

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1614

Chapter 224, Laws of 2001

57th Legislature
2001 Regular Legislative Session

COMMERCIAL BRIBERY

EFFECTIVE DATE: 5/9/01

Passed by the House April 16, 2001
Yeas 94 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 11, 2001
Yeas 47 Nays 0

BRAD OWEN
President of the Senate

Approved May 9, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1614** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 9, 2001 - 8:46 a.m.

**Secretary of State
State of Washington**

HOUSE BILL 1614

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

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*, 103 Wn. App. 800, by reenacting and ranking, without
7 changes, the law relating to the crime of commercial bribery, enacted
8 as sections 29 and 37(5), chapter 285, Laws of 1995.

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

11 (1) For purposes of this section:

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

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

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

1 (d) "Trusted person" means:

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

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

6 (iii) An accountant, appraiser, attorney, physician, or other
7 professional adviser;

8 (iv) An officer or director of a corporation, or any other person
9 who participates in the affairs of a corporation, partnership, or
10 unincorporated association; or

11 (v) An arbitrator, mediator, or other purportedly disinterested
12 adjudicator or referee.

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

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

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

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

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

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

35 **Sec. 3.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and
36 2000 c 66 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW 70.74.280(1))
6		Murder 1 (RCW 9A.32.030)
7	XIV	Murder 2 (RCW 9A.32.050)
8	XIII	Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Malicious placement of an imitation device
14		1 (RCW 70.74.272(1)(a))
15		Rape 1 (RCW 9A.44.040)
16		Rape of a Child 1 (RCW 9A.44.073)
17	XI	Manslaughter 1 (RCW 9A.32.060)
18		Rape 2 (RCW 9A.44.050)
19		Rape of a Child 2 (RCW 9A.44.076)
20	X	Child Molestation 1 (RCW 9A.44.083)
21		Indecent Liberties (with forcible
22		compulsion) (RCW 9A.44.100(1)(a))
23		Kidnapping 1 (RCW 9A.40.020)
24		Leading Organized Crime (RCW
25		9A.82.060(1)(a))
26		Malicious explosion 3 (RCW 70.74.280(3))
27		Manufacture of methamphetamine (RCW
28		69.50.401(a)(1)(ii))
29		Over 18 and deliver heroin,
30		methamphetamine, a narcotic from
31		Schedule I or II, or flunitrazepam
32		from Schedule IV to someone under 18
33		(RCW 69.50.406)
34	IX	Assault of a Child 2 (RCW 9A.36.130)

1 Controlled Substance Homicide (RCW
2 69.50.415)
3 Explosive devices prohibited (RCW
4 70.74.180)
5 Homicide by Watercraft, by being under the
6 influence of intoxicating liquor or
7 any drug (RCW 79A.60.050)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Malicious placement of an explosive 2 (RCW
11 70.74.270(2))
12 Over 18 and deliver narcotic from Schedule
13 III, IV, or V or a nonnarcotic, except
14 flunitrazepam or methamphetamine, from
15 Schedule I-V to someone under 18 and 3
16 years junior (RCW 69.50.406)
17 Robbery 1 (RCW 9A.56.200)
18 Sexual Exploitation (RCW 9.68A.040)
19 Vehicular Homicide, by being under the
20 influence of intoxicating liquor or
21 any drug (RCW 46.61.520)
22 VIII Arson 1 (RCW 9A.48.020)
23 Deliver or possess with intent to deliver
24 m e t h a m p h e t a m i n e (R C W
25 69.50.401(a)(1)(ii))
26 Hit and Run--Death (RCW 46.52.020(4)(a))
27 Homicide by Watercraft, by the operation of
28 any vessel in a reckless manner (RCW
29 79A.60.050)
30 Manslaughter 2 (RCW 9A.32.070)
31 Manufacture, deliver, or possess with
32 intent to deliver amphetamine (RCW
33 69.50.401(a)(1)(ii))
34 Manufacture, deliver, or possess with
35 intent to deliver heroin or cocaine
36 (RCW 69.50.401(a)(1)(i))
37 Possession of Ephedrine, Pseudoephedrine,
38 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.

Passed the House April 16, 2001.

Passed the Senate April 11, 2001.

Approved by the Governor May 9, 2001.

Filed in Office of Secretary of State May 9, 2001.