

SENATE BILL REPORT

HB 1578

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, March 22, 2001

Title: An act relating to criminal profiteering.

Brief Description: Reenacting provisions relating to criminal profiteering.

Sponsors: By Representatives Carrell, Hurst and Lantz.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 3/22/01 [DPA].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Benton, Deccio, Fairley, Franklin, Hochstatter, Honeyford, Rasmussen and Regala.

Staff: Jack Brummel (786-7428)

Background: In 1995 the Legislature included several provisions related to various criminal laws in a bill entitled An Act Relating to insurance fraud.– In December of last year, Division II of the state Court of Appeals held that the inclusion of one of those provisions violated the state Constitution. That decision, *State v. Thomas*, 103 Wn. App. 800 (2000), overturned a conviction under the state's anti-profiteering law.

In 1984 the Legislature had enacted the Washington State Racketeering Act, which was to take effect July 1, 1985. The 1985 Legislature, however, substantially amended the act before it took effect. One of the changes was to rename the act the Criminal Profiteering Act. The act dealt generally with a variety of civil and criminal sanctions against various criminal activities, particularly crimes committed as part of a "pattern" of criminal profiteering. The 1985 legislation also put a 10-year sunset clause on the entire act. The sunset clause called for the act to expire on July 1, 1995, unless the Legislature enacted another bill before then to extend the life of the act.

In 1995 the Legislature repealed the sunset clause on the Criminal Profiteering Act. The repeal of the sunset clause was intended to prevent the act from expiring that July, and to extend the life of the act indefinitely. However, the repeal was done as part of E2SHB 1557 which was a bill entitled "An Act Relating to insurance fraud." E2SHB 1557 became Chapter 285, Laws of 1995.

Division II of the Washington State Court of Appeals held that this 1995 act "relating to insurance fraud," was invalid because it violated Article II, Section 19, of the state Constitution. Article II, Section 19, requires that a bill contain only one subject, and that the subject be expressed in the title of the bill. The court found that the subject of "criminal

profiteering" was not related to the subject of "insurance fraud," and therefore the bill violated the single subject requirement. Likewise, the court found that the subject of criminal profiteering was not "expressed" in the title of the bill, and therefore the bill violated the "subject-in-the-title" requirement. As a result, the attempted repeal of the sunset clause in 1995 was ineffective, and the court held that the criminal profiteering law had in fact expired on July 1, 1995.

Summary of Amended Bill: The Criminal Profiteering Act is reenacted without substantive change.

Amended Bill Compared to Original Bill: Technical changes are made.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The 1995 legislation came about because of a 1994 task force on insurance fraud. This is a technical fix. The bill changes nothing about current law but keeps the tools we have to protect society.

Testimony Against: None.

Testified: Representative Carrell, prime sponsor; Tom McBride, Susan Storey, WA Assn. of Prosecuting Attorneys.