
SECOND SUBSTITUTE HOUSE BILL 1557

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives L. Thomas, Dellwo, Mielke, Wolfe, G. Fisher, Blanton and Poulsen; by request of Insurance Commissioner and Attorney General)

Read first time 03/06/95.

1 AN ACT Relating to insurance fraud; amending RCW 48.01.030,
2 48.14.010, 48.18.460, 48.30.210, 48.30.220, 48.50.010, 48.50.020,
3 48.50.030, 48.50.040, 48.50.075, 48.80.020, 2.48.180, 9.12.010,
4 9A.72.010, 9A.72.030, 9A.76.020, 9A.82.010, and 18.130.190; reenacting
5 and amending RCW 9.94A.320; adding a new section to chapter 42.17 RCW;
6 adding a new section to chapter 9A.68 RCW; adding a new section to
7 chapter 9A.76 RCW; adding a new chapter to Title 48 RCW; creating a new
8 section; repealing RCW 9.91.090, 9A.82.903, 48.50.060, 48.50.080, and
9 49.44.070; prescribing penalties; providing an effective date; and
10 declaring an emergency.

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

12 NEW SECTION. **Sec. 1.** The legislature finds that the business of
13 insurance is one affected by the public interest, requiring that all
14 persons be actuated by good faith, abstain from deception, and practice
15 honesty and equity in all insurance matters. The payment of kickbacks,
16 bribes, or rebates for referrals to service providers, as has been
17 occurring with increasing regularity in this state, results in inflated
18 or fraudulent insurance claims, results in greater insurance costs for
19 all citizens, and is contrary to the public interest. In particular,

1 the process whereby "cappers" buy and sell insurance claims without the
2 controls of professional licensing and discipline creates a fertile
3 ground for illegal activity and has, in this state, resulted in frauds
4 committed against injured claimants, insurance companies, and the
5 public. Operations that engage in this practice have some or all of
6 the following characteristics: Cappers, acting under an agreement or
7 understanding that they will receive a pecuniary benefit, refer
8 claimants with real or imaginary claims, injuries, or property damage
9 to service providers. This sets off a chain of events that corrupts
10 both the provision of services and casualty or property insurance for
11 all citizens. This chain of events includes false claims for services
12 through the use of false estimates of repair; false prescriptions of
13 care or rehabilitative therapy; services that either do not occur or
14 are provided by persons unqualified to provide the services; submission
15 of false claims; submission of and demands for fraudulent costs, lost
16 wages, pain and suffering, and the like; and other devices meant to
17 result in false claims under casualty or property insurance policies or
18 contracts, whether insured or self-insured, and either directly or
19 through subrogation.

20 The legislature finds that combatting these practices requires laws
21 carefully fashioned to identify practices that mimic customary business
22 practices. The legislature does not intend this law to be used against
23 medical and other business referral practices that are otherwise legal,
24 customary, and unrelated to the furtherance of some or all of the
25 corrupt practices identified in this chapter.

26 NEW SECTION. **Sec. 2.** The definitions set forth in this section
27 apply throughout this chapter unless the context clearly indicates
28 otherwise.

29 (1) "Casualty or property insurance" includes both the insurance
30 under which a claim is filed and insurance that receives a claim
31 through subrogation, and means insurance as defined in RCW 48.11.040
32 and 48.11.070 and includes self-insurance arrangements.

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

35 (3) "Group-buying arrangement" means an arrangement made by a
36 membership organization having one hundred or more members in which the
37 organization asks for or receives valuable consideration in exchange
38 for referring its members to a service provider; the consideration

1 asked for or received will be or is used to benefit the entire
2 organization, not just one or more individuals in positions of power or
3 influence in the organization; and reasonable efforts are made to
4 disclose to affected members of the organization the nature of the
5 referral relationship, including the nature, extent, amount, and use of
6 the consideration.

7 (4) "Health care services" means a service provided to a claimant
8 for treatment of physical or mental illness or injury arising in whole
9 or substantial part from trauma.

10 (5) "Insurance claim" means a claim for payment, benefits, or
11 damages under a contract, plan, or policy of casualty or property
12 insurance.

13 (6) "Pecuniary benefit" means the same as defined in RCW 9A.04.110.

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

16 (8) "Services" means health care services, motor vehicle body or
17 other motor vehicle repair, and preparing, processing, presenting, or
18 negotiating an insurance claim.

19 (9) "Trauma" means a physical injury or wound caused by external
20 force or violence.

21 NEW SECTION. **Sec. 3.** (1) It is unlawful for a person, knowing
22 that a direction or referral was, is, or will be under an agreement or
23 understanding that the recipient of the referral has conferred or will
24 confer a pecuniary benefit directly or indirectly upon the person
25 directing or referring the claimant, to:

26 (a) Direct, refer, or offer to direct or refer a claimant to a
27 service provider; or

28 (b) Provide or claim or represent to have provided services to a
29 claimant who has been directed or referred to the service provider.

30 (2) It is unlawful for a service provider to engage in a regular
31 practice of waiving, rebating, giving, paying, or offering to waive,
32 rebate, give, or pay all or any part of a claimant's casualty or
33 property insurance deductible.

34 NEW SECTION. **Sec. 4.** In a proceeding under this chapter, it is a
35 defense if proven by the defendant by a preponderance of the evidence
36 that, at the time of the offense:

1 (1) The conduct alleged was expressly authorized by the Rules of
2 Professional Conduct or the Admission to Practice Rules for lawyers as
3 adopted by the state supreme court, Washington business and professions
4 licensing statutes, or rules adopted by the secretary of health or the
5 director of licensing;

6 (2) The pecuniary benefit given or received was an incidental
7 nonmonetary gift or gratuity, or was purely social in nature;

8 (3) The conduct alleged was an exercise of a group-buying
9 arrangement; or

10 (4) The conduct alleged was an attorney paying or agreeing to pay
11 a service provider's bills from the proceeds of an insurance claim that
12 included the bills.

13 NEW SECTION. **Sec. 5.** A violation of section 3 of this act
14 constitutes trafficking in insurance claims. A single violation is a
15 gross misdemeanor. Each subsequent violation, whether alleged in the
16 same or in subsequent prosecutions, is a class C felony.

17 NEW SECTION. **Sec. 6.** (1) The legislature finds that practices
18 covered by section 3 of this act, and trafficking in insurance claims,
19 as prohibited in section 3 of this act, are matters vitally affecting
20 the public interest for purposes of applying the Consumer Protection
21 Act, chapter 19.86 RCW. Violations of section 3 of this act are not
22 reasonable in relation to the development and preservation of business.
23 A violation of section 3 of this act is an unfair or deceptive act in
24 trade or commerce and an unfair method of competition for the purpose
25 of applying the Consumer Protection Act, chapter 19.86 RCW.

26 NEW SECTION. **Sec. 7.** The provisions of section 6 of this act are
27 cumulative and nonexclusive and do not affect any other remedy
28 available at law or in equity. Remedies under section 6 of this act
29 may be pursued only by the attorney general.

30 NEW SECTION. **Sec. 8.** Independent of authority granted to the
31 attorney general, the prosecuting attorney may petition the superior
32 court for an injunction against a person who has violated or threatens
33 to violate this chapter. Remedies in an injunctive action brought by
34 a prosecuting attorney are limited to an order enjoining, restraining,
35 or preventing the doing of any act or practice that constitutes a

1 violation of this chapter, recovery of reasonable investigative costs
2 and attorneys' fees, and imposition of a civil penalty of up to five
3 thousand dollars for each violation. The degree of proof required in
4 an action brought under this subsection is a preponderance of the
5 evidence.

6 NEW SECTION. **Sec. 9.** Whenever a service provider or a person
7 licensed by the state in a business or profession is convicted,
8 enjoined, or found liable for damages or a civil penalty or other
9 equitable relief under section 6, 7, or 8 of this act, the attorney
10 general or the prosecuting attorney shall provide written notification
11 of the judgment to the appropriate regulatory or disciplinary body or
12 agency.

13 NEW SECTION. **Sec. 10.** A violation of this chapter is cause for
14 discipline and constitutes unprofessional conduct that could result in
15 any regulatory penalty provided by law, including refusal, revocation,
16 or suspension of a business or professional license, or right or
17 admission to practice. Conduct that constitutes a violation of this
18 chapter is unprofessional conduct in violation of RCW 18.130.180.

19 NEW SECTION. **Sec. 11.** (1) Except as provided in subsection (2) of
20 this section, each insurer licensed to write insurance in this state
21 shall institute and maintain an insurance antifraud plan. An insurer
22 licensed on the effective date of this act shall file a certification
23 that the insurer has completed an antifraud plan with the insurance
24 commissioner no later than December 31, 1995. An insurer licensed
25 after the effective date of this act shall file its certification
26 within six months of licensure.

27 (2) For purposes of sections 11 and 12 of this act, "insurer" does
28 not include property or casualty insurers with annual gross written
29 medical malpractice insurance premiums in this state that exceed fifty
30 percent of their total annual gross written premiums in this state.

31 NEW SECTION. **Sec. 12.** An insurer's antifraud plan must establish
32 specific procedures to:

33 (1) Prevent insurance fraud, including internal fraud involving
34 employees or company representatives, fraud resulting from

1 misrepresentation on applications for insurance coverage, and claims
2 fraud;

3 (2) Review claims in order to detect evidence of possible insurance
4 fraud and to investigate claims where fraud is suspected;

5 (3) Report fraud to appropriate law enforcement agencies and
6 cooperate with those agencies in their prosecution of fraud cases;

7 (4) Undertake civil actions against persons who have engaged in
8 fraudulent activities;

9 (5) Train company employees and agents in the detection and
10 prevention of fraud.

11 NEW SECTION. **Sec. 13.** The insurance commissioner shall contract
12 with the attorney general to establish and maintain an insurance fraud
13 prosecution unit within the office of the attorney general. The
14 insurance commissioner shall provide, per biennium, the greater of
15 seven hundred fifty thousand dollars or an amount equal to four percent
16 of the fees collected under RCW 48.14.010 from the commissioner's
17 operating budget to the attorney general for the insurance fraud
18 prosecution unit. This amount shall come from savings in the office of
19 the insurance commissioner in such areas as personal service contracts,
20 information or public relations officers or employees, and budgeted
21 costs associated with the Washington Health Services Act of 1993. The
22 attorney general shall contract with the Washington state patrol to
23 establish and maintain an insurance fraud investigation unit in the
24 Washington state patrol. The attorney general shall coordinate the
25 activities of both units established in this section.

26 NEW SECTION. **Sec. 14.** The primary focus of the insurance fraud
27 units created in section 13 of this act is to establish and maintain
28 the capability to investigate and prosecute crimes of property and
29 casualty insurance fraud in the state of Washington in cooperation with
30 local law enforcement. These crimes often involve sophisticated and
31 organized criminal activities operating in this state or nationwide.
32 The primary emphasis should be directed to the most serious crimes
33 involving staged accidents, false damage or injury claims, the
34 resulting false court documents, unlawful trafficking in claims, and
35 unlicensed medical and legal practice. The unit may also, when
36 appropriate, pursue civil and criminal actions under chapter 9A.82 RCW.

1 NEW SECTION. **Sec. 15.** The units created in section 13 of this act
2 will coordinate their insurance fraud investigations and prosecutions
3 with the appropriate local, state, and federal law enforcement
4 agencies. Cases will be prosecuted by the prosecuting attorney, or by
5 the attorney general under RCW 43.10.232. When a prosecuting attorney
6 prosecutes a case, the attorney general's insurance fraud prosecution
7 unit personnel will assist the prosecutor as requested. The attorney
8 general shall assist in paying for local prosecution activities done at
9 the request of the insurance fraud prosecution unit. The Washington
10 state patrol insurance fraud investigation unit will be the central
11 clearinghouse for enforcement activities in this state and the primary
12 contact to other law enforcement agencies.

13 NEW SECTION. **Sec. 16.** The insurance antifraud account is created
14 in the custody of the state treasurer. A portion of insurance premium
15 taxes shall be deposited in the account as prescribed in RCW 48.14.010.
16 Expenditures from the account may be used only for expenses related to
17 the Washington state patrol's insurance fraud investigation unit and
18 reimbursement for investigative support by local law enforcement
19 agencies done at the request of the unit. Only the chief of the state
20 patrol or a designee may authorize expenditures from the account. The
21 account is subject to allotment procedures under chapter 43.88 RCW, but
22 no appropriation is required for expenditures.

23 NEW SECTION. **Sec. 17.** It is the duty of all peace officers, law
24 enforcement officers, and law enforcement agencies within this state to
25 investigate, enforce, and prosecute all violations of this chapter.

26 NEW SECTION. **Sec. 18.** If matter that the units created in section
27 13 of this act seek to obtain by request is located outside the state,
28 the person so requested may make it available to the units or their
29 representatives for examination at the place where the matter is
30 located. The units may designate representatives, including officials
31 of the state in which the matter is located, to inspect the matter on
32 their behalf, and they may respond to similar requests from officials
33 of other states.

34 NEW SECTION. **Sec. 19.** An insurance company that believes a false
35 or fraudulent application or claim is being made may send to the

1 Washington state patrol insurance fraud investigation unit, on a form
2 prescribed by the unit, the information requested and such additional
3 information relative to the claim and the parties claiming loss or
4 damages as the unit may require. The unit shall review the reports and
5 select such referrals as, in its judgment, may warrant further
6 investigation. It shall then make an independent examination of the
7 facts surrounding the referral to determine whether a violation of law
8 has occurred. The unit shall report any alleged violations of law that
9 its investigations disclose to the attorney general's insurance fraud
10 prosecution unit, the appropriate licensing agency, and prosecuting
11 authority having jurisdiction with respect to any such violation.

12 NEW SECTION. **Sec. 20.** A new section is added to chapter 42.17 RCW
13 to read as follows:

14 Information provided under sections 11, 12, and 19 of this act is
15 exempt from disclosure under this chapter.

16 **Sec. 21.** RCW 48.01.030 and 1947 c 79 s .01.03 are each amended to
17 read as follows:

18 The business of insurance is one affected by the public interest,
19 requiring that all persons be actuated by good faith, abstain from
20 deception, and practice honesty and equity in all insurance matters.
21 Upon the insurer, the insured, their providers, and their
22 representatives rests the duty of preserving inviolate the integrity of
23 insurance.

24 **Sec. 22.** RCW 48.14.010 and 1994 c 131 s 2 are each amended to read
25 as follows:

26 (1) The commissioner shall collect in advance the following fees:

27 **(a) For filing charter documents:**

- 28 (i) Original charter documents, bylaws or record of
29 organization of insurers, or certified copies
30 thereof, required to be filed \$250.00
- 31 (ii) Amended charter documents, or certified copy
32 thereof, other than amendments of bylaws \$ 10.00
- 33 (iii) No additional charge or fee shall be required
34 for filing any of such documents in the office
35 of the secretary of state.

1	(b) Certificate of authority:	
2	(i) Issuance	\$ 25.00
3	(ii) Renewal	\$ 25.00
4	(c) Annual statement of insurer, filing	\$ 20.00
5	(d) Organization or financing of domestic insurers and affiliated	
6	corporations:	
7	(i) Application for solicitation permit, filing . . .	\$100.00
8	(ii) Issuance of solicitation permit	\$ 25.00
9	(e) Agents' licenses:	
10	(i) Agent's qualification licenses every two years . .	\$ 50.00
11	(ii) Filing of appointment of each such agent, every	
12	two years	\$ 20.00
13	(iii) Limited license issued pursuant to RCW	
14	48.17.190, every two years	\$ 20.00
15	(f) Reinsurance intermediary licenses:	
16	(i) Reinsurance intermediary-broker, each year	\$ 50.00
17	(ii) Reinsurance intermediary-manager, each year . . .	\$100.00
18	(g) Brokers' licenses:	
19	(i) Broker's license, every two years	\$100.00
20	(ii) Surplus line broker, every two years	\$200.00
21	(h) Solicitors' license, every two years	\$ 20.00
22	(i) Adjusters' licenses:	
23	(i) Independent adjuster, every two years	\$ 50.00
24	(ii) Public adjuster, every two years	\$ 50.00
25	(j) Resident general agent's license, every two years	\$ 50.00
26	(k) Managing general agent appointment, every two years . . .	\$200.00
27	(l) Examination for license, each examination:	
28	All examinations, except examinations administered by	
29	an independent testing service, the fees for	
30	which are to be approved by the commissioner and	
31	collected directly by and retained by such	
32	independent testing service	\$ 20.00
33	(m) Miscellaneous services:	
34	(i) Filing other documents	\$ 5.00
35	(ii) Commissioner's certificate under seal	\$ 5.00
36	(iii) Copy of documents filed in the commissioner's	
37	office, reasonable charge therefor as determined	
38	by the commissioner.	

1 (2) All fees so collected shall be remitted by the commissioner to
2 the state treasurer not later than the first business day following,
3 and shall be placed as follows: (a) Three-tenths of one percent
4 deposited in the insurance antifraud account created in section 16 of
5 this act; and (b) the remainder to the credit of the general fund:
6 PROVIDED, That fees for examinations administered by an independent
7 testing service which are approved by the commissioner pursuant to
8 subsection (1)(1) of this section shall be collected directly by such
9 independent testing service and retained by it.

10 **Sec. 23.** RCW 48.18.460 and 1949 c 190 s 26 are each amended to
11 read as follows:

12 An insurer shall furnish, upon ~~((written))~~ request of any person
13 claiming to have a loss under any insurance contract, forms of proof of
14 loss for completion by such person. But such insurer shall not, by
15 reason of the requirement so to furnish forms, have any responsibility
16 for or with reference to the completion of such proof or the manner of
17 any such completion or attempted completion. If a person makes a claim
18 under a policy of insurance, the insurer may require that the person be
19 examined under an oath administered by a person authorized by state or
20 federal law to administer oaths.

21 **Sec. 24.** RCW 48.30.210 and 1990 1st ex.s. c 3 s 10 are each
22 amended to read as follows:

23 ~~((Any agent, solicitor, broker, examining physician or other))~~ A
24 person who knowingly makes a false or ~~((fraudulent))~~ misleading
25 statement or ((representation)) impersonation, or who willfully fails
26 to reveal a material fact, in or relative to an application for
27 insurance ((in)) to an insurer ((transacting insurance under the
28 provisions of this code, shall be)), is guilty of a gross misdemeanor,
29 and the license of any such ~~((agent, solicitor, or broker who makes~~
30 ~~such a statement or representation))~~ person may be revoked.

31 **Sec. 25.** RCW 48.30.220 and 1965 ex.s. c 70 s 25 are each amended
32 to read as follows:

33 Any person, who, with intent to defraud or prejudice the insurer
34 thereof, ~~((wilfully))~~ burns or in any manner injures, destroys,
35 secretes, abandons, or disposes of any property which is insured at the
36 time against loss or damage by fire, theft, ~~((or))~~ embezzlement, or

1 ((by)) any other casualty, whether the same be the property of or in
2 the possession of such person or any other person, under ((such))
3 circumstances not making the offense arson in the first degree, is
4 guilty of a class C felony.

5 **Sec. 26.** RCW 48.50.010 and 1979 ex.s. c 80 s 1 are each amended to
6 read as follows:

7 This chapter shall be known and may be cited as the ((Arson))
8 Insurance Fraud Reporting Immunity Act.

9 **Sec. 27.** RCW 48.50.020 and 1986 c 266 s 77 are each amended to
10 read as follows:

11 As used in this chapter the following terms have the meanings
12 indicated unless the context clearly requires otherwise.

13 (1) "Authorized agency" means a public agency or its official
14 representative having legal authority to investigate criminal activity
15 or the cause of a fire ((and)) or to initiate criminal proceedings ((or
16 ~~further investigations if the cause was not accidental~~)), including the
17 following persons and agencies:

18 (a) The ((director)) department of community, trade, and economic
19 development and the director of fire protection;

20 (b) The prosecuting attorney of the county where the ((fire))
21 criminal activity occurred;

22 (c) State, county, and local law enforcement agencies;

23 (d) The state attorney general((, when engaged in a prosecution
24 which is or may be connected with the fire));

25 ((d)) (e) The Federal Bureau of Investigation, or any other
26 federal law enforcement agency; ((and

27 (e)) (f) The United States attorney's office ((when authorized or
28 charged with investigation or prosecution concerning the fire)); and

29 (g) The office of the insurance commissioner.

30 (2) "Insurer" means any insurer, as defined in RCW 48.01.050((
31 ~~which insures against loss by fire, and includes insurers under the~~
32 ~~Washington F.A.I.R. plan~~)) and any self-insurer.

33 (3) "Relevant information" means information having any tendency to
34 make the existence of any fact that is of consequence to the
35 investigation or determination of criminal activity or the cause of any
36 fire more probable or less probable than it would be without the
37 information.

1 **Sec. 28.** RCW 48.50.030 and 1979 ex.s. c 80 s 3 are each amended to
2 read as follows:

3 (1) Any authorized agency may request, in writing, that an insurer
4 release to the agency any or all relevant information or evidence which
5 the insurer may have in its possession relating to (~~a particular fire~~
6 ~~loss~~) criminal activity, if such information or evidence is deemed
7 important by the agency in its discretion.

8 (2) An insurer who has reason to believe that a person participated
9 or is participating in criminal activity relating to a contract of
10 insurance may report relevant information to an authorized agency.

11 (3) The information (~~requested~~) provided to an authorized agency
12 under this section may include, without limitation:

13 (a) Pertinent insurance policy information relating to a (~~fire~~
14 ~~loss~~) claim under investigation and any application for such a policy;

15 (b) Policy premium payment records which are available;

16 (c) History of previous claims (~~made by the insured~~) in which the
17 person was involved; and

18 (d) Material relating to the investigation of the loss, including
19 statements of any person, proof of loss, and any other evidence found
20 in the investigation.

21 (~~(2) An~~) (4) The insurer receiving a request under subsection (1)
22 of this section shall furnish all relevant information requested to the
23 agency within a reasonable time, orally or in writing(~~, all relevant~~
24 information requested)).

25 **Sec. 29.** RCW 48.50.040 and 1986 c 266 s 91 are each amended to
26 read as follows:

27 (1) When an insurer has reason to believe that a fire loss reported
28 to the insurer may be of other than accidental cause, the insurer shall
29 notify the (~~director~~) department of community, trade, and economic
30 development, through the director of fire protection, in the manner
31 prescribed under RCW 48.05.320 concerning the circumstances of the fire
32 loss, including any and all relevant material developed from the
33 insurer's inquiry into the fire loss.

34 (2) Notification of the (~~director~~) department of community,
35 trade, and economic development, through the director of fire
36 protection, under subsection (1) of this section does not relieve the
37 insurer of the duty to respond to a request for information from any

1 other authorized agency and does not bar an insurer from other
2 reporting under RCW 48.50.030(2).

3 **Sec. 30.** RCW 48.50.075 and 1981 c 320 s 2 are each amended to read
4 as follows:

5 In denying a claim (~~((resulting from a fire))~~), an insurer who relies
6 upon a written opinion from an authorized agency specifically
7 enumerated in (~~((a) through (e) of))~~ RCW 48.50.020(1) (a) through (g)
8 that ~~((the fire was caused by arson))~~ criminal activity that is related
9 to that claim is being investigated, or a crime has been charged, and
10 that the ~~((insured was responsible for the fire, shall not be))~~
11 claimant is a target of the investigation or has been charged with a
12 crime, is not liable for bad faith or other noncontractual theory of
13 damages as a result of this reliance.

14 Immunity under this section shall exist only so long as the
15 incident for which the (~~((insured))~~) claimant may be responsible is under
16 active investigation or prosecution, or the authorized agency states
17 its position that the claim includes or is a result of (~~((arson for))~~)
18 criminal activity in which the ~~((insured))~~ claimant was ~~((responsible))~~
19 a participant.

20 **Sec. 31.** RCW 48.80.020 and 1986 c 243 s 2 are each amended to read
21 as follows:

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

24 (1) "Claim" means any attempt to cause a health care payer to make
25 a health care payment.

26 (2) "Deceptive" means presenting a claim to a health care payer
27 that contains a statement of fact or fails to reveal a material fact,
28 leading the health care payer to believe that the represented or
29 suggested state of affairs is other than it actually is. For the
30 purposes of this chapter, the determination of what constitutes a
31 material fact is a question of law to be resolved by the court.

32 (3) "False" means wholly or partially untrue or deceptive.

33 (4) "Health care payment" means a payment for health care services
34 or the right under a contract, certificate, or policy of insurance to
35 have a payment made by a health care payer for a specified health care
36 service.

1 (5) "Health care payer" means any insurance company authorized to
2 provide health insurance in this state, any health care service
3 contractor authorized under chapter 48.44 RCW, any health maintenance
4 organization authorized under chapter 48.46 RCW, any legal entity which
5 is self-insured and providing health care benefits to its employees,
6 ~~((or))~~ and any insurer or other person responsible for paying for
7 health care services.

8 (6) "Person" means an individual, corporation, partnership,
9 association, or other legal entity.

10 (7) "Provider" means any person lawfully licensed or authorized to
11 render any health service.

12 **Sec. 32.** RCW 2.48.180 and 1989 c 117 s 13 are each amended to read
13 as follows:

14 ~~((Any person who, not being an active member of the state bar, or
15 who after he has been disbarred or while suspended from membership in
16 the state bar, as by this chapter provided, shall))~~

17 (1) As used in this section:

18 (a) "Legal provider" means an active member in good standing of the
19 state bar, and any other person authorized by the Washington state
20 supreme court to engage in full or limited practice of law;

21 (b) "Nonlawyer" means a person to whom the Washington supreme court
22 has granted a limited authorization to practice law but who practices
23 law outside that authorization, and a person who is not an active
24 member in good standing of the state bar, including persons who are
25 disbarred or suspended from membership;

26 (c) "Ownership interest" means the right to control the affairs of
27 a business, or the right to share in the profits of a business.

28 (2) The following constitutes unlawful practice of law:

29 (a) A nonlawyer practices law, or holds himself or herself out as
30 entitled to practice law(~~(, shall, except as provided in RCW
31 19.154.100, be guilty of a misdemeanor: PROVIDED, HOWEVER, Nothing
32 herein contained shall be held to in any way affect the power of the
33 courts to grant injunctive relief or to punish as for contempt))~~);

34 (b) A legal provider holds an investment or ownership interest in
35 a business primarily engaged in the practice of law, knowing that a
36 nonlawyer holds an investment or ownership interest in the business;

37 (c) A nonlawyer knowingly holds an investment or ownership interest
38 in a business primarily engaged in the practice of law;

1 (d) A legal provider works for a business that is primarily engaged
2 in the practice of law, knowing that a nonlawyer holds an investment or
3 ownership interest in the business;

4 (e) A nonlawyer shares legal fees with a legal provider; or

5 (f) A nonlawyer loans money to a legal provider, law firm, or
6 business engaged in the practice of law, unless the loan charges a
7 commercially reasonable rate of interest and the obligation to repay is
8 not related to income of the legal provider, law firm, or business.

9 (3) Unlawful practice of law is a crime. A single violation of
10 this section is a gross misdemeanor. Each subsequent violation,
11 whether alleged in the same or in subsequent prosecutions, is a class
12 C felony.

13 (4) Nothing contained in this section affects the power of the
14 courts to grant injunctive or other equitable relief or to punish as
15 for contempt.

16 (5) Whenever a legal provider or a person licensed by the state in
17 a business or profession is convicted, enjoined, or found liable for
18 damages or a civil penalty or other equitable relief under this
19 section, the plaintiff's attorney shall provide written notification of
20 the judgment to the appropriate regulatory or disciplinary body or
21 agency.

22 (6) A violation of this section is cause for discipline and
23 constitutes unprofessional conduct that could result in any regulatory
24 penalty provided by law, including refusal, revocation, or suspension
25 of a business or professional license, or right or admission to
26 practice. Conduct that constitutes a violation of this section is
27 unprofessional conduct in violation of RCW 18.130.180.

28 (7) In a proceeding under this section it is a defense if proven by
29 the defendant by a preponderance of the evidence that, at the time of
30 the offense, the conduct alleged was authorized by the Rules of
31 Professional Conduct or the Admission to Practice Rules, or Washington
32 business and professions licensing statutes or rules.

33 (8) The legislature finds that practices covered by RCW 2.48.170,
34 2.48.180, and 2.48.190, and the unauthorized practice of law prohibited
35 by RCW 2.48.170, 2.48.180, and 2.48.190 are matters vitally affecting
36 the public interest for purposes of applying the Consumer Protection
37 Act, chapter 19.86 RCW. Violations of these sections are not
38 reasonable in relation to the development and preservation of business.
39 A violation of RCW 2.48.170, 2.48.180, or 2.48.190 is an unfair or

1 deceptive act in trade or commerce and an unfair method of competition
2 for the purpose of applying the Consumer Protection Act, chapter 19.86
3 RCW. This subsection and subsection (9) of this section are cumulative
4 and nonexclusive and do not affect any other remedy available at law or
5 in equity.

6 (9) Independent of authority granted to the attorney general, the
7 prosecuting attorney may petition the superior court for an injunction
8 against a person who has violated or threatens to violate this chapter.
9 Remedies in an injunctive action brought by a prosecuting attorney are
10 limited to an order enjoining, restraining, or preventing the doing of
11 an act or practice that constitutes a violation of this chapter,
12 recovery of reasonable investigative costs and attorney's fees, and
13 imposition of a civil penalty of not more than five thousand dollars
14 for each violation. The degree of proof required in an action brought
15 under this subsection is a preponderance of the evidence.

16 **Sec. 33.** RCW 9.12.010 and 1915 c 165 s 1 are each amended to read
17 as follows:

18 Every person who ~~((shall))~~ brings on his or her own behalf, or
19 instigates, incites, or encourages another to bring, any false suit at
20 law or in equity in any court of this state, with intent thereby to
21 distress or harass a defendant ~~((therein; and every person, being an~~
22 ~~attorney or counselor at law, who shall personally, or through the~~
23 ~~agency of another, solicit employment as such attorney, in any suit~~
24 ~~pending or prospective, or, with intent to obtain such employment~~
25 ~~shall, directly or indirectly, loan any money or give or promise to~~
26 ~~give any money, property or other consideration to the person from whom~~
27 ~~such employment is sought; and every person who shall))~~ in the suit, or
28 who serves or sends any paper or document purporting to be or
29 resembling a judicial process, that is not in fact a judicial process
30 ~~((shall be)),~~ is guilty of a misdemeanor; and in case the person
31 offending is an attorney, he or she may, in addition thereto be
32 disbarred from practicing law within this state.

33 **Sec. 34.** RCW 9.94A.320 and 1994 sp.s. c 7 s 510, 1994 c 275 s 20,
34 and 1994 c 53 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XV	Aggravated Murder 1 (RCW 10.95.020)
4	XIV	Murder 1 (RCW 9A.32.030)
5		Homicide by abuse (RCW 9A.32.055)
6	XIII	Murder 2 (RCW 9A.32.050)
7	XII	Assault 1 (RCW 9A.36.011)
8		Assault of a Child 1 (RCW 9A.36.120)
9	XI	Rape 1 (RCW 9A.44.040)
10		Rape of a Child 1 (RCW 9A.44.073)
11	X	Kidnapping 1 (RCW 9A.40.020)
12		Rape 2 (RCW 9A.44.050)
13		Rape of a Child 2 (RCW 9A.44.076)
14		Child Molestation 1 (RCW 9A.44.083)
15		Damaging building, etc., by explosion with
16		threat to human being (RCW
17		70.74.280(1))
18		Over 18 and deliver heroin or narcotic
19		from Schedule I or II to someone
20		under 18 (RCW 69.50.406)
21		Leading Organized Crime (RCW
22		9A.82.060(1)(a))
23	IX	Assault of a Child 2 (RCW 9A.36.130)
24		Robbery 1 (RCW 9A.56.200)
25		Manslaughter 1 (RCW 9A.32.060)
26		Explosive devices prohibited (RCW
27		70.74.180)
28		Indecent Liberties (with forcible
29		compulsion) (RCW 9A.44.100(1)(a))
30		Endangering life and property by
31		explosives with threat to human being
32		(RCW 70.74.270)

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic from
3 Schedule I-V to someone under 18 and
4 3 years junior (RCW 69.50.406)
5 Controlled Substance Homicide (RCW
6 69.50.415)
7 Sexual Exploitation (RCW 9.68A.040)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Vehicular Homicide, by being under the
11 influence of intoxicating liquor or
12 any drug (RCW 46.61.520)

13 VIII Arson 1 (RCW 9A.48.020)
14 Promoting Prostitution 1 (RCW 9A.88.070)
15 Selling for profit (controlled or
16 counterfeit) any controlled substance
17 (RCW 69.50.410)
18 Manufacture, deliver, or possess with
19 intent to deliver heroin or cocaine
20 (RCW 69.50.401(a)(1)(i))
21 Manufacture, deliver, or possess with
22 intent to deliver methamphetamine
23 (RCW 69.50.401(a)(1)(ii))
24 Vehicular Homicide, by the operation of
25 any vehicle in a reckless manner (RCW
26 46.61.520)

27 VII Burglary 1 (RCW 9A.52.020)
28 Vehicular Homicide, by disregard for the
29 safety of others (RCW 46.61.520)
30 Introducing Contraband 1 (RCW 9A.76.140)
31 Indecent Liberties (without forcible
32 compulsion) (RCW 9A.44.100(1) (b) and
33 (c))
34 Child Molestation 2 (RCW 9A.44.086)
35 Dealing in depictions of minor engaged in
36 sexually explicit conduct (RCW
37 9.68A.050)

1 Sending, bringing into state depictions of
2 minor engaged in sexually explicit
3 conduct (RCW 9.68A.060)
4 Involving a minor in drug dealing (RCW
5 69.50.401(f))
6 VI Bribery (RCW 9A.68.010)
7 Manslaughter 2 (RCW 9A.32.070)
8 Rape of a Child 3 (RCW 9A.44.079)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Damaging building, etc., by explosion with
12 no threat to human being (RCW
13 70.74.280(2))
14 Endangering life and property by
15 explosives with no threat to human
16 being (RCW 70.74.270)
17 Incest 1 (RCW 9A.64.020(1))
18 Manufacture, deliver, or possess with
19 intent to deliver narcotics from
20 Schedule I or II (except heroin or
21 cocaine) (RCW 69.50.401(a)(1)(i))
22 Intimidating a Judge (RCW 9A.72.160)
23 Bail Jumping with Murder 1 (RCW
24 9A.76.170(2)(a))
25 V Criminal Mistreatment 1 (RCW 9A.42.020)
26 Theft of a Firearm (RCW 9A.56.300)
27 Reckless Endangerment 1 (RCW 9A.36.045)
28 Rape 3 (RCW 9A.44.060)
29 Sexual Misconduct with a Minor 1 (RCW
30 9A.44.093)
31 Child Molestation 3 (RCW 9A.44.089)
32 Kidnapping 2 (RCW 9A.40.030)
33 Extortion 1 (RCW 9A.56.120)
34 Incest 2 (RCW 9A.64.020(2))
35 Perjury 1 (RCW 9A.72.020)
36 Extortionate Extension of Credit (RCW
37 9A.82.020)

1 Advancing money or property for
2 extortionate extension of credit (RCW
3 9A.82.030)
4 Extortionate Means to Collect Extensions
5 of Credit (RCW 9A.82.040)
6 Rendering Criminal Assistance 1 (RCW
7 9A.76.070)
8 Bail Jumping with class A Felony (RCW
9 9A.76.170(2)(b))
10 Sexually Violating Human Remains (RCW
11 9A.44.105)
12 Delivery of imitation controlled substance
13 by person eighteen or over to person
14 under eighteen (RCW 69.52.030(2))

15 IV Residential Burglary (RCW 9A.52.025)
16 Theft of Livestock 1 (RCW 9A.56.080)
17 Robbery 2 (RCW 9A.56.210)
18 Assault 2 (RCW 9A.36.021)
19 Escape 1 (RCW 9A.76.110)
20 Arson 2 (RCW 9A.48.030)
21 Commercial Bribery (section 35 of this
22 act)
23 Bribing a Witness/Bribe Received by
24 Witness (RCW 9A.72.090, 9A.72.100)
25 Malicious Harassment (RCW 9A.36.080)
26 Threats to Bomb (RCW 9.61.160)
27 Willful Failure to Return from Furlough
28 (RCW 72.66.060)
29 Hit and Run « Injury Accident (RCW
30 46.52.020(4))
31 Vehicular Assault (RCW 46.61.522)
32 Manufacture, deliver, or possess with
33 intent to deliver narcotics from
34 Schedule III, IV, or V or
35 nonnarcotics from Schedule I-V
36 (except marijuana or
37 methamphetamines) (RCW
38 69.50.401(a)(1)(ii) through (iv))

1 Influencing Outcome of Sporting Event (RCW
2 9A.82.070)
3 Use of Proceeds of Criminal Profiteering
4 (RCW 9A.82.080 (1) and (2))
5 Knowingly Trafficking in Stolen Property
6 (RCW 9A.82.050(2))
7 III Criminal Mistreatment 2 (RCW 9A.42.030)
8 Extortion 2 (RCW 9A.56.130)
9 Unlawful Imprisonment (RCW 9A.40.040)
10 Assault 3 (RCW 9A.36.031)
11 Assault of a Child 3 (RCW 9A.36.140)
12 Custodial Assault (RCW 9A.36.100)
13 Unlawful possession of firearm or pistol
14 by felon (RCW 9.41.040)
15 Harassment (RCW 9A.46.020)
16 Promoting Prostitution 2 (RCW 9A.88.080)
17 Willful Failure to Return from Work
18 Release (RCW 72.65.070)
19 Burglary 2 (RCW 9A.52.030)
20 Introducing Contraband 2 (RCW 9A.76.150)
21 Communication with a Minor for Immoral
22 Purposes (RCW 9.68A.090)
23 Patronizing a Juvenile Prostitute (RCW
24 9.68A.100)
25 Escape 2 (RCW 9A.76.120)
26 Perjury 2 (RCW 9A.72.030)
27 Bail Jumping with class B or C Felony (RCW
28 9A.76.170(2)(c))
29 Intimidating a Public Servant (RCW
30 9A.76.180)
31 Tampering with a Witness (RCW 9A.72.120)
32 Manufacture, deliver, or possess with
33 intent to deliver marijuana (RCW
34 69.50.401(a)(1)(ii))
35 Delivery of a material in lieu of a
36 controlled substance (RCW
37 69.50.401(c))
38 Manufacture, distribute, or possess with
39 intent to distribute an imitation

1 controlled substance (RCW
2 69.52.030(1))
3 Recklessly Trafficking in Stolen Property
4 (RCW 9A.82.050(1))
5 Theft of livestock 2 (RCW 9A.56.080)
6 Securities Act violation (RCW 21.20.400)

7 II Unlawful Practice of Law (RCW 2.48.180)
8 Malicious Mischief 1 (RCW 9A.48.070)
9 Possession of Stolen Property 1 (RCW
10 9A.56.150)
11 Theft 1 (RCW 9A.56.030)
12 Trafficking in Insurance Claims (section 3
13 of this act)
14 Unlicensed Practice of a Profession or
15 Business (RCW 18.130.190(7))
16 Health Care False Claims (RCW 48.80.030)
17 Possession of controlled substance that is
18 either heroin or narcotics from
19 Schedule I or II (RCW 69.50.401(d))
20 Possession of phencyclidine (PCP) (RCW
21 69.50.401(d))
22 Create, deliver, or possess a counterfeit
23 controlled substance (RCW
24 69.50.401(b))
25 Computer Trespass 1 (RCW 9A.52.110)
26 Escape from Community Custody (RCW
27 72.09.310)

28 I Theft 2 (RCW 9A.56.040)
29 Possession of Stolen Property 2 (RCW
30 9A.56.160)
31 Forgery (RCW 9A.60.020)
32 Taking Motor Vehicle Without Permission
33 (RCW 9A.56.070)
34 Vehicle Prowl 1 (RCW 9A.52.095)
35 Attempting to Elude a Pursuing Police
36 Vehicle (RCW 46.61.024)
37 Malicious Mischief 2 (RCW 9A.48.080)
38 Reckless Burning 1 (RCW 9A.48.040)

1 Unlawful Issuance of Checks or Drafts (RCW
2 9A.56.060)
3 Unlawful Use of Food Stamps (RCW 9.91.140
4 (2) and (3))
5 False Verification for Welfare (RCW
6 74.08.055)
7 Forged Prescription (RCW 69.41.020)
8 Forged Prescription for a Controlled
9 Substance (RCW 69.50.403)
10 Possess Controlled Substance that is a
11 Narcotic from Schedule III, IV, or V
12 or Non-narcotic from Schedule I-V
13 (except phencyclidine) (RCW
14 69.50.401(d))

15 NEW SECTION. **Sec. 35.** A new section is added to chapter 9A.68 RCW
16 to read as follows:

17 (1) For purposes of this section:

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

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

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

25 (d) "Trusted person" means:

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

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

30 (iii) An accountant, appraiser, attorney, physician, or other
31 professional adviser;

32 (iv) An officer or director of a corporation, or any other person
33 who participates in the affairs of a corporation, partnership, or
34 unincorporated association; or

35 (v) An arbitrator, mediator, or other purportedly disinterested
36 adjudicator or referee.

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

1 (a) He or she offers, confers, or agrees to confer a pecuniary
2 benefit directly or indirectly upon a trusted person under a request,
3 agreement, or understanding that the trusted person will violate a duty
4 of fidelity or trust arising from his or her position as a trusted
5 person;

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

11 (c) Being an employee or agent of an insurer, he or she requests,
12 accepts, or agrees to accept a pecuniary benefit for himself or
13 herself, or a person other than the insurer, under a request,
14 agreement, or understanding that he or she will or a threat that he or
15 she will not refer or induce claimants to have services performed by a
16 service provider.

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

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

22 **Sec. 36.** RCW 9A.72.010 and 1981 c 187 s 1 are each amended to read
23 as follows:

24 The following definitions are applicable in this chapter unless the
25 context otherwise requires:

26 (1) "Materially false statement" means any false statement oral or
27 written, regardless of its admissibility under the rules of evidence,
28 which could have affected the course or outcome of the proceeding;
29 whether a false statement is material shall be determined by the court
30 as a matter of law;

31 (2) "Oath" includes an affirmation and every other mode authorized
32 by law of attesting to the truth of that which is stated; in this
33 chapter, written statements shall be treated as if made under oath if:

34 (a) The statement was made on or pursuant to instructions on an
35 official form bearing notice, authorized by law, to the effect that
36 false statements made therein are punishable;

37 (b) The statement recites that it was made under oath, the
38 declarant was aware of such recitation at the time he or she made the

1 statement, intended that the statement should be represented as a sworn
2 statement, and the statement was in fact so represented by its delivery
3 or utterance with the signed jurat of an officer authorized to
4 administer oaths appended thereto; or

5 (c) It is a statement, declaration, verification, or certificate,
6 made within or outside the state of Washington, which is certified or
7 declared to be true under penalty of perjury as provided in RCW
8 9A.72.085.

9 (3) An oath is "required or authorized by law" when the use of the
10 oath is specifically provided for by statute or regulatory provision or
11 when the oath is administered by a person authorized by state or
12 federal law to administer oaths;

13 (4) "Official proceeding" means a proceeding heard before any
14 legislative, judicial, administrative, or other government agency or
15 official authorized to hear evidence under oath, including any referee,
16 hearing examiner, commissioner, notary, or other person taking
17 testimony or depositions;

18 (5) "Juror" means any person who is a member of any jury, including
19 a grand jury, impaneled by any court of this state or by any public
20 servant authorized by law to impanel a jury; the term juror also
21 includes any person who has been drawn or summoned to attend as a
22 prospective juror;

23 (6) "Testimony" includes oral or written statements, documents, or
24 any other material that may be offered by a witness in an official
25 proceeding.

26 **Sec. 37.** RCW 9A.72.030 and 1975 1st ex.s. c 260 s 9A.72.030 are
27 each amended to read as follows:

28 (1) A person is guilty of perjury in the second degree if, in an
29 examination under oath under the terms of a contract of insurance, or
30 with intent to mislead a public servant in the performance of his or
31 her duty, he or she makes a materially false statement, which he or she
32 knows to be false under an oath required or authorized by law.

33 (2) Perjury in the second degree is a class C felony.

34 NEW SECTION. **Sec. 38.** A new section is added to chapter 9A.76 RCW
35 to read as follows:

36 A person who knowingly makes a false or misleading material
37 statement to a public servant is guilty of a gross misdemeanor.

1 "Material statement" means a written or oral statement reasonably
2 likely to be relied upon by a public servant in the discharge of his or
3 her official powers or duties.

4 **Sec. 39.** RCW 9A.76.020 and 1994 c 196 s 1 are each amended to read
5 as follows:

6 (1) A person is guilty of obstructing a law enforcement officer if
7 the person((+

8 ~~(a) Willfully makes a false or misleading statement to a law~~
9 ~~enforcement officer who has detained the person during the course of a~~
10 ~~lawful investigation or lawful arrest; or~~

11 ~~(b))~~ willfully hinders, delays, or obstructs any law enforcement
12 officer in the discharge of his or her official powers or duties.

13 (2) "Law enforcement officer" means any general authority, limited
14 authority, or specially commissioned Washington peace officer or
15 federal peace officer as those terms are defined in RCW 10.93.020, and
16 other public officers who are responsible for enforcement of fire,
17 building, zoning, and life and safety codes.

18 (3) Obstructing a law enforcement officer is a gross misdemeanor.

19 **Sec. 40.** RCW 9A.82.010 and 1994 c 218 s 17 are each amended to
20 read as follows:

21 Unless the context requires the contrary, the definitions in this
22 section apply throughout this chapter.

23 (1) "Creditor" means a person making an extension of credit or a
24 person claiming by, under, or through a person making an extension of
25 credit.

26 (2) "Debtor" means a person to whom an extension of credit is made
27 or a person who guarantees the repayment of an extension of credit or
28 in any manner undertakes to indemnify the creditor against loss
29 resulting from the failure of a person to whom an extension is made to
30 repay the same.

31 (3) "Extortionate extension of credit" means an extension of credit
32 with respect to which it is the understanding of the creditor and the
33 debtor at the time the extension is made that delay in making repayment
34 or failure to make repayment could result in the use of violence or
35 other criminal means to cause harm to the person, reputation, or
36 property of any person.

1 (4) "Extortionate means" means the use, or an express or implicit
2 threat of use, of violence or other criminal means to cause harm to the
3 person, reputation, or property of any person.

4 (5) "To collect an extension of credit" means to induce in any way
5 a person to make repayment thereof.

6 (6) "To extend credit" means to make or renew a loan or to enter
7 into an agreement, tacit or express, whereby the repayment or
8 satisfaction of a debt or claim, whether acknowledged or disputed,
9 valid or invalid, and however arising, may or shall be deferred.

10 (7) "Repayment of an extension of credit" means the repayment,
11 satisfaction, or discharge in whole or in part of a debt or claim,
12 acknowledged or disputed, valid or invalid, resulting from or in
13 connection with that extension of credit.

14 (8) "Dealer in property" means a person who buys and sells property
15 as a business.

16 (9) "Stolen property" means property that has been obtained by
17 theft, robbery, or extortion.

18 (10) "Traffic" means to sell, transfer, distribute, dispense, or
19 otherwise dispose of stolen property to another person, or to buy,
20 receive, possess, or obtain control of stolen property, with intent to
21 sell, transfer, distribute, dispense, or otherwise dispose of the
22 property to another person.

23 (11) "Control" means the possession of a sufficient interest to
24 permit substantial direction over the affairs of an enterprise.

25 (12) "Enterprise" includes any individual, sole proprietorship,
26 partnership, corporation, business trust, or other profit or nonprofit
27 legal entity, and includes any union, association, or group of
28 individuals associated in fact although not a legal entity, and both
29 illicit and licit enterprises and governmental and nongovernmental
30 entities.

31 (13) "Financial institution" means any bank, trust company, savings
32 and loan association, savings bank, mutual savings bank, credit union,
33 or loan company under the jurisdiction of the state or an agency of the
34 United States.

35 (14) "Criminal profiteering" means any act, including any
36 anticipatory or completed offense, committed for financial gain, that
37 is chargeable or indictable under the laws of the state in which the
38 act occurred and, if the act occurred in a state other than this state,
39 would be chargeable or indictable under the laws of this state had the

1 act occurred in this state and punishable as a felony and by
2 imprisonment for more than one year, regardless of whether the act is
3 charged or indicted, as any of the following:

- 4 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- 5 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- 6 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- 7 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- 8 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
9 9A.56.080;
- 10 (f) Child selling or child buying, as defined in RCW 9A.64.030;
- 11 (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
12 9A.68.050;
- 13 (h) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- 14 (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- 15 (j) Extortionate extension of credit, as defined in RCW 9A.82.020;
- 16 (k) Advancing money for use in an extortionate extension of credit,
17 as defined in RCW 9A.82.030;
- 18 (l) Collection of an extortionate extension of credit, as defined
19 in RCW 9A.82.040;
- 20 (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- 21 (n) Delivery or manufacture of controlled substances or possession
22 with intent to deliver or manufacture controlled substances under
23 chapter 69.50 RCW;
- 24 (o) Trafficking in stolen property, as defined in RCW 9A.82.050;
- 25 (p) Leading organized crime, as defined in RCW 9A.82.060;
- 26 (q) Money laundering, as defined in RCW 9A.83.020;
- 27 (r) Obstructing criminal investigations or prosecutions in
28 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
29 9A.76.070, or 9A.76.180;
- 30 (s) Fraud in the purchase or sale of securities, as defined in RCW
31 21.20.010;
- 32 (t) Promoting pornography, as defined in RCW 9.68.140;
- 33 (u) Sexual exploitation of children, as defined in RCW 9.68A.040,
34 9.68A.050, and 9.68A.060;
- 35 (v) Promoting prostitution, as defined in RCW 9A.88.070 and
36 9A.88.080;
- 37 (w) Arson, as defined in RCW 9A.48.020 and 9A.48.030;
- 38 (x) Assault, as defined in RCW 9A.36.011 and 9A.36.021;
- 39 (y) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

1 (z) A pattern of equity skimming, as defined in RCW 61.34.020;

2 ((or))

3 (aa) Commercial telephone solicitation in violation of RCW
4 19.158.040(1);

5 (bb) Trafficking in insurance claims, as defined in section 3 of
6 this act;

7 (cc) Unlawful practice of law, as defined in RCW 2.48.180;

8 (dd) Commercial bribery, as defined in section 35 of this act;

9 (ee) Health care false claims, as defined in RCW 48.80.030; or

10 (ff) Unlicensed practice of a profession or business, as defined in
11 RCW 18.130.190(7).

12 (15) "Pattern of criminal profiteering activity" means engaging in
13 at least three acts of criminal profiteering, one of which occurred
14 after July 1, 1985, and the last of which occurred within five years,
15 excluding any period of imprisonment, after the commission of the
16 earliest act of criminal profiteering. In order to constitute a
17 pattern, the three acts must have the same or similar intent, results,
18 accomplices, principals, victims, or methods of commission, or be
19 otherwise interrelated by distinguishing characteristics including a
20 nexus to the same enterprise, and must not be isolated events.
21 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
22 any person other than the attorney general or county prosecuting
23 attorney in which one or more acts of fraud in the purchase or sale of
24 securities are asserted as acts of criminal profiteering activity, it
25 is a condition to civil liability under RCW 9A.82.100 that the
26 defendant has been convicted in a criminal proceeding of fraud in the
27 purchase or sale of securities under RCW 21.20.400 or under the laws of
28 another state or of the United States requiring the same elements of
29 proof, but such conviction need not relate to any act or acts asserted
30 as acts of criminal profiteering activity in such civil action under
31 RCW 9A.82.100.

32 (16) "Records" means any book, paper, writing, record, computer
33 program, or other material.

34 (17) "Documentary material" means any book, paper, document,
35 writing, drawing, graph, chart, photograph, phonograph record, magnetic
36 tape, computer printout, other data compilation from which information
37 can be obtained or from which information can be translated into usable
38 form, or other tangible item.

1 (18) "Unlawful debt" means any money or other thing of value
2 constituting principal or interest of a debt that is legally
3 unenforceable in the state in full or in part because the debt was
4 incurred or contracted:

5 (a) In violation of any one of the following:

6 (i) Chapter 67.16 RCW relating to horse racing;

7 (ii) Chapter 9.46 RCW relating to gambling;

8 (b) In a gambling activity in violation of federal law; or

9 (c) In connection with the business of lending money or a thing of
10 value at a rate that is at least twice the permitted rate under the
11 applicable state or federal law relating to usury.

12 (19)(a) "Beneficial interest" means:

13 (i) The interest of a person as a beneficiary under a trust
14 established under Title 11 RCW in which the trustee for the trust holds
15 legal or record title to real property;

16 (ii) The interest of a person as a beneficiary under any other
17 trust arrangement under which a trustee holds legal or record title to
18 real property for the benefit of the beneficiary; or

19 (iii) The interest of a person under any other form of express
20 fiduciary arrangement under which one person holds legal or record
21 title to real property for the benefit of the other person.

22 (b) "Beneficial interest" does not include the interest of a
23 stockholder in a corporation or the interest of a partner in a general
24 partnership or limited partnership.

25 (c) A beneficial interest shall be considered to be located where
26 the real property owned by the trustee is located.

27 (20) "Real property" means any real property or interest in real
28 property, including but not limited to a land sale contract, lease, or
29 mortgage of real property.

30 (21)(a) "Trustee" means:

31 (i) A person acting as a trustee under a trust established under
32 Title 11 RCW in which the trustee holds legal or record title to real
33 property;

34 (ii) A person who holds legal or record title to real property in
35 which another person has a beneficial interest; or

36 (iii) A successor trustee to a person who is a trustee under
37 subsection (21)(a) (i) or (ii) of this section.

38 (b) "Trustee" does not mean a person appointed or acting as:

39 (i) A personal representative under Title 11 RCW;

- 1 (ii) A trustee of any testamentary trust;
- 2 (iii) A trustee of any indenture of trust under which a bond is
- 3 issued; or
- 4 (iv) A trustee under a deed of trust.

5 **Sec. 41.** RCW 18.130.190 and 1993 c 367 s 19 are each amended to
6 read as follows:

7 (1) The secretary shall investigate complaints concerning practice
8 by unlicensed persons of a profession or business for which a license
9 is required by the chapters specified in RCW 18.130.040. In the
10 investigation of the complaints, the secretary shall have the same
11 authority as provided the secretary under RCW 18.130.050.

12 (2) The secretary may issue a notice of intention to issue a cease
13 and desist order to any person whom the secretary has reason to believe
14 is engaged in the unlicensed practice of a profession or business for
15 which a license is required by the chapters specified in RCW
16 18.130.040. The person to whom such notice is issued may request an
17 adjudicative proceeding to contest the charges. The request for
18 hearing must be filed within twenty days after service of the notice of
19 intention to issue a cease and desist order. The failure to request a
20 hearing constitutes a default, whereupon the secretary may enter a
21 permanent cease and desist order, which may include a civil fine. All
22 proceedings shall be conducted in accordance with chapter 34.05 RCW.

23 (3) If the secretary makes a final determination that a person has
24 engaged or is engaging in unlicensed practice, the secretary may issue
25 a cease and desist order. In addition, the secretary may impose a
26 civil fine in an amount not exceeding one thousand dollars for each day
27 upon which the person engaged in unlicensed practice of a business or
28 profession for which a license is required by one or more of the
29 chapters specified in RCW 18.130.040. The proceeds of such fines shall
30 be deposited to the health professions account.

31 (4) If the secretary makes a written finding of fact that the
32 public interest will be irreparably harmed by delay in issuing an
33 order, the secretary may issue a temporary cease and desist order. The
34 person receiving a temporary cease and desist order shall be provided
35 an opportunity for a prompt hearing. The temporary cease and desist
36 order shall remain in effect until further order of the secretary. The
37 failure to request a prompt or regularly scheduled hearing constitutes

1 a default, whereupon the secretary may enter a permanent cease and
2 desist order, which may include a civil fine.

3 (5) Neither the issuance of a cease and desist order nor payment of
4 a civil fine shall relieve the person so practicing or operating a
5 business without a license from criminal prosecution therefor, but the
6 remedy of a cease and desist order or civil fine shall be in addition
7 to any criminal liability. The cease and desist order is conclusive
8 proof of unlicensed practice and may be enforced under RCW 7.21.060.
9 This method of enforcement of the cease and desist order or civil fine
10 may be used in addition to, or as an alternative to, any provisions for
11 enforcement of agency orders set out in chapter 34.05 RCW.

12 (6) The attorney general, a county prosecuting attorney, the
13 secretary, a board, or any person may in accordance with the laws of
14 this state governing injunctions, maintain an action in the name of
15 this state to enjoin any person practicing a profession or business for
16 which a license is required by the chapters specified in RCW 18.130.040
17 without a license from engaging in such practice or operating such
18 business until the required license is secured. However, the
19 injunction shall not relieve the person so practicing or operating a
20 business without a license from criminal prosecution therefor, but the
21 remedy by injunction shall be in addition to any criminal liability.

22 (7) Unlicensed practice of a profession or operating a business for
23 which a license is required by the chapters specified in RCW
24 18.130.040, unless otherwise exempted by law, constitutes a gross
25 misdemeanor for a single violation. Each subsequent violation, whether
26 alleged in the same or in subsequent prosecutions, is a class C felony.
27 All fees, fines, forfeitures, and penalties collected or assessed by a
28 court because of a violation of this section shall be remitted to the
29 health professions account.

30 NEW SECTION. **Sec. 42.** The Washington State Bar Association is
31 requested to submit to the appropriate committees of the state senate
32 and house of representatives by November 1995, a report on the
33 recommendations of its task force on nonlawyer practice, including any
34 recommendations for legislation or proposed court rules.

35 NEW SECTION. **Sec. 43.** The following acts or parts of acts are
36 each repealed:

- 1 (1) RCW 9.91.090 and 1992 c 7 s 17, 1981 c 203 s 4, & 1909 c 249 s
2 384;
- 3 (2) RCW 9A.82.903 and 1985 c 455 s 22;
- 4 (3) RCW 48.50.060 and 1979 ex.s. c 80 s 6;
- 5 (4) RCW 48.50.080 and 1979 ex.s. c 80 s 8; and
- 6 (5) RCW 49.44.070 and 1909 c 249 s 427.

7 NEW SECTION. **Sec. 44.** Sections 1 through 19 of this act
8 constitute a new chapter in Title 48 RCW.

9 NEW SECTION. **Sec. 45.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and shall take
12 effect July 1, 1995.

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