personal liability in the form of a civil penalty in an amount that is at least equivalent to the amount of public funds expended in the violation.

(i) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

(2) The commission may refer the following violations for criminal prosecution:

(a) A person who, with actual malice, violates a provision of this chapter is guilty of a misdemeanor under chapter [9.92](#) RCW;

(b) A person who, within a five-year period, with actual malice, violates three or more provisions of this chapter is guilty of a gross misdemeanor under chapter [9.92](#) RCW; and

(c) A person who, with actual malice, procures or offers any false or forged document to be filed, registered, or recorded with the commission under this chapter is guilty of a class C felony under chapter [9.94A](#) RCW.

[[2019 c 428 § 37](#); [2018 c 304 § 12](#); [2013 c 166 § 1](#); [2011 c 145 § 6](#); [2010 c 204 § 1001](#); [2006 c 315 § 2](#); [1993 c 2 § 28](#) (Initiative Measure No. 134, approved November 3, 1992); [1973 c 1 § 39](#) (Initiative Measure No. 276, approved November 7, 1972). Formerly RCW [42.17.390](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
46.12.560	Removal of Sticker on Vehicle Stating Previously Destroyed or Title 1 Loss	C	0	0	0	7/1/2011

Recommendation: **Leave as unranked class C felony**

Discussion:

- No duplicative.
- Street rod vehicles?

RCW [46.12.560](#)

Inspection by state patrol or other authorized inspector.

(1)(a) Before accepting an application for a certificate of title, the department, county auditor or other agent, or subagent appointed by the director shall require an applicant to provide a certificate of vehicle inspection completed by the Washington state patrol or other authorized inspector if the vehicle:

(i) Was declared a total loss or salvage vehicle under the laws of this state;

(ii) Has been rebuilt after the certificate of title was returned to the department under RCW [46.12.600](#) and the vehicle was not kept by the registered owner at the time of the vehicle's destruction or declaration as a total loss; or

(iii) Is presented with documents from another state showing that the vehicle was a total loss or salvage vehicle and has not been reissued a valid registration certificate from that state after the declaration of total loss or salvage.

(b) A vehicle presented for inspection must have all damaged major component parts replaced or repaired to meet all requirements in law and rule before the Washington state patrol will inspect the vehicle. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

(c) A Washington state patrol vehicle identification number specialist must ensure that all major component parts used for the reconstruction of a salvage or rebuilt vehicle were obtained legally, and must securely attach a marking at the driver's door latch pillar indicating the vehicle was previously destroyed or declared a total loss. It is a class C felony for a person to remove the marking indicating that the vehicle was previously destroyed or declared a total loss.

[[2011 c 114 § 7](#); [2010 c 161 § 303](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
46.20.0921(3)(a)	Manufacture, Sell or Deliver Forged Driver's License or Identocard	C	0	6	14	7/27/2003

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Forgery (RCW 9A.60.020), Criminal Impersonation 1 (RCW 9A.60.040), Possession of Another's Identification (RCW 9A.56.330 [GM]).
- While there are other possibly criminal charges, this one seems to more accurately describe the prohibited conduct.
- Could be a good compromise in plea negotiations.
- Used to be a misdemeanor to display forged card.

RCW [46.20.0921](#)

Violations—Penalty.

(1) It is a misdemeanor for any person:

(a) To display or cause or permit to be displayed or have in his or her possession any fictitious or fraudulently altered driver's license or identocard;

(b) To lend his or her driver's license or identocard to any other person or knowingly permit the use thereof by another;

(c) To display or represent as one's own any driver's license or identocard not issued to him or her;

(d) Willfully to fail or refuse to surrender to the department upon its lawful demand any driver's license or identocard which has been suspended, revoked or canceled;

(e) To use a false or fictitious name in any application for a driver's license or identocard or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(f) To permit any unlawful use of a driver's license or identocard issued to him or her.

(2) It is a class C felony for any person to sell or deliver a stolen driver's license or identocard.

(3) It is unlawful for any person to manufacture, sell, or deliver a forged, fictitious, counterfeit, fraudulently altered, or unlawfully issued driver's license or identocard, or to manufacture, sell, or deliver a blank driver's license or identocard except under the direction of the department. A violation of this subsection is:

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

(a) A class C felony if committed (i) for financial gain or (ii) with intent to commit forgery, theft, or identity theft;
or

(b) A gross misdemeanor if the conduct does not violate (a) of this subsection.

(4) Notwithstanding subsection (3) of this section, it is a misdemeanor for any person under the age of twenty-one to manufacture or deliver fewer than four forged, fictitious, counterfeit, or fraudulently altered driver's licenses or identicards for the sole purpose of misrepresenting a person's age.

(5) In a proceeding under subsection (2), (3), or (4) of this section that is related to an identity theft under RCW [9.35.020](#), the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

[[2003 c 214 § 1](#); [1990 c 210 § 3](#); [1981 c 92 § 1](#); [1965 ex.s. c 121 § 41](#). Formerly RCW [46.20.336](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
46.87.260	Credential Forgery (Effective 7/1/2016)	B	0	0	0	7/1/2016

Recommendation: **Leave as unranked class B felony**

Discussion:

- Possibly duplicative of Offering a False Instrument for Filing or Recording (RCW 40.16.030)
- Not sure why this is a Class B felony. That seems a bit serious for the conduct.
- Very specific law

RCW [46.87.260](#)

Alteration or forgery of credential—Penalty.

Any person who alters, forges, or causes to be altered or forged any credential, or holds or uses any credential knowing the credential to have been altered or forged, is guilty of a class B felony punishable according to chapter [9A.20](#) RCW.

[[2015 c 228 § 22](#); [2003 c 53 § 255](#); [1987 c 244 § 39](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
48.102.160(3)	Fraudulent Life Insurance Settlement	B	0	0	0	7/26/2009

Recommendation: **Leave as unranked class B felony**

Discussion:

- Possibly duplicative of Theft or Forgery.
- This statute was intended to regulate an industry rife with fraud - the buying and selling of existing life insurance policies from individuals and repackaging and reselling them to 3rd party investors.
- Leave unranked at a minimum.

RCW [48.102.160](#)

Penalties.

(1) For the purpose of this section, an act is committed in this state if it is committed, in whole or in part, in the state of Washington, or affects persons or property within this state and relates to or involves a life settlement contract.

(2) It is a violation of this chapter for any person, provider, broker, or any other party related to the business of life settlements, to commit a fraudulent life settlement act.

(3) For criminal liability purposes, a person that knowingly commits a fraudulent life settlement act is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(4) Any person who knowingly acts as a life settlement provider without being licensed by the commissioner is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(5) Any person who knowingly acts as a life settlement broker without the proper authorization under this chapter is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(6) Any criminal penalty imposed under this section is in addition to, and not in lieu of, any other civil or administrative penalty or sanction otherwise authorized under state law.

(7) If the commissioner has cause to believe that any person has:

(a) Knowingly acted as a life settlement provider without being licensed by the commissioner; or

(b) Knowingly acted as a life settlement broker without the proper authorization under RCW [48.102.021](#);

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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the commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters [34.05](#) and [48.04](#) RCW.

(8) Upon failure to pay a civil penalty when due, the attorney general may bring a civil action on behalf of the commissioner to recover the unpaid penalty. Any amounts collected by the commissioner must be paid to the state treasurer for the account of the general fund.

[[2009 c 104 § 19](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
48.102.160(4)	Unlicensed Life Insurance Provider	B	0	0	0	7/26/2009

Recommendation: **Leave as unranked class B felony**

Discussion:

- This statute was intended to regulate an industry rife with fraud - the buying and selling of existing life insurance policies from individuals and repackaging and reselling them to 3rd party investors.

RCW [48.102.160](#)

Penalties.

(1) For the purpose of this section, an act is committed in this state if it is committed, in whole or in part, in the state of Washington, or affects persons or property within this state and relates to or involves a life settlement contract.

(2) It is a violation of this chapter for any person, provider, broker, or any other party related to the business of life settlements, to commit a fraudulent life settlement act.

(3) For criminal liability purposes, a person that knowingly commits a fraudulent life settlement act is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(4) Any person who knowingly acts as a life settlement provider without being licensed by the commissioner is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(5) Any person who knowingly acts as a life settlement broker without the proper authorization under this chapter is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(6) Any criminal penalty imposed under this section is in addition to, and not in lieu of, any other civil or administrative penalty or sanction otherwise authorized under state law.

(7) If the commissioner has cause to believe that any person has:

(a) Knowingly acted as a life settlement provider without being licensed by the commissioner; or

(b) Knowingly acted as a life settlement broker without the proper authorization under RCW [48.102.021](#);

the commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters [34.05](#) and [48.04](#) RCW.

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(8) Upon failure to pay a civil penalty when due, the attorney general may bring a civil action on behalf of the commissioner to recover the unpaid penalty. Any amounts collected by the commissioner must be paid to the state treasurer for the account of the general fund.

[[2009 c 104 § 19.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
48.102.160(5)	Unlicensed Settlement Broker	B	0	0	0	7/26/2009

Recommendation: **Leave as unranked class B felony**

Discussion:

- This statute was intended to regulate an industry rife with fraud - the buying and selling of existing life insurance policies from individuals and repackaging and reselling them to 3rd party investors.

RCW [48.102.160](#)

Penalties.

(1) For the purpose of this section, an act is committed in this state if it is committed, in whole or in part, in the state of Washington, or affects persons or property within this state and relates to or involves a life settlement contract.

(2) It is a violation of this chapter for any person, provider, broker, or any other party related to the business of life settlements, to commit a fraudulent life settlement act.

(3) For criminal liability purposes, a person that knowingly commits a fraudulent life settlement act is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(4) Any person who knowingly acts as a life settlement provider without being licensed by the commissioner is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(5) Any person who knowingly acts as a life settlement broker without the proper authorization under this chapter is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(6) Any criminal penalty imposed under this section is in addition to, and not in lieu of, any other civil or administrative penalty or sanction otherwise authorized under state law.

(7) If the commissioner has cause to believe that any person has:

(a) Knowingly acted as a life settlement provider without being licensed by the commissioner; or

(b) Knowingly acted as a life settlement broker without the proper authorization under RCW [48.102.021](#);

the commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters [34.05](#) and [48.04](#) RCW.

(8) Upon failure to pay a civil penalty when due, the attorney general may bring a civil action on behalf of the commissioner to recover the unpaid penalty. Any amounts collected by the commissioner must be paid to the state treasurer for the account of the general fund.

[[2009 c 104 § 19](#).]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
48.160.080	Sells Guaranteed Asset Protection Waivers without Registration	B	0	0	0	7/26/2009

Recommendation: **Leave as unranked class B felony**

Discussion:

- This statute was intended to regulate an industry rife with fraud - the buying and selling of existing life insurance policies from individuals and repackaging and reselling them to 3rd party investors.

RCW [48.160.080](#)

Failure to register when required—Criminal and civil penalties—Personal liability.

(1) Any person who markets, offers for sale or sells a guaranteed asset protection waiver, or acts as an obligor for a guaranteed asset protection waiver without a registration, unless otherwise exempt from registration or exempt from this chapter, is acting in violation of this section and is subject to the provisions of RCW [48.160.070](#). In addition, any person who knowingly violates this section is guilty of a class B felony punishable under chapter [9A.20](#) RCW.

(2) Any criminal penalty imposed under this section is in addition to, and not in lieu of, any other civil or administrative penalty or sanction otherwise authorized under state law.

(3) If the commissioner has cause to believe that any person has violated this section, the commissioner may assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapter [48.04](#) RCW. Upon failure to pay this civil penalty when due, the attorney general may bring a civil action on behalf of the commissioner to recover the unpaid penalty.

(4) A person or entity that should have been registered at the time of the sale of a waiver who was not so registered pursuant to this chapter is personally liable for performance of the waiver. Any waiver sold by a person or entity that should have been registered at the time of the sale is voidable, except at the instance of the person or entity who sold the waiver.

[[2009 c 334 § 9](#).]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
64.36.020(5)(b)	Timeshare Registration Requirement Violation	C	0	0	0	7/1/2004

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.
- This statute requires those selling time shares in real property to register with the state.

RCW [64.36.020](#)

Registration required before advertisement, solicitation, or offer—Requirements for registration—Exemption authorized—Penalties.

(1) A timeshare offering registration must be effective before any advertisement, solicitation of an offer, or any offer or sale of a timeshare may be made in this state.

(2) An applicant shall apply for registration by filing with the director:

- (a) A copy of the disclosure document prepared in accordance with RCW [64.36.140](#) and signed by the applicant;
- (b) An application for registration prepared in accordance with RCW [64.36.030](#);
- (c) An irrevocable consent to service of process signed by the applicant;
- (d) The prescribed registration fee; and
- (e) Any other information the director may by rule require in the protection of the public interest.

(3) The registration requirements do not apply to:

- (a) An offer, sale, or transfer of not more than one timeshare in any twelve-month period;
- (b) A gratuitous transfer of a timeshare;
- (c) A sale under court order;
- (d) A sale by a government or governmental agency;
- (e) A sale by forfeiture, foreclosure, or deed in lieu of foreclosure; or
- (f) A sale of a timeshare property or all timeshare units therein to any one purchaser.

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(4) The director may by rule or order exempt any potential registrant from the requirements of this chapter if the director finds registration is unnecessary for the protection of the public interest.

(5)(a) Except as provided in (b) of this subsection, any person who violates this section is guilty of a gross misdemeanor.

(b) Any person who knowingly violates this section is guilty of a class C felony punishable according to chapter [9A.20](#) RCW.

(c) No indictment or information for a felony may be returned under this chapter more than five years after the alleged violation.

[[2003 c 53 § 289](#); [1983 1st ex.s. c 22 § 2](#).]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
64.36.210	Timeshare Fraud	C	0	0	0	7/1/2004

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Obtaining a Signature by Deception or Duress (RCW9A.60.030), Forgery (RCW 9A.60.020), Criminal Impersonation 1 (RCW 9A.60.040 [unr]), or Theft 1 or 2 (RCW 9A.56.030 and .040).
- Other crimes may not always be a factual fit.

RCW [64.36.210](#)

Unlawful acts—Penalties.

(1) It is unlawful for any person in connection with the offer, sale, or lease of any timeshare in the state:

(a) To make any untrue or misleading statement of a material fact, or to omit a material fact;

(b) To employ any device, scheme, or artifice to defraud;

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

(d) To file, or cause to be filed, with the director any document which contains any untrue or misleading information; or

(e) To violate any rule or order of the director.

(2)(a) Any person who knowingly violates this section is guilty of a class C felony punishable according to chapter [9A.20](#) RCW.

(b) No indictment or information for a felony may be returned under this chapter more than five years after the alleged violation.

[[2003 c 53 § 290](#); [1983 1st ex.s. c 22 § 20](#).]

Cases = number of cases filed;

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
67.08.015	Promoting Illegal Boxing, Martial Arts and Wrestling	C	0	0	0	3/26/2004

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.

RCW [67.08.015](#)

Duties of department—Exemptions—Rules.

(1) In the interest of ensuring the safety and welfare of the participants, the department shall have power and it shall be its duty to direct, supervise, and control all boxing, martial arts, and wrestling events conducted within this state and an event may not be held in this state except in accordance with the provisions of this chapter. The department may, in its discretion, issue and for cause, which includes concern for the safety and welfare of the participants, take any of the actions specified in RCW [18.235.110](#) against a license to promote, conduct, or hold boxing, kickboxing, martial arts, or wrestling events where an admission fee is charged by any person, club, corporation, organization, association, or fraternal society.

(2) All boxing, kickboxing, martial arts, or wrestling events that:

(a) Are conducted by any common school, college, or university, whether public or private, or by the official student association thereof, whether on or off the school, college, or university grounds, where all the participating contestants are bona fide students enrolled in any common school, college, or university, within or without this state; or

(b) Are entirely amateur events as defined in *RCW [67.08.002](#)(18), excluding events described in *RCW [67.08.002](#)(18)(g);

are not subject to the provisions of this chapter. A boxing, martial arts, kickboxing, or wrestling event may not be conducted within the state except under a license issued in accordance with this chapter and the rules of the department except as provided in this section.

(3) The director shall prohibit events unless all of the contestants are licensed or otherwise exempt from licensure as provided under this chapter.

(4) No amateur or professional no holds barred fighting or combative fighting type of contest, exhibition, match, or similar type of event, nor any elimination tournament, may be held in this state. Any person promoting such an event is guilty of a class C felony. Additionally, the director may apply to a superior court for an injunction

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against any and all promoters of a contest, and may request that the court seize all money and assets relating to the competition.

[[2012 c 99 § 2](#); [2004 c 149 § 2](#); [2002 c 86 § 306](#); [2000 c 151 § 2](#); [1999 c 282 § 3](#); [1997 c 205 § 3](#); [1993 c 278 § 12](#); [1989 c 127 § 14](#); [1977 c 9 § 2](#). Prior: 1975-'76 2nd ex.s. c 48 § 3; [1975 c 1 § 1](#); [1973 c 53 § 1](#); [1951 c 48 § 2](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
68.50.140(1)	Removing Human Remains	C	*	0	0	3/22/1909

*CFC data combines Chapter 68.50 RCW into single “Cemetery Law Violations” code. There were 2 convictions noted.

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Illegal Purchases or Sales (RCW 68.85.150).

RCW [68.50.140](#)

Unlawful disturbance, removal, or sale of human remains—Penalty.

(1) Every person who removes human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting final disposition, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

(2) Every person who purchases or receives, except for burial or final disposition, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.

(3) Every person who opens a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

[[2019 c 432 § 22](#); [2005 c 365 § 140](#); [2003 c 53 § 308](#); [1992 c 7 § 44](#); [1909 c 249 § 239](#); RRS § 2491. FORMER PART OF SECTION: 1943 c 247 § 25 now codified as RCW [68.50.145](#). Formerly RCW [68.08.140](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
68.50.140(2)	Purchasing or Receiving Human Remains	C	*	0	0	3/22/1909

*CFC data combines Chapter 68.50 RCW into single “Cemetery Law Violations” code. There were 2 convictions noted.

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Illegal Purchases or Sales (RCW 68.85.150).

RCW [68.50.140](#)

Unlawful disturbance, removal, or sale of human remains—Penalty.

(1) Every person who removes human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting final disposition, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

(2) Every person who purchases or receives, except for burial or final disposition, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.

(3) Every person who opens a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

[[2019 c 432 § 22](#); [2005 c 365 § 140](#); [2003 c 53 § 308](#); [1992 c 7 § 44](#); [1909 c 249 § 239](#); RRS § 2491. FORMER PART OF SECTION: 1943 c 247 § 25 now codified as RCW [68.50.145](#). Formerly RCW [68.08.140](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
68.50.140(3)	Opening Graves with Intent to Sell or Remove Personal Effects or Human Remains	C	*	0	0	3/22/1909

*CFC data combines Chapter 68.50 RCW into single “Cemetery Law Violations” code. There were 2 convictions noted.

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Illegal Purchases or Sales (RCW 68.85.150).

RCW [68.50.140](#)

Unlawful disturbance, removal, or sale of human remains—Penalty.

(1) Every person who removes human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting final disposition, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

(2) Every person who purchases or receives, except for burial or final disposition, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.

(3) Every person who opens a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

[[2019 c 432 § 22](#); [2005 c 365 § 140](#); [2003 c 53 § 308](#); [1992 c 7 § 44](#); [1909 c 249 § 239](#); RRS § 2491. FORMER PART OF SECTION: 1943 c 247 § 25 now codified as RCW [68.50.145](#). Formerly RCW [68.08.140](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
68.50.140(4)	Removal, Disinterment or Mutilation of Human Remains	C	*	2	2	7/24/2005

*CFC data combines Chapter 68.50 RCW into single “Cemetery Law Violations” code. There were 2 convictions noted.

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Removing Human Remains (RCW 68.50.140(1)).

RCW [68.50.140](#)

Unlawful disturbance, removal, or sale of human remains—Penalty.

(1) Every person who removes human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting final disposition, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

(2) Every person who purchases or receives, except for burial or final disposition, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.

(3) Every person who opens a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

[[2019 c 432 § 22](#); [2005 c 365 § 140](#); [2003 c 53 § 308](#); [1992 c 7 § 44](#); [1909 c 249 § 239](#); RRS § 2491. FORMER PART OF SECTION: 1943 c 247 § 25 now codified as RCW [68.50.145](#). Formerly RCW [68.08.140](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
68.64.150	Anatomical Gifts – Illegal Purchase or Sale	C	0	0	0	6/12/2008

Recommendation: **Leave as unranked class C felony**

Discussion:

- Possibly duplicative of Removing Human Remains (RCW 68.50.140).

RCW [68.64.150](#)

Illegal purchases or sales—Felony.

(1) Except as otherwise provided in subsection (2) of this section, a person who, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death is guilty of a class C felony under RCW [9A.20.010](#).

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

[[2008 c 139 § 16](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
68.64.160	Anatomical Gifts – Illegal Financial Gain	C	0	0	0	6/12/2008

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.
- Black market.

RCW [68.64.160](#)

Illegal financial gain—Altering a document, amendment, or revocation of gift—Felony.

A person who, in order to obtain financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty of a class C felony under RCW [9A.20.010](#).

[[2008 c 139 § 17](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
69.30.085	Participation in Shellfish Operation or Activities while License is Denied, Revoked or Suspended	C	0	0	0	7/22/2011

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.

RCW [69.30.085](#)

License, certificate of approval—Denial, revocation, suspension—Prohibited acts—Penalties.

(1) A person, or its director or officer, whose license or certificate of approval is denied, revoked, or suspended as a result of violations of this chapter or rules adopted under this chapter may not:

- (a) Supervise, be employed by, or manage a shellfish operation licensed or certified under this chapter or rules adopted under this chapter;
- (b) Participate in the harvesting, shucking, packing, or shipping of shellfish in commercial quantities or for sale;
- (c) Participate in the brokering of shellfish, purchase of shellfish for resale, or retail sale of shellfish; or
- (d) Engage in any activity associated with selling or offering to sell shellfish.

(2) Subsections (1)(c) and (d) of this section do not apply to retail purchases of shellfish for personal use.

(3) Subsection (1) of this section applies to a person only during the period of time in which that person's license or certificate of approval is denied, revoked, or suspended.

(4) Unlawful operations under subsection (1) of this section when a license or certificate of approval is denied, revoked, or suspended is a class C felony. Upon conviction, the department shall order that the person's license or certificate of approval be revoked for a period of at least five years, or that a person whose application for a license or certificate of approval was denied be ineligible to reapply for a period of at least five years.

(5) A license or certificate of approval issued under this chapter may not be assigned or transferred in any manner without department approval.

[[2011 c 194 § 7](#); [1998 c 44 § 1](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
7.105.460	Possession of a Firearm in Violation of an Extreme Risk Protection Order - 3rd or Subsequent Offense	C	0	0	0	11/8/2016

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.

RCW [7.105.460](#)

Enforcement and penalties—Extreme risk protection orders—False petitions.

(1) Any person who files a petition for an extreme risk protection order knowing the information in such petition to be materially false, or with the intent to harass the respondent, is guilty of a gross misdemeanor.

(2)(a) Except as provided in (b) of this subsection, any person who has in his or her custody or control, accesses, purchases, possesses, or receives, or attempts to purchase or receive, a firearm with knowledge that he or she is prohibited from doing so by an extreme risk protection order is guilty of a gross misdemeanor, and further is prohibited from having in his or her custody or control, accessing, purchasing, possessing, or receiving, or attempting to purchase or receive, a firearm for a period of five years from the date the existing order expires.

(b) A person is guilty of a class C felony for a violation under (a) of this subsection if the person has two or more previous convictions for violating an order issued under this chapter.

[[2022 c 268 § 22](#); [2021 c 215 § 58](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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Criminal Code Review Committee’s Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
77.15.135(4)(d)	Unlawful Trafficking in Species with Extinction 1	C	0	6	8	11/3/2015

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.

RCW [77.15.135](#)

Unlawful sale, purchase, trade, barter, or distribution of covered animal species part or product—Penalty—Report to the legislature—Adoption of rules.

(1) Except as authorized in subsections (2) and (3) of this section, it is unlawful for a person to sell, offer to sell, purchase, trade, barter for, or distribute any covered animal species part or product.

(2) The prohibitions set forth in subsection (1) of this section do not apply if any of the following conditions is [are] satisfied:

(a) The covered animal species part or product is part of a bona fide antique, provided the antique status of such an antique is established by the owner or seller thereof with historical documentation evidencing provenance and showing the antique to be not less than one hundred years old, and the covered animal species part or product is less than fifteen percent by volume of such an antique;

(b) The distribution of the covered animal species part or product is for a bona fide educational or scientific purpose, or to or from a museum;

(c) The distribution of the covered animal species part or product is to a legal beneficiary of an estate, trust, or other inheritance, upon the death of the owner of the covered animal species part or product;

(d) The covered animal species part or product is less than fifteen percent by volume of a musical instrument, including, without limitation, string instruments and bows, wind and percussion instruments, and pianos; or

(e) The intrastate sale, offer for sale, purchase, trade, barter for, or distribution of the covered animal species part or product is expressly authorized by federal law or permit.

(3) The prohibitions set forth in subsection (1) of this section do not apply to an employee or agent of a federal, state, or local government undertaking any law enforcement activity pursuant to federal, state, or local law or any mandatory duty required by federal, state, or local law.

(4)(a) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the second degree if the person commits the act described in subsection (1) of this section and

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

the violation involves covered animal species parts or products with a total market value of less than two hundred fifty dollars.

(b) Except as otherwise provided in this section, a person is guilty of unlawful trafficking in species threatened with extinction in the first degree if the person commits the act described by subsection (1) of this section and the violation:

(i) Involves covered animal species parts or products with a total market value of two hundred fifty dollars or more;

(ii) Occurs after entry of a prior conviction under this section; or

(iii) Occurs within five years of entry of a prior conviction for any other gross misdemeanor or felony under this chapter.

(c) Unlawful trafficking in species threatened with extinction in the second degree is a gross misdemeanor.

(d) Unlawful trafficking in species threatened with extinction in the first degree is a class C felony.

(e) If a person commits the act described by subsection (1) of this section and such an act also would be a violation of any other criminal provision of this title, the prosecuting authority has discretion as to which crime or crimes the person is charged as long as the charges are consistent with any limitations in the state and federal Constitutions.

(5) In addition to the penalties set forth in subsection (4) of this section, if a person is convicted of violating this section, the court shall require payment of a criminal wildlife penalty assessment in the amount of two thousand dollars that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW [77.15.425](#).

(6) If two or more people are convicted under subsection (1) of this section, the criminal wildlife penalty assessment under this section must be imposed against each person jointly and severally.

(7) The criminal wildlife penalty assessment provided in this section must be doubled if the person is convicted of unlawful trafficking in species threatened with extinction in the first degree.

(8) By January 1, 2017, and thereafter annually, the director shall provide a comprehensive report outlining current and future enforcement activities and strategies related to chapter 2, Laws of 2016, including recommendations regarding any necessary changes, to the relevant policy and fiscal committees of the senate and house of representatives.

(9) The commission may adopt rules necessary for the implementation and enforcement of chapter 2, Laws of 2016.

[[2016 c 2 § 3](#) (Initiative Measure No. 1401, approved November 3, 2015).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
77.15.770(2)	Unlawful Trade in Shark Fins 1	C	0	0	0	7/22/2011

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.

RCW [77.15.770](#)

Unlawful trade in shark fins—Penalty.

(1) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the second degree if:

- (a) The person sells, offers for sale, purchases, offers to purchase, or otherwise exchanges a shark fin or shark fin derivative product for commercial purposes; or
- (b) The person prepares or processes a shark fin or shark fin derivative product for human or animal consumption for commercial purposes.

(2) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the first degree if:

- (a) The person commits the act described by subsection (1) of this section and the violation involves shark fins or a shark fin derivative product with a total market value of two hundred fifty dollars or more;
- (b) The person commits the act described by subsection (1) of this section and acted with knowledge that the shark fin or shark fin derivative product originated from a shark that was harvested in an area or at a time where or when the harvest was not legally allowed or by a person not licensed to harvest the shark; or
- (c) The person commits the act described by subsection (1) of this section and the violation occurs within five years of entry of a prior conviction under this section or a prior conviction for any other gross misdemeanor or felony under this title involving fish, other than a recreational fishing violation.

(3)(a) Unlawful trade in shark fins in the second degree is a gross misdemeanor. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(b) Unlawful trade in shark fins in the first degree is a class C felony. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

Cases = number of cases filed;

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(4) Any person who obtains a license or permit issued by the department to take or possess sharks or shark parts for bona fide research or educational purposes, and who sells, offers for sale, purchases, offers to purchase, or otherwise trades a shark fin or shark fin derivative product, exclusively for bona fide research or educational purposes, may not be held liable under or subject to the penalties of this section.

[[2014 c 48 § 23](#); [2011 c 324 § 2](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
77.15.811	Unlawful Use of Invasive Species 1	C	0	0	0	6/12/2014

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative.

RCW [77.15.811](#)

Unlawful use of invasive species in the first degree—Penalty.

(1) A person is guilty of unlawful use of invasive species in the first degree if the person:

(a) Traffics or introduces on or into a water body or property a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule; or

(b) Commits a subsequent violation of unlawful use of invasive species in the second degree within five years of the date of a prior conviction under RCW [77.15.809](#).

(2) A violation of this section is a class C felony. In addition to criminal penalties, a court may order the person to pay all costs in managing the invasive species, including the species' progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with department directives pursuant to RCW [77.135.120](#) for mandatory check stations, and who is exempt from criminal penalties under this section and forfeiture under this chapter, unless the person has a prior conviction under this section or RCW [77.15.809](#) within the past five years; or

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and is immediately returning it to the water body from which it came.

(4) Unless the context clearly requires otherwise, the definitions in both RCW [77.08.010](#) and [77.135.010](#) apply throughout this section.

[[2014 c 202 § 206](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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Criminal Code Review Committee's Recommendations on Unranked Offenses

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
82.42.085	Evading the Collection of Aircraft Fuel Tax	C	0	0	0	7/1/2015

Recommendation: **Leave as unranked class C felony**

Discussion:

- Potential duplication under Chapter 82.38 RCW "Fuel Tax Act"
- Language under RCW 82.42.085 is nearly identical to RCW 82.38.270 which are also unranked felonies.

RCW [82.42.085](#)

Violations—Penalties.

(1) It is unlawful for a person to:

(a) Evade a tax or fee imposed under this chapter;

(b) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(c) File a false statement of a material fact or otherwise commit any fraud or make a false representation on an aircraft fuel tax license application, aircraft fuel tax refund application, aircraft fuel tax return, aircraft fuel tax record, or aircraft fuel tax refund claim;

(d) Act as an aircraft fuel distributor unless the person holds a license issued by the department authorizing the person to engage in that business;

(e) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering aircraft fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons;

(f) Refuse to permit the department or its authorized representative to examine the person's books, papers, records, storage facilities, and equipment used in conjunction with the use, distribution, or sale of aircraft fuel;

(g) To display, or cause to permit to be displayed, or to have in possession, an aircraft fuel license knowing the same to be fictitious or to have been suspended, canceled, revoked, or altered;

(h) To lend to, or knowingly permit the use of, by one not entitled thereto, any aircraft fuel license issued to the person lending it or permitting it to be used;

(i) To display or to represent as one's own any aircraft fuel license not issued to the person displaying the same; and

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

Sentencing Guidelines Commission Criminal Code Review Committee's Recommendations on Unranked Offenses

(j) To use or to conspire with any governmental official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which he or she is not specifically entitled by government regulations, for the purpose of obtaining any aircraft fuel upon which the state tax has not been paid.

(2)(a) A single violation of subsection (1)(a) and (b) of this section is a gross misdemeanor under chapter [9A.20](#) RCW.

(b) Multiple violations of subsection (1)(a) and (b) of this section are a class C felony under chapter [9A.20](#) RCW.

(3) Violations of (1)(c) through (j) of this section are a gross misdemeanor under chapter [9A.20](#) RCW.

(4) In addition to other penalties and remedies provided by law, the court must order a person or corporation found guilty of violating subsection (1)(a) through (b) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded.

(5) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title [9A](#) RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax is personally liable to the state for the amount of the tax.

[[2013 c 225 § 420](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.08.072	Transferring Stolen Pet Animal to a Research Institution, not by a USDA Licensed Dealer -2nd or Subsequent Offense	C	0	0	0	7/1/2004

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative

RCW [9.08.072](#)

Transferring stolen pet animal to a research institution—Penalty.

(1) It is unlawful for any person to receive with intent to sell to a research institution in the state of Washington, or sell or otherwise directly transfer to a research institution in the state of Washington, a pet animal that the person knows or has reason to know has been stolen or fraudulently obtained. This section does not apply to U.S.D.A. licensed dealers.

(2) The first conviction under this section is a gross misdemeanor punishable according to chapter [9A.20](#) RCW and, for adult offenders, a mandatory fine of not less than five hundred dollars per pet animal shall be imposed.

(3) A second or subsequent conviction under this section is a class C felony punishable according to chapter [9A.20](#) RCW and, for adult offenders, a mandatory fine of not less than one thousand dollars per pet animal shall be imposed.

(4) Nothing in this section shall prohibit a person from also being convicted of separate offenses under RCW [9A.56.030](#), [9A.56.040](#), or [9A.56.050](#) for theft or under RCW [9A.56.150](#), [9A.56.160](#), or [9A.56.170](#) for possession of stolen property.

[[2015 c 265 § 11](#); [2003 c 53 § 10](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

**Sentencing Guidelines Commission
Criminal Code Review Committee's Recommendations on Unranked Offenses**

RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.08.074	Transferring Stolen Pet Animal to a Person who Previously Sold a Stolen Pet Animal to a Research Facility	C	0	0	0	7/1/2004

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative

RCW [9.08.074](#)

Transferring stolen pet animal to a person who has previously sold a stolen pet animal to a research institution—Penalty.

(1) It is unlawful for any person, who knows or has reason to know that a pet animal has been stolen or fraudulently obtained, to sell or otherwise transfer the pet animal to another who the person knows or has reason to know has previously sold a stolen or fraudulently obtained pet animal to a research institution in the state of Washington.

(2) A conviction under this section is a class C felony punishable according to chapter [9A.20](#) RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

[[2003 c 53 § 11.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.08.076	Transferring a Stolen Pet Animal to a Research Institution by a USDA Licensed Dealer	C	0	0	0	7/1/2004

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative

RCW [9.08.076](#)

Transferring stolen pet animal to a research institution by a U.S.D.A. licensed dealer—Penalty.

(1) It is unlawful for a U.S.D.A. licensed dealer to receive with intent to sell, or sell or transfer directly or through a third party, to a research institution in the state of Washington, a pet animal that the dealer knows or has reason to know has been stolen or fraudulently obtained.

(2) A conviction under this section is a class C felony punishable according to chapter [9A.20](#) RCW and by a mandatory fine of not less than one thousand dollars per pet animal.

[[2003 c 53 § 12.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.26A.140(1)(a), (b), or (c)	Unauthorized Sale or Procurement of Telephone Records	C	0	0	0	6/7/2006

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative

RCW [9.26A.140](#)

Unauthorized sale or procurement of telephone records—Penalties—Definitions.

(1) A person is guilty of the unauthorized sale or procurement of telephone records if the person:

(a) Intentionally sells the telephone record of any resident of this state without the authorization of the customer to whom the record pertains;

(b) By fraudulent, deceptive, or false means obtains the telephone record of any resident of this state to whom the record pertains;

(c) Knowingly purchases the telephone record of any resident of this state without the authorization of the customer to whom the record pertains; or

(d) Knowingly receives the telephone record of any resident of this state without the authorization of the customer to whom the record pertains.

(2) This section does not apply to:

(a) Any action by a government agency, or any officer, employee, or agent of such agency, to obtain telephone records in connection with the performance of the official duties of the agency;

(b) A telecommunications company that obtains, uses, discloses, or permits access to any telephone record, either directly or indirectly through its agents, that is:

(i) With the lawful consent of the customer or subscriber;

(ii) Authorized by law;

(iii) Necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services; or

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(iv) In connection with the sale or transfer of all or part of its business, or the purchase or acquisition of a portion or all of a business, or the migration of a customer from one carrier to another.

(3) A violation of subsection (1)(a), (b), or (c) of this section is a class C felony. A violation of subsection (1)(d) of this section is a gross misdemeanor.

(4) A person who violates this section is subject to legal action for injunctive relief and either actual damages, including mental pain and suffering, or liquidated damages of five thousand dollars per violation, whichever is greater. Reasonable attorneys' fees and other costs of litigation are also recoverable.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Telecommunications company" has the meaning provided in RCW [9.26A.100](#) and includes "radio communications service companies" as defined in RCW [80.04.010](#).

(b) "Telephone record" means information retained by a telecommunications company that relates to the telephone number dialed by the customer or the incoming number or call directed to a customer, or other data related to such calls typically contained on a customer telephone bill such as the time the call started and ended, the duration of the call, the time of day the call was made, and any charges applied. "Telephone record" does not include any information collected and retained by customers using caller identification or other similar technologies.

(c) "Procure" means to obtain by any means, whether electronically, in writing, or in oral form, with or without consideration.

[[2006 c 193 § 1.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9.40.105	Tampering with Fire Alarm, Emergency Signal, or Fire-fighting Equipment with Intent to Commit Arson	B	0	1	1	7/1/2004

Recommendation: **Leave as unranked class B felony**

Discussion:

- Not duplicative

RCW [9.40.105](#)

Tampering with fire alarm or firefighting equipment—Intent to commit arson—Penalty.

Any person who willfully and without cause tampers with, molests, injures, or breaks any public or private fire alarm apparatus, emergency phone, radio, or other wire or signal, or any firefighting equipment with the intent to commit arson, is guilty of a class B felony punishable according to chapter [9A.20](#) RCW.

[[2003 c 53 § 24.](#)]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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RCW	Offense Title	Class	FY00-20 Count	Cases Filed	Charges	Effective Date
9A.86.010	Disclosing Intimate Images	C	0	0	0	9/26/2015

Recommendation: **Leave as unranked class C felony**

Discussion:

- Not duplicative
- Related to minors??

RCW [9A.86.010](#)

Disclosing intimate images.

(1) A person commits the crime of disclosing intimate images when the person knowingly discloses an intimate image of another person and the person disclosing the image:

(a) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private;

(b) Knows or should have known that the depicted person has not consented to the disclosure; and

(c) Knows or reasonably should know that disclosure would cause harm to the depicted person.

(2) A person who is under the age of eighteen is not guilty of the crime of disclosing intimate images unless the person:

(a) Intentionally and maliciously disclosed an intimate image of another person;

(b) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private; and

(c) Knows or should have known that the depicted person has not consented to the disclosure.

(3) This section does not apply to:

(a) Images involving voluntary exposure in public or commercial settings; or

(b) Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, or medical treatment.

(4) This section does not impose liability upon the following entities solely as a result of content provided by another person:

(a) An interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2);

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case

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(b) A mobile telecommunications service provider, as defined in RCW [82.04.065](#); or

(c) A telecommunications network or broadband provider.

(5) It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW [9.68A.011](#).

(6) For purposes of this section:

(a) "Disclosing" includes transferring, publishing, or disseminating, as well as making a digital depiction available for distribution or downloading through the facilities of a telecommunications network or through any other means of transferring computer programs or data to a computer;

(b) "Intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

(i) Sexual activity, including sexual intercourse as defined in RCW [9A.44.010](#) and masturbation; or

(ii) A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(7) The crime of disclosing intimate images:

(a) Is a gross misdemeanor on the first offense; or

(b) Is a class C felony if the defendant has one or more prior convictions for disclosing intimate images.

(8) Nothing in this section is construed to:

(a) Alter or negate any rights, obligations, or immunities of an interactive service provider under 47 U.S.C. Sec. 230; or

(b) Limit or preclude a plaintiff from securing or recovering any other available remedy.

[[2016 c 91 § 1](#); [2015 2nd sp.s. c 7 § 1](#).]

Cases = number of cases filed;

Charges = number of charges filed; can have multiple charges per case