

CHAPTER 256

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 10-1081

BY REPRESENTATIVE(S) Priola, Bradford, Fischer, Kerr J., King S., Lambert, Schafer S., Nikkel, Waller;
also SENATOR(S) Steadman.

AN ACT

CONCERNING MONEY LAUNDERING, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 3 of article 5 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-5-309. Money laundering - illegal investments - penalty - definitions.

(1) A PERSON COMMITS MONEY LAUNDERING IF HE OR SHE:

(a) CONDUCTS OR ATTEMPTS TO CONDUCT A FINANCIAL TRANSACTION THAT INVOLVES MONEY OR ANY OTHER THING OF VALUE THAT HE OR SHE KNOWS OR BELIEVES TO BE THE PROCEEDS, IN ANY FORM, OF A CRIMINAL OFFENSE:

(I) WITH THE INTENT TO PROMOTE THE COMMISSION OF A CRIMINAL OFFENSE; OR

(II) WITH KNOWLEDGE OR A BELIEF THAT THE TRANSACTION IS DESIGNED IN WHOLE OR IN PART TO:

(A) CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE, OWNERSHIP, OR CONTROL OF THE PROCEEDS OF A CRIMINAL OFFENSE; OR

(B) AVOID A TRANSACTION REPORTING REQUIREMENT UNDER FEDERAL LAW;

(b) TRANSPORTS, TRANSMITS, OR TRANSFERS A MONETARY INSTRUMENT OR MONEYS:

(I) WITH THE INTENT TO PROMOTE THE COMMISSION OF A CRIMINAL OFFENSE; OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) WITH KNOWLEDGE OR A BELIEF THAT THE MONETARY INSTRUMENT OR MONEYS REPRESENT THE PROCEEDS OF A CRIMINAL OFFENSE AND THAT THE TRANSPORTATION, TRANSMISSION, OR TRANSFER IS DESIGNED, IN WHOLE OR IN PART, TO:

(A) CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE, OWNERSHIP, OR CONTROL OF THE PROCEEDS OF A CRIMINAL OFFENSE; OR

(B) AVOID A TRANSACTION REPORTING REQUIREMENT UNDER FEDERAL LAW; OR

(c) INTENTIONALLY CONDUCTS A FINANCIAL TRANSACTION INVOLVING PROPERTY THAT IS REPRESENTED TO BE THE PROCEEDS OF A CRIMINAL OFFENSE, OR INVOLVING PROPERTY THAT THE PERSON KNOWS OR BELIEVES TO HAVE BEEN USED TO CONDUCT OR FACILITATE A CRIMINAL OFFENSE, TO:

(I) PROMOTE THE COMMISSION OF A CRIMINAL OFFENSE;

(II) CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE, OWNERSHIP, OR CONTROL OF PROPERTY THAT THE PERSON BELIEVES TO BE THE PROCEEDS OF A CRIMINAL OFFENSE; OR

(III) AVOID A TRANSACTION REPORTING REQUIREMENT UNDER FEDERAL LAW.

(2) MONEY LAUNDERING IS A CLASS 3 FELONY.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONDUCTS OR ATTEMPTS TO CONDUCT A FINANCIAL TRANSACTION" INCLUDES, BUT IS NOT LIMITED TO, INITIATING, CONCLUDING, OR PARTICIPATING IN THE INITIATION OR CONCLUSION OF A TRANSACTION.

(b) "FINANCIAL TRANSACTION" MEANS A TRANSACTION INVOLVING:

(I) THE MOVEMENT OF MONEYS BY WIRE OR OTHER MEANS;

(II) ONE OR MORE MONETARY INSTRUMENTS;

(III) THE TRANSFER OF TITLE TO ANY REAL PROPERTY, VEHICLE, VESSEL, OR AIRCRAFT; OR

(IV) THE USE OF A FINANCIAL INSTITUTION.

(c) "MONETARY INSTRUMENT" MEANS:

(I) COIN OR CURRENCY OF THE UNITED STATES OR ANY OTHER COUNTRY; A TRAVELER'S CHECK; A PERSONAL CHECK; A BANK CHECK; A CASHIER'S CHECK; A MONEY ORDER; A BANK DRAFT OF ANY COUNTRY; OR GOLD, SILVER, OR PLATINUM BULLION OR COINS;

(II) AN INVESTMENT SECURITY OR NEGOTIABLE INSTRUMENT IN BEARER FORM OR

IN OTHER FORM SUCH THAT TITLE PASSES UPON DELIVERY; OR

(III) A GIFT CARD OR OTHER DEVICE THAT IS THE EQUIVALENT OF MONEY AND CAN BE USED TO OBTAIN CASH, PROPERTY, OR SERVICES.

(d) "REPRESENT" INCLUDES, BUT IS NOT LIMITED TO, THE MAKING OF A REPRESENTATION BY A PEACE OFFICER, A FEDERAL OFFICER, OR ANOTHER PERSON ACTING AT THE DIRECTION OF, OR WITH THE APPROVAL OF, A PEACE OFFICER OR FEDERAL OFFICER.

(e) "TRANSACTION" INCLUDES A PURCHASE, SALE, LOAN, PLEDGE, GIFT, TRANSFER, DELIVERY, OR OTHER DISPOSITION AND, WITH RESPECT TO A FINANCIAL INSTITUTION, INCLUDES A DEPOSIT; A WITHDRAWAL; A TRANSFER BETWEEN ACCOUNTS; AN EXCHANGE OF CURRENCY; A LOAN; AN EXTENSION OF CREDIT; A PURCHASE OR SALE OF ANY STOCK, BOND, CERTIFICATE OF DEPOSIT, OR OTHER MONETARY INSTRUMENT; THE USE OF A SAFE DEPOSIT BOX; OR ANY OTHER PAYMENT, TRANSFER, OR DELIVERY BY, THROUGH, OR TO A FINANCIAL INSTITUTION BY WHATEVER MEANS.

SECTION 2. 18-17-103 (5) (b) (IV), Colorado Revised Statutes, as it exists until July 1, 2011, is amended to read:

18-17-103. Definitions. As used in this article, unless the context otherwise requires:

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed in this state, would be a crime under the following provisions of the Colorado statutes:

(IV) Offenses involving fraud, as defined in sections 18-5-102 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal possession of forged instrument), 18-5-109 (criminal possession of forgery devices), 18-5-110.5 (trademark counterfeiting), 6-16-111, C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor or debtor), 18-5-309 (MONEY LAUNDERING), 18-5-403 (bribery in sports), 18-5-113 (criminal impersonation), 18-5-114 (offering a false document for recording), 18-5-702 (unauthorized use of a financial transaction device), 18-5-705 (criminal possession or sale of a blank financial transaction device), 18-5-706 (criminal possession of forgery devices), 18-5-707 (unlawful manufacture of a financial transaction device), 18-5-902 (identity theft), 18-5-903 (criminal possession of a financial device), 18-5-904 (gathering identity information by deception), and 18-5-905 (possession of identity theft tools);

SECTION 3. 18-17-103 (5) (b) (IV), Colorado Revised Statutes, as it will become effective July 1, 2011, is amended to read:

18-17-103. Definitions. As used in this article, unless the context otherwise requires:

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed in this state, would be a crime under the following provisions of the Colorado statutes:

(IV) Offenses involving fraud, as defined in sections 18-5-102 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal possession of forged instrument), 18-5-109 (criminal possession of forgery devices), 18-5-110.5 (trademark counterfeiting), 6-16-111, C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor or debtor), 18-5-309 (MONEY LAUNDERING), 18-5-403 (bribery in sports), 18-5-113 (criminal impersonation), 18-5-114 (offering a false document for recording), 18-5-702 (unauthorized use of a financial transaction device), 18-5-705 (criminal possession or sale of a blank financial transaction device), 18-5-706 (criminal possession of forgery devices), 18-5-707 (unlawful manufacture of a financial transaction device), 18-5-902 (identity theft), 18-5-903 (criminal possession of a financial device), 18-5-903.5 (criminal possession of an identification document), 18-5-904 (gathering identity information by deception), and 18-5-905 (possession of identity theft tools);

SECTION 4. Repeal. 18-18-408, Colorado Revised Statutes, is repealed.

SECTION 5. 12-52-203 (1), Colorado Revised Statutes, as enacted by House Bill 10-1114, is amended to read:

12-52-203. Notice of laws. (1) The banking board shall promulgate rules to create a form containing a notice of the contents of ~~section 18-18-408, C.R.S.~~ SECTION 18-5-309, C.R.S., and other state and federal laws concerning money laundering.

SECTION 6. 12-52-205 (1) and (2), Colorado Revised Statutes, as enacted by House Bill 10-1114, are amended to read:

12-52-205. Agent requirements. (1) No money transmitter licensed pursuant to part 1 of this article shall knowingly contract with an agent or owner of an agent holding more than a ten percent interest in the business who has been convicted of or pleaded guilty or nolo contendere to the offenses in article 5 of title 18, C.R.S., or in ~~section 18-18-408, C.R.S.~~ SECTION 18-5-309, C.R.S.; a felony in the selling or issuing of exchange or in money transmission; a felony involving a financial institution; or an equivalent crime outside Colorado.

(2) No agent of a money transmitter licensed pursuant to this article shall knowingly employ a person to perform money transmission services who has been convicted of or pleaded guilty or nolo contendere to the offenses in article 5 of title 18, C.R.S., or in ~~section 18-18-408, C.R.S.~~ SECTION 18-5-309, C.R.S.; a felony in the selling or issuing of exchange or in money transmission; a felony involving a financial institution; or an equivalent crime outside Colorado.

SECTION 7. Article 18 of title 17, Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SECTION to read:

17-18-105. Appropriation to comply with section 2-2-703 - HB 10-1081 - repeal. (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 10-1081, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SEVENTH GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, C.R.S., THE SUM OF NINETY-ONE THOUSAND THREE HUNDRED SEVENTY DOLLARS (\$91,370).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

(e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

SECTION 8. 24-75-302 (2) (w), Colorado Revised Statutes, is amended to read:

24-75-302. Capital construction fund - capital assessment fees - calculation. (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 2012, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount that shall accrue pursuant to this subsection (2) shall be as follows:

(w) On July 1, 2010, five hundred twenty-three thousand one hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus forty-three thousand five hundred ninety-seven dollars pursuant to H.B. 06-1145, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus sixty-nine thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004, enacted at the first extraordinary session of the sixty-fifth general assembly; plus seven hundred fifty thousand nine hundred ninety dollars pursuant to S.B. 07-096, enacted at the first regular session of the sixty-sixth general assembly; plus one hundred twelve thousand six hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular session of the sixty-sixth general assembly; plus one hundred thirty-seven thousand six hundred eighty-two dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly; PLUS NINETY-ONE THOUSAND THREE HUNDRED SEVENTY DOLLARS PURSUANT TO H.B. 10-1081, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SEVENTH GENERAL ASSEMBLY;

SECTION 9. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that:

(a) If a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor;

(b) This act shall only take effect if:

(I) The final fiscal estimate for House Bill 10-1338, as determined from the appropriations enacted in said bill, shows a net reduction in the amount of general fund revenues appropriated for state fiscal year 2010-11, that is equal to or greater than the amount of the general fund transfer made for the implementation of this act for state fiscal year 2010-11, as reflected in section 8 of this act; and

(II) House Bill 10-1338 is enacted at the second regular session of the sixty-seventh general assembly and becomes law; and

(III) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2010, that the requirement set forth in subparagraph (I) of this paragraph (b) has been met; and

(c) Sections 5 and 6 of this act shall take effect only if House Bill 10-1114 is enacted and becomes law.

(2) The provisions of this act shall apply to offenses committed on or after the applicable effective date of this act.

Approved: May 25, 2010