

By Ms. Pines, petition (accompanied by bill, Senate, No. 204) of James M. Shannon, Attorney General, Lois G. Pines and Joseph K. Mackey for legislation to establish the crime of money laundering. Criminal Justice.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT ESTABLISHING THE CRIME OF MONEY LAUNDERING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws, as appearing in the 1988 Official Edition
2 are amended by adding, after chapter 267, the following new
3 chapter: —

**CHAPTER 267A.
MONEY LAUNDERING.**

6 1. Definitions

7 As used in this chapter:

8 “Conducts” means, but is not limited to, initiating, concluding,
9 or participating in conducting, initiating, or concluding a
10 transaction.

11 “Criminal activity” means a criminal offense punishable under
12 the laws of this state by imprisonment in a state prison or from
13 a criminal offense committed in another jurisdiction punishable
14 under the laws of that jurisdiction as a felony.

15 “Financial institution” means

16 (a) any bank as defined in section one of chapter one hundred
17 and sixty-seven;

18 (b) any national banking association, bank, savings and loan,
19 savings bank, cooperative bank, building and loan, or credit union
20 organized under the laws of the United States;

21 (c) any banking association, bank, savings and loan, savings

22 bank, cooperative bank, building and loan, or credit union
23 organized under the laws of any state;

24 (d) any agency, agent, or branch of a foreign bank;

25 (e) any currency dealer or exchange;

26 (f) any person or business engaged primarily in the cashing
27 of checks;

28 (g) any person or business regularly engaged in the issuing,
29 selling, or redeeming of travelers' checks, money orders or similar
30 instruments;

31 (h) any broker or dealer in securities registered or required to
32 be registered with the Securities Exchange commission under the
33 Securities Exchange Act of 1934;

34 (i) any licensed transmitter of funds or other person or business
35 regularly engaged in the transmission of funds to a foreign nation
36 for others;

37 (j) any investment banker or investment company;

38 (k) any insurer;

39 (l) any dealer in gold, silver, platinum bullion, coins, diamonds,
40 emeralds, rubies, sapphires or other precious metals or precious
41 stones;

42 (m) any pawnbroker;

43 (n) any telegraph company; or

44 (o) any personal property or real estate broker.

45 "Monetary instrument" means United States currency and coin;
46 the currency and coin of any foreign country; any bank check,
47 money order, stock, investment security, or negotiable instrument
48 in bearer form or otherwise in such form that title passes upon
49 delivery; gold, silver or platinum bullion or coins; and diamonds,
50 emeralds, rubies, or sapphires. "Monetary instrument" does not
51 mean bank checks, cashier's checks, traveler's checks, or money
52 orders made payable to the order of a named party which have
53 not been endorsed or which bear restrictive endorsements.

54 "Transaction" means the deposit, withdrawal, transfer,
55 bailment, loan, pledge, payment, or exchange of currency, or a
56 monetary instrument, as defined in this section, by, through, or
57 to a financial instrument as defined in this section.

58 2. Prohibited acts

59 Whoever knowingly and willfully conducts or attempts to
60 conduct a transaction involving a monetary instrument or

61 instruments of a value exceeding ten thousand dollars through a
62 financial institution (1) with the intent to promote, manage,
63 establish, carry on or facilitate the promotion, management,
64 establishment or carrying on of any criminal activity, or (2)
65 knowing that the monetary instrument represents the proceeds of,
66 or is derived directly or indirectly from the proceeds of, criminal
67 activity, is guilty of the crime of money laundering.

68 3. Record-keeping; filing of reports; regulations

69 (a) The attorney general shall promulgate regulations for the
70 administration of the provisions of this chapter. It is the intent
71 of the legislature that the regulations promulgated by the attorney
72 general shall be designed to minimize the cost and difficulty of
73 compliance and shall, to the greatest extent possible, result in
74 report and record-keeping forms consistent with those used in
75 compliance with Sections 5311 et seq. of Title 31 of the United
76 States Code, Section 60501 of Title 26 of the United States Code,
77 and regulations adopted thereunder.

78 (b) A financial institution shall make and keep a record of each
79 transaction which involves currency of more than ten thousand
80 dollars or which results in the exchange of a monetary instrument
81 or instruments of a value in excess of ten thousand dollars for
82 another monetary instrument or instruments. A financial insti-
83 tution shall file a report of such transaction with the department
84 of the attorney general in a form and at the time as the attorney
85 general, by regulation, shall require. The filing with the attorney
86 general within the time specified in its regulations of a duplicate
87 copy of a report of a transaction required by section 60501 of Title
88 26 of the United States Code, and any regulations thereunder,
89 shall satisfy the reporting requirements of this subdivision. This
90 subdivision does not apply to a financial institution, as defined
91 in Section 5312 of Title 31 of the United States Code and
92 Section 103.11 of Title 31 of the Code of Federal Regulations and
93 any successor provisions thereto.

94 (c) A financial institution, as defined in Section 5312 of Title
95 31 of the United States Code and Section 103.11 of Title 31 of
96 the Code of Federal Regulations and any successor provision,
97 shall file with the department of the attorney general, at any time
98 as the attorney general by regulation shall require, a duplicate
99 copy of each report required by Sections 5313 and 5314 of Title

100 31 of the United States Code and by Sections 103.22 and 103.23
101 of Title 31 of the Code of Federal Regulations, and any successor
102 provisions thereto. The filing pursuant to this subdivision shall
103 satisfy all reporting and recordkeeping requirements of this title.

104 (d) A financial institution may exempt from the reporting
105 requirements of Section 14162 monetary instrument transactions
106 exempted from the reporting requirements of Section 5313 of Title
107 31 of the United States Code. However, the exemption shall be
108 approved in writing and with the signature of two or more officers
109 of the financial institution and subject to review and disapproval
110 for reasonable cause by the attorney general. An exemption
111 disapproved by the attorney general in writing shall be effective
112 to require reporting pursuant to Section 14162 within five business
113 days of the time the disapproval is communicated to the financial
114 institution. The attorney general may require, by regulation, the
115 maintenance, and may provide for the inspection, of records of
116 exemptions granted under this section.

117 (e) A financial institution, or any officer, employee, or agent
118 thereof that keeps and files a record in reliance of this section,
119 shall not be liable to its customer, to a state or local agency, or
120 to any person for any loss or damage caused in whole or in part
121 by the making, filing, or governmental use of the report, or any
122 information contained therein. Nothing in this chapter shall be
123 construed to give rise to a private cause of action for relief or
124 damages.

125 This paragraph does not preclude a financial institution, in its
126 discretion, from instituting contact with, and thereafter
127 communicating with and disclosing customer financial records to,
128 appropriate federal, state, or local law enforcement agencies when
129 the financial institution has reason to suspect that the records or
130 information demonstrate that the customer has violated any
131 provision of this chapter.

132 (f) Any report, record, or information obtained by the attorney
133 general is not a public record and is not subject to disclosure,
134 except to district attorneys, the department of revenue and other
135 law enforcement agencies.

136 4. Penalties

137 (a) A violation of section two of this Act shall be punished by
138 imprisonment for not more than three years in the state prison
139 or by a fine of not more than one hundred thousand dollars or

140 twice the value of the property transacted, whichever is greater,
141 or by both imprisonment and fine. Each individual transaction
142 conducted shall constitute a separate, punishable offense.

143 (b) Any violation of section three, which is not a violation of
144 section two, shall be punished by a fine of fifty dollars for
145 each report not filed.

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