

By Ms. Creem, a petition (accompanied by bill, Senate, No. 930) of Cynthia S. Creem, Richard T. Moore, Bruce E. Tarr and David P. Linsky for legislation to establish the crime of money laundering. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

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 SECTION 1. The General Court hereby finds and declares the
2 following:

3 a. Persons who engage in criminal activity such as drug traf-
4 ficking, organized crime and terror organizations have utilized the
5 practice of money laundering, which takes illegally acquired
6 income and makes that money appear to be legitimate.

7 b. Money laundering increases the threat posed by serious
8 crime by facilitating the underlying crime and providing funds for
9 reinvestment that allow a criminal enterprise to continue its opera-
10 tions.

11 c. In 1986, the President's Commission on Organized Crime
12 called the detection and prevention of money laundering a
13 "promising weapon against organized crime." The Commission
14 also identified a "critical need" for greater cooperation between
15 state and federal officials to combat the problem of money laun-
16 dering.

17 d. In October 1995, President Clinton, in an address to the
18 United Nations General Assembly identified money laundering,
19 along with drug trafficking and terrorism, as a threat to global
20 peace and freedom.

21 e. In the wake of September 11, 2001, two Boston residents
22 were charged by federal authorities with running an illegal money

23 transfer operation in Massachusetts that funneled money to ter-
24 rorist cells operating in the Boston area.

25 f. Therefore, in order to safeguard the public interest and stop
26 the conversion of ill-gotten criminal profits, effective criminal and
27 civil sanctions are needed to deter and punish those who are con-
28 verting illegal profits, those who are providing a method of hiding
29 the true source of funds, and those who facilitate such activities.

1 SECTION 2. The General Laws, as appearing in the 2002 Offi-
2 cial Edition, are hereby amended by adding after chapter 267 the
3 following new chapter:—

4 **Chapter 267A.**

5 **Money Laundering.**

6 Section 1. As used in this chapter, the following words shall
7 have the following meanings:

8 “Conducts”, initiates, concludes or participates in a transaction.

9 “Criminal activity”, a criminal offense punishable under the
10 laws of the commonwealth by imprisonment in a state prison or
11 from a criminal offense committed in another jurisdiction punish-
12 able under the laws of that jurisdiction as a felony.

13 “Financial institution”, (a) any bank as defined in section one
14 of chapter 167; (b) any national banking association, bank, sav-
15 ings and loan, savings bank, cooperative bank, building and loan,
16 or credit union organized under the laws of the United States;
17 (c) any banking association, bank, savings and loan, savings bank,
18 cooperative bank, building and loan or credit union organized
19 under the laws of any state; (d) any agency, agent, or branch of a
20 foreign bank; (e) any currency dealer or exchange; (f) any person
21 or business engaged primarily in the cashing of checks; (g) any
22 person or business regularly engaged in the issuing, selling, or
23 redeeming of traveler’s checks, money orders or similar instru-
24 ments; (h) any broker or dealer in securities or commodities;
25 (i) any licensed transmitter of funds or other person or business
26 regularly engaged in the transmission of funds to a foreign nation
27 for others; (j) any investment banker or investment company;
28 (k) any insurer; (l) any dealer in precious metals, stones and
29 jewels; (m) any pawnbroker; (n) any telegraph company; (o) any
30 personal property or real estate broker; (p) any dealer in motor

31 vehicles; (q) any operator of a betting or gambling facility; or
32 (r) any travel agent.

33 “Monetary instrument”, The currency and coin of the United
34 States or any foreign country; any bank check, money order,
35 stock, investment security, or negotiable instrument in bearer form
36 or otherwise in such form that title passes upon delivery; gold,
37 silver or platinum bullion or coins; and diamonds, emeralds,
38 rubies, or sapphires. Any negotiable instrument including, bank
39 checks, cashier’s checks, traveler’s checks, or monetary orders
40 made payable to the order of a named party that have not been
41 endorsed or which bear restrictive endorsements.

42 “Transaction”, the deposit, withdrawal, transfer, bailment, loan,
43 pledge, payment, or exchange of currency, or a monetary instru-
44 ment, as defined in this section, by, through, or to a monetary
45 instrument as defined in this section.

46 Section 2. Whoever knowingly and willfully:

47 (a) engages in a transaction involving a monetary instrument or
48 other property known to be derived from criminal activity with
49 the intent to promote, carry on or facilitate criminal activity, or
50 knowing that the transaction is designed in whole or in part to
51 either conceal or disguise the nature, location, source, ownership
52 or control of the property derived from criminal activity or to
53 avoid a transaction reporting requirement of this chapter, of the
54 United States, or of any other state; or

55 (b) transports or possesses a monetary instrument or other prop-
56 erty that was derived from criminal activity; or

57 (c) directs, organizes, finances, plans, manages, supervises, or
58 controls the transportation of or transactions in monetary instru-
59 ments or other property derived from criminal activity is guilty of
60 the crime of money laundering and shall be punished by imprison-
61 ment in the state prison for not more than 5 years or by imprison-
62 ment in the house of correction for not more than 2½ years or by a
63 fine of not more than \$100,000 or twice the value of the property
64 transacted, whichever is greater, or by both such imprisonment
65 and fine.

1 SECTION 3. A Special Commission is hereby established to
2 further study the problem of money laundering and the Common-
3 wealth's response including, but not limited to: further legislation

4 or revisions to existing legislation on reporting requirements for
5 financial institutions, the needs of law enforcement to fully inves-
6 tigate and prosecute money laundering, cooperation and commu-
7 nication between state and federal authorities, and the possibility
8 of creating a financial intelligence unit within the department of
9 State Police to more effectively investigate financial crimes. The
10 Commission shall consist of the following members: the attorney
11 general or his designee; the secretary of public safety or his
12 designee; the colonel of state police; the Senate and House chairs
13 of the Joint Committee on Criminal Justice; and the Senate and
14 House Chairs of the Joint Committee on Public Safety. The Com-
15 mission shall submit a report to the Clerks of the Senate and the
16 House of Representatives by November 30, 2006.