
HOUSE BILL 1694

State of Washington 57th Legislature 2001 Regular Session

By Representatives Boldt, Carrell and Hurst

Read first time 02/01/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to unlicensed practice of a profession or business;
2 reenacting and amending RCW 9.94A.320; reenacting RCW 18.130.190;
3 creating a new section; 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, legislation relating
8 to the crime of unlicensed practice of a profession or a business,
9 enacted as section 35, chapter 285, Laws of 1995.

10 **Sec. 2.** RCW 18.130.190 and 1995 c 285 s 35 are each reenacted to
11 read as follows:

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

17 (2) The secretary may issue a notice of intention to issue a cease
18 and desist order to any person whom the secretary has reason to believe

1 is engaged in the unlicensed practice of a profession or business for
2 which a license is required by the chapters specified in RCW
3 18.130.040. The person to whom such notice is issued may request an
4 adjudicative proceeding to contest the charges. The request for
5 hearing must be filed within twenty days after service of the notice of
6 intention to issue a cease and desist order. The failure to request a
7 hearing constitutes a default, whereupon the secretary may enter a
8 permanent cease and desist order, which may include a civil fine. All
9 proceedings shall be conducted in accordance with chapter 34.05 RCW.

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

18 (4) If the secretary makes a written finding of fact that the
19 public interest will be irreparably harmed by delay in issuing an
20 order, the secretary may issue a temporary cease and desist order. The
21 person receiving a temporary cease and desist order shall be provided
22 an opportunity for a prompt hearing. The temporary cease and desist
23 order shall remain in effect until further order of the secretary. The
24 failure to request a prompt or regularly scheduled hearing constitutes
25 a default, whereupon the secretary may enter a permanent cease and
26 desist order, which may include a civil fine.

27 (5) Neither the issuance of a cease and desist order nor payment of
28 a civil fine shall relieve the person so practicing or operating a
29 business without a license from criminal prosecution therefor, but the
30 remedy of a cease and desist order or civil fine shall be in addition
31 to any criminal liability. The cease and desist order is conclusive
32 proof of unlicensed practice and may be enforced under RCW 7.21.060.
33 This method of enforcement of the cease and desist order or civil fine
34 may be used in addition to, or as an alternative to, any provisions for
35 enforcement of agency orders set out in chapter 34.05 RCW.

36 (6) The attorney general, a county prosecuting attorney, the
37 secretary, a board, or any person may in accordance with the laws of
38 this state governing injunctions, maintain an action in the name of
39 this state to enjoin any person practicing a profession or business for

1 which a license is required by the chapters specified in RCW 18.130.040
2 without a license from engaging in such practice or operating such
3 business until the required license is secured. However, the
4 injunction shall not relieve the person so practicing or operating a
5 business without a license from criminal prosecution therefor, but the
6 remedy by injunction shall be in addition to any criminal liability.

7 (7) Unlicensed practice of a profession or operating a business for
8 which a license is required by the chapters specified in RCW
9 18.130.040, unless otherwise exempted by law, constitutes a gross
10 misdemeanor for a single violation. Each subsequent violation, whether
11 alleged in the same or in subsequent prosecutions, is a class C felony.
12 All fees, fines, forfeitures, and penalties collected or assessed by a
13 court because of a violation of this section shall be remitted to the
14 health professions account.

15 **Sec. 3.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and
16 2000 c 66 s 2 are each reenacted and amended to read as follows:

17 TABLE 2

18 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

19	XVI	Aggravated Murder 1 (RCW 10.95.020)
20	XV	Homicide by abuse (RCW 9A.32.055)
21		Malicious explosion 1 (RCW 70.74.280(1))
22		Murder 1 (RCW 9A.32.030)
23	XIV	Murder 2 (RCW 9A.32.050)
24	XIII	Malicious explosion 2 (RCW 70.74.280(2))
25		Malicious placement of an explosive 1 (RCW
26		70.74.270(1))
27	XII	Assault 1 (RCW 9A.36.011)
28		Assault of a Child 1 (RCW 9A.36.120)
29		Malicious placement of an imitation device
30		1 (RCW 70.74.272(1)(a))
31		Rape 1 (RCW 9A.44.040)
32		Rape of a Child 1 (RCW 9A.44.073)
33	XI	Manslaughter 1 (RCW 9A.32.060)
34		Rape 2 (RCW 9A.44.050)

1 Rape of a Child 2 (RCW 9A.44.076)

2 X Child Molestation 1 (RCW 9A.44.083)

3 Indecent Liberties (with forcible

4 compulsion) (RCW 9A.44.100(1)(a))

5 Kidnapping 1 (RCW 9A.40.020)

6 Leading Organized Crime (RCW

7 9A.82.060(1)(a))

8 Malicious explosion 3 (RCW 70.74.280(3))

9 Manufacture of methamphetamine (RCW

10 69.50.401(a)(1)(ii))

11 Over 18 and deliver heroin,

12 methamphetamine, a narcotic from

13 Schedule I or II, or flunitrazepam

14 from Schedule IV to someone under 18

15 (RCW 69.50.406)

16 IX Assault of a Child 2 (RCW 9A.36.130)

17 Controlled Substance Homicide (RCW

18 69.50.415)

19 Explosive devices prohibited (RCW

20 70.74.180)

21 Homicide by Watercraft, by being under the

22 influence of intoxicating liquor or

23 any drug (RCW 79A.60.050)

24 Inciting Criminal Profiteering (RCW

25 9A.82.060(1)(b))

26 Malicious placement of an explosive 2 (RCW

27 70.74.270(2))

28 Over 18 and deliver narcotic from Schedule

29 III, IV, or V or a nonnarcotic, except

30 flunitrazepam or methamphetamine, from

31 Schedule I-V to someone under 18 and 3

32 years junior (RCW 69.50.406)

33 Robbery 1 (RCW 9A.56.200)

34 Sexual Exploitation (RCW 9.68A.040)

35 Vehicular Homicide, by being under the

36 influence of intoxicating liquor or

37 any drug (RCW 46.61.520)

38 VIII Arson 1 (RCW 9A.48.020)

1 Deliver or possess with intent to deliver
2 methamphetamine (RCW
3 69.50.401(a)(1)(ii))
4 Hit and Run--Death (RCW 46.52.020(4)(a))
5 Homicide by Watercraft, by the operation of
6 any vessel in a reckless manner (RCW
7 79A.60.050)
8 Manslaughter 2 (RCW 9A.32.070)
9 Manufacture, deliver, or possess with
10 intent to deliver amphetamine (RCW
11 69.50.401(a)(1)(ii))
12 Manufacture, deliver, or possess with
13 intent to deliver heroin or cocaine
14 (RCW 69.50.401(a)(1)(i))
15 Possession of Ephedrine, Pseudoephedrine,
16 or Anhydrous Ammonia with intent to
17 manufacture methamphetamine (RCW
18 69.50.440)
19 Promoting Prostitution 1 (RCW 9A.88.070)
20 Selling for profit (controlled or
21 counterfeit) any controlled substance
22 (RCW 69.50.410)
23 Theft of Anhydrous Ammonia (RCW 69.55.010)
24 Vehicular Homicide, by the operation of any
25 vehicle in a reckless manner (RCW
26 46.61.520)

27 VII Burglary 1 (RCW 9A.52.020)
28 Child Molestation 2 (RCW 9A.44.086)
29 Dealing in depictions of minor engaged in
30 sexually explicit conduct (RCW
31 9.68A.050)
32 Drive-by Shooting (RCW 9A.36.045)
33 Homicide by Watercraft, by disregard for
34 the safety of others (RCW 79A.60.050)
35 Indecent Liberties (without forcible
36 compulsion) (RCW 9A.44.100(1) (b) and
37 (c))
38 Introducing Contraband 1 (RCW 9A.76.140)

1 Involving a minor in drug dealing (RCW
2 69.50.401(f))
3 Malicious placement of an explosive 3 (RCW
4 70.74.270(3))
5 Sending, bringing into state depictions of
6 minor engaged in sexually explicit
7 conduct (RCW 9.68A.060)
8 Unlawful Possession of a Firearm in the
9 first degree (RCW 9.41.040(1)(a))
10 Use of a Machine Gun in Commission of a
11 Felony (RCW 9.41.225)
12 Vehicular Homicide, by disregard for the
13 safety of others (RCW 46.61.520)

14 VI Bail Jumping with Murder 1 (RCW
15 9A.76.170(2)(a))
16 Bribery (RCW 9A.68.010)
17 Incest 1 (RCW 9A.64.020(1))
18 Intimidating a Judge (RCW 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation device
22 2 (RCW 70.74.272(1)(b))
23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule I or II (except heroin or
26 cocaine) or flunitrazepam from
27 Schedule IV (RCW 69.50.401(a)(1)(i))
28 Rape of a Child 3 (RCW 9A.44.079)
29 Theft of a Firearm (RCW 9A.56.300)
30 Unlawful Storage of Anhydrous Ammonia (RCW
31 69.55.020)

32 V Abandonment of dependent person 1 (RCW
33 9A.42.060)
34 Advancing money or property for
35 extortionate extension of credit (RCW
36 9A.82.030)
37 Bail Jumping with class A Felony (RCW
38 9A.76.170(2)(b))

1 Child Molestation 3 (RCW 9A.44.089)
2 Criminal Mistreatment 1 (RCW 9A.42.020)
3 Custodial Sexual Misconduct 1 (RCW
4 9A.44.160)
5 Delivery of imitation controlled substance
6 by person eighteen or over to person
7 under eighteen (RCW 69.52.030(2))
8 Domestic Violence Court Order Violation
9 (RCW 10.99.040, 10.99.050, 26.09.300,
10 26.10.220, 26.26.138, 26.50.110,
11 26.52.070, or 74.34.145)
12 Extortion 1 (RCW 9A.56.120)
13 Extortionate Extension of Credit (RCW
14 9A.82.020)
15 Extortionate Means to Collect Extensions of
16 Credit (RCW 9A.82.040)
17 Incest 2 (RCW 9A.64.020(2))
18 Kidnapping 2 (RCW 9A.40.030)
19 Perjury 1 (RCW 9A.72.020)
20 Persistent prison misbehavior (RCW
21 9.94.070)
22 Possession of a Stolen Firearm (RCW
23 9A.56.310)
24 Rape 3 (RCW 9A.44.060)
25 Rendering Criminal Assistance 1 (RCW
26 9A.76.070)
27 Sexual Misconduct with a Minor 1 (RCW
28 9A.44.093)
29 Sexually Violating Human Remains (RCW
30 9A.44.105)
31 Stalking (RCW 9A.46.110)
32 IV Arson 2 (RCW 9A.48.030)
33 Assault 2 (RCW 9A.36.021)
34 Assault by Watercraft (RCW 79A.60.060)
35 Bribing a Witness/Bribe Received by Witness
36 (RCW 9A.72.090, 9A.72.100)
37 Commercial Bribery (RCW 9A.68.060)
38 Counterfeiting (RCW 9.16.035(4))
39 Escape 1 (RCW 9A.76.110)

1 Hit and Run--Injury (RCW 46.52.020(4)(b))
2 Hit and Run with Vessel--Injury Accident
3 (RCW 79A.60.200(3))
4 Indecent Exposure to Person Under Age
5 Fourteen (subsequent sex offense) (RCW
6 9A.88.010)
7 Influencing Outcome of Sporting Event (RCW
8 9A.82.070)
9 Knowingly Trafficking in Stolen Property
10 (RCW 9A.82.050(2))
11 Malicious Harassment (RCW 9A.36.080)
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule III, IV, or V or nonnarcotics
15 from Schedule I-V (except marijuana,
16 amphetamine, methamphetamines, or
17 flunitrazepam) (RCW 69.50.401(a)(1)
18 (iii) through (v))
19 Residential Burglary (RCW 9A.52.025)
20 Robbery 2 (RCW 9A.56.210)
21 Theft of Livestock 1 (RCW 9A.56.080)
22 Threats to Bomb (RCW 9.61.160)
23 Use of Proceeds of Criminal Profiteering
24 (RCW 9A.82.080 (1) and (2))
25 Vehicular Assault (RCW 46.61.522)
26 Willful Failure to Return from Furlough
27 (RCW 72.66.060)

28 III Abandonment of dependent person 2 (RCW
29 9A.42.070)
30 Assault 3 (RCW 9A.36.031)
31 Assault of a Child 3 (RCW 9A.36.140)
32 Bail Jumping with class B or C Felony (RCW
33 9A.76.170(2)(c))
34 Burglary 2 (RCW 9A.52.030)
35 Communication with a Minor for Immoral
36 Purposes (RCW 9.68A.090)
37 Criminal Gang Intimidation (RCW 9A.46.120)
38 Criminal Mistreatment 2 (RCW 9A.42.030)
39 Custodial Assault (RCW 9A.36.100)

1 Delivery of a material in lieu of a
2 controlled substance (RCW
3 69.50.401(c))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW 9A.76.150)
10 Maintaining a Dwelling or Place for
11 Controlled Substances (RCW
12 69.50.402(a)(6))
13 Malicious Injury to Railroad Property (RCW
14 81.60.070)
15 Manufacture, deliver, or possess with
16 intent to deliver marijuana (RCW
17 69.50.401(a)(1)(iii))
18 Manufacture, distribute, or possess with
19 intent to distribute an imitation
20 controlled substance (RCW
21 69.52.030(1))
22 Patronizing a Juvenile Prostitute (RCW
23 9.68A.100)
24 Perjury 2 (RCW 9A.72.030)
25 Possession of Incendiary Device (RCW
26 9.40.120)
27 Possession of Machine Gun or Short-Barreled
28 Shotgun or Rifle (RCW 9.41.190)
29 Promoting Prostitution 2 (RCW 9A.88.080)
30 Recklessly Trafficking in Stolen Property
31 (RCW 9A.82.050(1))
32 Securities Act violation (RCW 21.20.400)
33 Tampering with a Witness (RCW 9A.72.120)
34 Telephone Harassment (subsequent conviction
35 or threat of death) (RCW 9.61.230)
36 Theft of Livestock 2 (RCW 9A.56.080)
37 Unlawful Imprisonment (RCW 9A.40.040)
38 Unlawful possession of firearm in the
39 second degree (RCW 9.41.040(1)(b))

1 Unlawful Use of Building for Drug Purposes
2 (RCW 69.53.010)
3 Willful Failure to Return from Work Release
4 (RCW 72.65.070)

5 II Computer Trespass 1 (RCW 9A.52.110)
6 Counterfeiting (RCW 9.16.035(3))
7 Create, deliver, or possess a counterfeit
8 controlled substance (RCW
9 69.50.401(b))

10 Escape from Community Custody (RCW
11 72.09.310)

12 Health Care False Claims (RCW 48.80.030)

13 Malicious Mischief 1 (RCW 9A.48.070)

14 Possession of controlled substance that is
15 either heroin or narcotics from
16 Schedule I or II or flunitrazepam from
17 Schedule IV (RCW 69.50.401(d))

18 Possession of phencyclidine (PCP) (RCW
19 69.50.401(d))

20 Possession of Stolen Property 1 (RCW
21 9A.56.150)

22 Theft 1 (RCW 9A.56.030)

23 Theft of Rental, Leased, or Lease-purchased
24 Property (valued at one thousand five
25 hundred dollars or more) (RCW
26 9A.56.096(4))

27 Trafficking in Insurance Claims (RCW
28 48.30A.015)

29 Unlawful Practice of Law (RCW 2.48.180)

30 Unlicensed Practice of a Profession or
31 Business (RCW 18.130.190(7) (as
32 reenacted by this act))

33 I Attempting to Elude a Pursuing Police
34 Vehicle (RCW 46.61.024)

35 False Verification for Welfare (RCW
36 74.08.055)

37 Forged Prescription (RCW 69.41.020)

1 Forged Prescription for a Controlled
2 Substance (RCW 69.50.403)
3 Forgery (RCW 9A.60.020)
4 Malicious Mischief 2 (RCW 9A.48.080)
5 Possess Controlled Substance that is a
6 Narcotic from Schedule III, IV, or V
7 or Non-narcotic from Schedule I-V
8 (except phencyclidine or
9 flunitrazepam) (RCW 69.50.401(d))
10 Possession of Stolen Property 2 (RCW
11 9A.56.160)
12 Reckless Burning 1 (RCW 9A.48.040)
13 Taking Motor Vehicle Without Permission
14 (RCW 9A.56.070)
15 Theft 2 (RCW 9A.56.040)
16 Theft of Rental, Leased, or Lease-purchased
17 Property (valued at two hundred fifty
18 dollars or more but less than one
19 thousand five hundred dollars) (RCW
20 9A.56.096(4))
21 Unlawful Issuance of Checks or Drafts (RCW
22 9A.56.060)
23 Unlawful Use of Food Stamps (RCW 9.91.140
24 (2) and (3))
25 Vehicle Prowl 1 (RCW 9A.52.095)

26 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately.

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