
HOUSE BILL 2103

State of Washington

67th Legislature

2022 Regular Session

By Representative Kirby

Read first time 01/28/22. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to addressing the enforceability of, and
2 available remedies relating to, contracts affected by commercial
3 bribery; and amending RCW 9A.68.060.

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

5 **Sec. 1.** RCW 9A.68.060 and 2001 c 224 s 2 are each amended to
6 read as follows:

7 (1) For purposes of this section:

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

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

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

15 (d) "Trusted person" means:

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

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

20 (iii) An accountant, appraiser, attorney, physician, or other
21 professional adviser;

1 (iv) An officer or director of a corporation, or any other person
2 who participates in the affairs of a corporation, partnership, or
3 unincorporated association; or

4 (v) An arbitrator, mediator, or other purportedly disinterested
5 adjudicator or referee.

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

7 (a) He or she offers, confers, or agrees to confer a pecuniary
8 benefit directly or indirectly upon a trusted person under a request,
9 agreement, or understanding that the trusted person will violate a
10 duty of fidelity or trust arising from his or her position as a
11 trusted person;

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

17 (c) Being an employee or agent of an insurer, he or she requests,
18 accepts, or agrees to accept a pecuniary benefit for himself or
19 herself, or a person other than the insurer, under a request,
20 agreement, or understanding that he or she will or a threat that he
21 or she will not refer or induce claimants to have services performed
22 by a service provider.

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

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

28 (5) It is the express public policy of this state that no person
29 be allowed to profit through contracts tainted by commercial bribery.
30 Victims of such conduct shall be entitled to full civil tort
31 remedies, with proof of such conduct made by a preponderance of the
32 evidence. No contract may be enforced in favor of a person who
33 participated in commercial bribery in connection with the contract,
34 and no civil judgment in this state may be enforced in favor of a
35 person who was found to have committed commercial bribery if the
36 judgment was based on a contract tainted by commercial bribery. Any
37 such judgment shall be deemed void as against public policy. This

1 provision shall be retroactive to such contracts for a period of 10
2 years.

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