

---

HOUSE BILL 1614

---

State of Washington                      57th Legislature                      2001 Regular Session

By Representatives Lovick, Carrell and Hurst

Read first time 01/30/2001. Referred to Committee on Judiciary.

1            AN ACT Relating to the crime of commercial bribery; reenacting and  
2 amending RCW 9.94A.320; reenacting RCW 9A.68.060; creating a new  
3 section; repealing RCW 49.44.070; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**    The purpose of this act is to respond to  
6 *State v. Thomas*, ... Wn. App. ... (Cause No. 24962-6-II, December 21,  
7 2000), by reenacting and ranking, without changes, the law relating to  
8 the crime of commercial bribery, enacted as sections 29 and 37(5),  
9 chapter 285, Laws of 1995.

10           **Sec. 2.**    RCW 9A.68.060 and 1995 c 285 s 29 are each reenacted to  
11 read as follows:

12           (1) For purposes of this section:

13           (a) "Claimant" means a person who has or is believed by an actor to  
14 have an insurance claim.

15           (b) "Service provider" means a person who directly or indirectly  
16 provides, advertises, or otherwise claims to provide services.

1 (c) "Services" means health care services, motor vehicle body or  
2 other motor vehicle repair, and preparing, processing, presenting, or  
3 negotiating an insurance claim.

4 (d) "Trusted person" means:

5 (i) An agent, employee, or partner of another;

6 (ii) An administrator, executor, conservator, guardian, receiver,  
7 or trustee of a person or an estate, or any other person acting in a  
8 fiduciary capacity;

9 (iii) An accountant, appraiser, attorney, physician, or other  
10 professional adviser;

11 (iv) An officer or director of a corporation, or any other person  
12 who participates in the affairs of a corporation, partnership, or  
13 unincorporated association; or

14 (v) An arbitrator, mediator, or other purportedly disinterested  
15 adjudicator or referee.

16 (2) A person is guilty of commercial bribery if:

17 (a) He or she offers, confers, or agrees to confer a pecuniary  
18 benefit directly or indirectly upon a trusted person under a request,  
19 agreement, or understanding that the trusted person will violate a duty  
20 of fidelity or trust arising from his or her position as a trusted  
21 person;

22 (b) Being a trusted person, he or she requests, accepts, or agrees  
23 to accept a pecuniary benefit for himself, herself, or another under a  
24 request, agreement, or understanding that he or she will violate a duty  
25 of fidelity or trust arising from his or her position as a trusted  
26 person; or

27 (c) Being an employee or agent of an insurer, he or she requests,  
28 accepts, or agrees to accept a pecuniary benefit for himself or  
29 herself, or a person other than the insurer, under a request,  
30 agreement, or understanding that he or she will or a threat that he or  
31 she will not refer or induce claimants to have services performed by a  
32 service provider.

33 (3) It is not a defense to a prosecution under this section that  
34 the person sought to be influenced was not qualified to act in the  
35 desired way, whether because the person had not yet assumed his or her  
36 position, lacked authority, or for any other reason.

37 (4) Commercial bribery is a class B felony.

1       **Sec. 3.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and  
2 2000 c 66 s 2 are each reenacted and amended to read as follows:

3   TABLE 2

4                   CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- 5   XVI         Aggravated Murder 1 (RCW 10.95.020)
- 6    XV         Homicide by abuse (RCW 9A.32.055)
- 7               Malicious explosion 1 (RCW 70.74.280(1))
- 8               Murder 1 (RCW 9A.32.030)
- 9   XIV         Murder 2 (RCW 9A.32.050)
- 10 XIII        Malicious explosion 2 (RCW 70.74.280(2))
- 11               Malicious placement of an explosive 1 (RCW
- 12                70.74.270(1))
- 13 XII         Assault 1 (RCW 9A.36.011)
- 14               Assault of a Child 1 (RCW 9A.36.120)
- 15               Malicious placement of an imitation device
- 16                1 (RCW 70.74.272(1)(a))
- 17               Rape 1 (RCW 9A.44.040)
- 18               Rape of a Child 1 (RCW 9A.44.073)
- 19 XI         Manslaughter 1 (RCW 9A.32.060)
- 20               Rape 2 (RCW 9A.44.050)
- 21               Rape of a Child 2 (RCW 9A.44.076)
- 22 X         Child Molestation 1 (RCW 9A.44.083)
- 23               Indecent Liberties (with forcible
- 24                compulsion) (RCW 9A.44.100(1)(a))
- 25               Kidnapping 1 (RCW 9A.40.020)
- 26               Leading Organized Crime (RCW
- 27                9A.82.060(1)(a))
- 28               Malicious explosion 3 (RCW 70.74.280(3))
- 29               Manufacture of methamphetamine (RCW
- 30                69.50.401(a)(1)(ii))
- 31               Over 18 and deliver heroin,
- 32                methamphetamine, a narcotic from
- 33                Schedule I or II, or flunitrazepam
- 34                from Schedule IV to someone under 18
- 35                (RCW 69.50.406)

1 IX Assault of a Child 2 (RCW 9A.36.130)  
2 Controlled Substance Homicide (RCW  
3 69.50.415)  
4 Explosive devices prohibited (RCW  
5 70.74.180)  
6 Homicide by Watercraft, by being under the  
7 influence of intoxicating liquor or  
8 any drug (RCW 79A.60.050)  
9 Inciting Criminal Profiteering (RCW  
10 9A.82.060(1)(b))  
11 Malicious placement of an explosive 2 (RCW  
12 70.74.270(2))  
13 Over 18 and deliver narcotic from Schedule  
14 III, IV, or V or a nonnarcotic, except  
15 flunitrazepam or methamphetamine, from  
16 Schedule I-V to someone under 18 and 3  
17 years junior (RCW 69.50.406)  
18 Robbery 1 (RCW 9A.56.200)  
19 Sexual Exploitation (RCW 9.68A.040)  
20 Vehicular Homicide, by being under the  
21 influence of intoxicating liquor or  
22 any drug (RCW 46.61.520)

23 VIII Arson 1 (RCW 9A.48.020)  
24 Deliver or possess with intent to deliver  
25 m e t h a m p h e t a m i n e ( R C W  
26 69.50.401(a)(1)(ii))  
27 Hit and Run--Death (RCW 46.52.020(4)(a))  
28 Homicide by Watercraft, by the operation of  
29 any vessel in a reckless manner (RCW  
30 79A.60.050)  
31 Manslaughter 2 (RCW 9A.32.070)  
32 Manufacture, deliver, or possess with  
33 intent to deliver amphetamine (RCW  
34 69.50.401(a)(1)(ii))  
35 Manufacture, deliver, or possess with  
36 intent to deliver heroin or cocaine  
37 (RCW 69.50.401(a)(1)(i))  
38 Possession of Ephedrine, Pseudoephedrine,  
39 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW  
2 69.50.440)  
3 Promoting Prostitution 1 (RCW 9A.88.070)  
4 Selling for profit (controlled or  
5 counterfeit) any controlled substance  
6 (RCW 69.50.410)  
7 Theft of Anhydrous Ammonia (RCW 69.55.010)  
8 Vehicular Homicide, by the operation of any  
9 vehicle in a reckless manner (RCW  
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)  
12 Child Molestation 2 (RCW 9A.44.086)  
13 Dealing in depictions of minor engaged in  
14 sexually explicit conduct (RCW  
15 9.68A.050)  
16 Drive-by Shooting (RCW 9A.36.045)  
17 Homicide by Watercraft, by disregard for  
18 the safety of others (RCW 79A.60.050)  
19 Indecent Liberties (without forcible  
20 compulsion) (RCW 9A.44.100(1) (b) and  
21 (c))  
22 Introducing Contraband 1 (RCW 9A.76.140)  
23 Involving a minor in drug dealing (RCW  
24 69.50.401(f))  
25 Malicious placement of an explosive 3 (RCW  
26 70.74.270(3))  
27 Sending, bringing into state depictions of  
28 minor engaged in sexually explicit  
29 conduct (RCW 9.68A.060)  
30 Unlawful Possession of a Firearm in the  
31 first degree (RCW 9.41.040(1)(a))  
32 Use of a Machine Gun in Commission of a  
33 Felony (RCW 9.41.225)  
34 Vehicular Homicide, by disregard for the  
35 safety of others (RCW 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW  
37 9A.76.170(2)(a))  
38 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))  
2 Intimidating a Judge (RCW 9A.72.160)  
3 Intimidating a Juror/Witness (RCW  
4 9A.72.110, 9A.72.130)  
5 Malicious placement of an imitation device  
6 2 (RCW 70.74.272(1)(b))  
7 Manufacture, deliver, or possess with  
8 intent to deliver narcotics from  
9 Schedule I or II (except heroin or  
10 cocaine) or flunitrazepam from  
11 Schedule IV (RCW 69.50.401(a)(1)(i))  
12 Rape of a Child 3 (RCW 9A.44.079)  
13 Theft of a Firearm (RCW 9A.56.300)  
14 Unlawful Storage of Anhydrous Ammonia (RCW  
15 69.55.020)

16 V Abandonment of dependent person 1 (RCW  
17 9A.42.060)  
18 Advancing money or property for  
19 extortionate extension of credit (RCW  
20 9A.82.030)  
21 Bail Jumping with class A Felony (RCW  
22 9A.76.170(2)(b))  
23 Child Molestation 3 (RCW 9A.44.089)  
24 Criminal Mistreatment 1 (RCW 9A.42.020)  
25 Custodial Sexual Misconduct 1 (RCW  
26 9A.44.160)  
27 Delivery of imitation controlled substance  
28 by person eighteen or over to person  
29 under eighteen (RCW 69.52.030(2))  
30 Domestic Violence Court Order Violation  
31 (RCW 10.99.040, 10.99.050, 26.09.300,  
32 26.10.220, 26.26.138, 26.50.110,  
33 26.52.070, or 74.34.145)  
34 Extortion 1 (RCW 9A.56.120)  
35 Extortionate Extension of Credit (RCW  
36 9A.82.020)  
37 Extortionate Means to Collect Extensions of  
38 Credit (RCW 9A.82.040)  
39 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)  
2 Perjury 1 (RCW 9A.72.020)  
3 Persistent prison misbehavior (RCW  
4 9.94.070)  
5 Possession of a Stolen Firearm (RCW  
6 9A.56.310)  
7 Rape 3 (RCW 9A.44.060)  
8 Rendering Criminal Assistance 1 (RCW  
9 9A.76.070)  
10 Sexual Misconduct with a Minor 1 (RCW  
11 9A.44.093)  
12 Sexually Violating Human Remains (RCW  
13 9A.44.105)  
14 Stalking (RCW 9A.46.110)  
15 IV Arson 2 (RCW 9A.48.030)  
16 Assault 2 (RCW 9A.36.021)  
17 Assault by Watercraft (RCW 79A.60.060)  
18 Bribing a Witness/Bribe Received by Witness  
19 (RCW 9A.72.090, 9A.72.100)  
20 Commercial Bribery (RCW 9A.68.060 (as  
21 reenacted by this act))  
22 Counterfeiting (RCW 9.16.035(4))  
23 Escape 1 (RCW 9A.76.110)  
24 Hit and Run--Injury (RCW 46.52.020(4)(b))  
25 Hit and Run with Vessel--Injury Accident  
26 (RCW 79A.60.200(3))  
27 Indecent Exposure to Person Under Age  
28 Fourteen (subsequent sex offense) (RCW  
29 9A.88.010)  
30 Influencing Outcome of Sporting Event (RCW  
31 9A.82.070)  
32 Knowingly Trafficking in Stolen Property  
33 (RCW 9A.82.050(2))  
34 Malicious Harassment (RCW 9A.36.080)  
35 Manufacture, deliver, or possess with  
36 intent to deliver narcotics from  
37 Schedule III, IV, or V or nonnarcotics  
38 from Schedule I-V (except marijuana,  
39 amphetamine, methamphetamines, or

1 flunitrazepam) (RCW 69.50.401(a)(1)  
2 (iii) through (v))  
3 Residential Burglary (RCW 9A.52.025)  
4 Robbery 2 (RCW 9A.56.210)  
5 Theft of Livestock 1 (RCW 9A.56.080)  
6 Threats to Bomb (RCW 9.61.160)  
7 Use of Proceeds of Criminal Profiteering  
8 (RCW 9A.82.080 (1) and (2))  
9 Vehicular Assault (RCW 46.61.522)  
10 Willful Failure to Return from Furlough  
11 (RCW 72.66.060)

12 III Abandonment of dependent person 2 (RCW  
13 9A.42.070)  
14 Assault 3 (RCW 9A.36.031)  
15 Assault of a Child 3 (RCW 9A.36.140)  
16 Bail Jumping with class B or C Felony (RCW  
17 9A.76.170(2)(c))  
18 Burglary 2 (RCW 9A.52.030)  
19 Communication with a Minor for Immoral  
20 Purposes (RCW 9.68A.090)  
21 Criminal Gang Intimidation (RCW 9A.46.120)  
22 Criminal Mistreatment 2 (RCW 9A.42.030)  
23 Custodial Assault (RCW 9A.36.100)  
24 Delivery of a material in lieu of a  
25 controlled substance (RCW  
26 69.50.401(c))  
27 Escape 2 (RCW 9A.76.120)  
28 Extortion 2 (RCW 9A.56.130)  
29 Harassment (RCW 9A.46.020)  
30 Intimidating a Public Servant (RCW  
31 9A.76.180)  
32 Introducing Contraband 2 (RCW 9A.76.150)  
33 Maintaining a Dwelling or Place for  
34 Controlled Substances (RCW  
35 69.50.402(a)(6))  
36 Malicious Injury to Railroad Property (RCW  
37 81.60.070)



1 Manufacture, deliver, or possess with  
2 intent to deliver marijuana (RCW  
3 69.50.401(a)(1)(iii))  
4 Manufacture, distribute, or possess with  
5 intent to distribute an imitation  
6 controlled substance (RCW  
7 69.52.030(1))  
8 Patronizing a Juvenile Prostitute (RCW  
9 9.68A.100)  
10 Perjury 2 (RCW 9A.72.030)  
11 Possession of Incendiary Device (RCW  
12 9.40.120)  
13 Possession of Machine Gun or Short-Barreled  
14 Shotgun or Rifle (RCW 9.41.190)  
15 Promoting Prostitution 2 (RCW 9A.88.080)  
16 Recklessly Trafficking in Stolen Property  
17 (RCW 9A.82.050(1))  
18 Securities Act violation (RCW 21.20.400)  
19 Tampering with a Witness (RCW 9A.72.120)  
20 Telephone Harassment (subsequent conviction  
21 or threat of death) (RCW 9.61.230)  
22 Theft of Livestock 2 (RCW 9A.56.080)  
23 Unlawful Imprisonment (RCW 9A.40.040)  
24 Unlawful possession of firearm in the  
25 second degree (RCW 9.41.040(1)(b))  
26 Unlawful Use of Building for Drug Purposes  
27 (RCW 69.53.010)  
28 Willful Failure to Return from Work Release  
29 (RCW 72.65.070)  
30 II Computer Trespass 1 (RCW 9A.52.110)  
31 Counterfeiting (RCW 9.16.035(3))  
32 Create, deliver, or possess a counterfeit  
33 controlled substance (RCW  
34 69.50.401(b))  
35 Escape from Community Custody (RCW  
36 72.09.310)  
37 Health Care False Claims (RCW 48.80.030)  
38 Malicious Mischief 1 (RCW 9A.48.070)

1 Possession of controlled substance that is  
2 either heroin or narcotics from  
3 Schedule I or II or flunitrazepam from  
4 Schedule IV (RCW 69.50.401(d))  
5 Possession of phencyclidine (PCP) (RCW  
6 69.50.401(d))  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 Theft 1 (RCW 9A.56.030)  
10 Theft of Rental, Leased, or Lease-purchased  
11 Property (valued at one thousand five  
12 hundred dollars or more) (RCW  
13 9A.56.096(4))  
14 Trafficking in Insurance Claims (RCW  
15 48.30A.015)  
16 Unlawful Practice of Law (RCW 2.48.180)  
17 Unlicensed Practice of a Profession or  
18 Business (RCW 18.130.190(7))  
19 I Attempting to Elude a Pursuing Police  
20 Vehicle (RCW 46.61.024)  
21 False Verification for Welfare (RCW  
22 74.08.055)  
23 Forged Prescription (RCW 69.41.020)  
24 Forged Prescription for a Controlled  
25 Substance (RCW 69.50.403)  
26 Forgery (RCW 9A.60.020)  
27 Malicious Mischief 2 (RCW 9A.48.080)  
28 Possess Controlled Substance that is a  
29 Narcotic from Schedule III, IV, or V  
30 or Non-narcotic from Schedule I-V  
31 (except phencyclidine or  
32 flunitrazepam) (RCW 69.50.401(d))  
33 Possession of Stolen Property 2 (RCW  
34 9A.56.160)  
35 Reckless Burning 1 (RCW 9A.48.040)  
36 Taking Motor Vehicle Without Permission  
37 (RCW 9A.56.070)  
38 Theft 2 (RCW 9A.56.040)

1           Theft of Rental, Leased, or Lease-purchased  
2           Property (valued at two hundred fifty  
3           dollars or more but less than one  
4           thousand five hundred dollars) (RCW  
5           9A.56.096(4))  
6           Unlawful Issuance of Checks or Drafts (RCW  
7           9A.56.060)  
8           Unlawful Use of Food Stamps (RCW 9.91.140  
9           (2) and (3))  
10          Vehicle Prowl 1 (RCW 9A.52.095)

11          NEW SECTION.   **Sec. 4.**   RCW 49.44.070 (Grafting by employee) and  
12          1909 c 249 s 427 are each repealed.

13          NEW SECTION.   **Sec. 5.**   This act is necessary for the immediate  
14          preservation of the public peace, health, or safety, or support of the  
15          state government and its existing public institutions, and takes effect  
16          immediately.

--- END ---