

ORDINANCE No. 113085

Law Department

COUNCIL BILL No. 105676

The City of

AN ORDINANCE related to the criminal code; amending Section 12A.08.090 (receiving stolen property) to require a different mental state.

9/23/86 Do PASS

Honorable President:

Your Committee on Police

to which was referred the within Council report that we have considered the

COMPTROLLER FILE No. _____

Introduced: <u>AUG 11 1986</u>	By: <u>City Attorney</u>
Referred: <u>AUG 11 1986</u>	To: <u>PS</u>
Referred:	To:
Referred:	To:
Reported: <u>SEP 29 1986</u>	Second Reading: <u>SEP 29 1986</u>
Third Reading: <u>SEP 29 1986</u>	Signed: <u>SEP 29 1986</u>
Presented to Mayor: <u>SEP 30 1986</u>	Approved: <u>OCT 6 1986</u>
Returned to City Clerk: <u>OCT 6 1986</u>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: <u>(0)</u>

REC'D CIVIC SEP 30 1986

Do

Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on

Public Safety

was referred the within Council Bill No

105676

that we have considered the same and respectfully recommend that the same:

Do Pass

June 5-0

Committee Chair

DBW:jrs
8/5/86
ORD6.

ORDINANCE

113085

AN ORDINANCE related to the criminal code; amending Section 12A.08.090 (receiving stolen property) to require a different mental state.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.08.090 of the Seattle Municipal Code, Receiving Stolen Property (Section 12A.08.260 of Ordinance 102843 is amended as follows:

12A.08.090 ((~~Receiving~~)) Possessing stolen property.

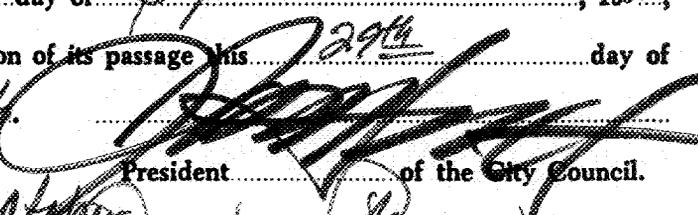
A. A person is guilty of ((~~receiving~~)) possessing stolen property if he knowingly receives, retains, possesses, con-
ceals or disposes of property ((~~and is reckless with respect~~
~~to the fact~~)) knowing that it has been stolen and withholds or
appropriates the same to the use of any person other than the
true owner or person entitled thereto.

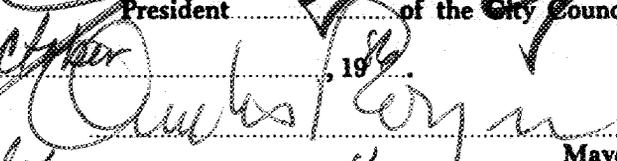
B. In any prosecution under this section, it is in affirmative defense that the actor received, retained, or disposed of stolen property with intent to restore it to the owner.

C. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of ((~~receiving~~)) possessing stolen property. (Ord. 102843 § 12A.08.260, 1973).

(To be used for all Ordinances except Emergency.)

Section ²..... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 29th day of September, 1986,
and signed by me in open session in authentication of its passage this 29th day of
September, 1986.

President of the City Council.

Approved by me this 6th day of October, 1986.

Mayor.

Filed by me this 6th day of October, 1986.

Attest: Norman J. Brooks
City Comptroller and City Clerk.

(SEAL)

Published.....

By Margaret Carter
Deputy Clerk.

THE CITY OF SEATTLE

LAW DEPARTMENT

MUNICIPAL BUILDING . SEATTLE, WASHINGTON 98104

AREA CODE 206 TELEPHONE 625-2402

DOUGLAS N. JEWETT, CITY ATTORNEY

August 5, 1986

The Honorable Norman Rice
Chairperson
Public Safety Committee
Seattle City Council
Municipal Building

Re: Proposed Amendment to the Criminal Code Adopting
a New Definition of Receiving Stolen Property

Dear Councilmember Rice:

The enclosed ordinance amends Seattle's receiving stolen property law. This was previously submitted as part of a bill which also contained an amendment to the lewd conduct ordinance. (Council Bill No. 105321) Our current ordinance makes it a crime to possess stolen property if the defendant is "reckless with respect to the fact that it was stolen." A defendant could be convicted if we establish that he possessed stolen property and was reckless with respect to the fact that it may have been stolen, i.e. he bought a \$500 stereo for \$50. A majority of Municipal Court judges have held that this ordinance conflicts with state law, which requires actual knowledge by the defendant that the property is stolen. Our proposed amendment adopts state law verbatim. Under the proposed amendment, the City will have to prove that the defendant knew the property was stolen. Our burden of proof will be greater and we will presumably have a slight reduction in the number of defendants prosecuted for possession of stolen property.

Current cases involving possession of stolen property are being filed in Seattle District Court. This creates the same problems I discussed in my letter regarding the lewd conduct cases.

I am available to discuss this amendment with you or any committee members. Thank you for considering this request.

Sincerely,

DOUGLAS N. JEWETT
City Attorney

By 
DOUGLAS B. WHALLEY
Assistant City Attorney

DBW:sr
Enclosure
7:LET2.

Affidavit of Publication

C-502-X

City of Seattle
NOTARY PUBLIC
4198-55P (200) among others

OF WASHINGTON
KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a
Ordinance 113085

was published on October 10, 1986

S. Blair

Subscribed and sworn to before me on

October 10, 1986

Robert C. Jones

Notary Public for the State of Washington,
residing in Seattle.

AN ORDINANCE relating to ~~receiving stolen property~~; amending Section 12A.08.090 (receiving stolen property) to require a different mental state.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.08.090 of the Seattle Municipal Code, Receiving Stolen Property (Section 12A.08.260 of Ordinance 102843 is amended as follows:

12A.08.090 ~~((Receiving))~~ Possessing stolen property.

A. A person is guilty of ~~((receiving))~~ possessing stolen property if he knowingly receives, retains, ~~possesses, con- ceals~~ or disposes of property ~~((and is reckless with respect to the fact))~~ knowing that it has been stolen and withholds or appropriates the same to the use of any person other than the true owner or person entitled thereto.

B. In any prosecution under this section, it is in affirmative defense that the actor received, retained, or disposed of stolen property with intent to restore it to the owner.

C. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of ~~((receiving))~~ possessing stolen property. (Ord. 102843 § 12A.08.260, 1973).

Section 2. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 29th day of September, 1986, and signed by me in open session in authentication of its passage this 29th day of September, 1986.

SAM SMITH,
President of the City Council.

Approved by me this 6th day of October, 1986.

CHARLES ROYER,
Mayor.

Filed by me this 6th day of October, 1986.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk.

(Seal) By MARGARET CARTER,
Deputy Clerk.

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, October 10, 1986. (C-502-X)