

SENATE BILL REPORT

SB 5318

AS REPORTED BY COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE,  
FEBRUARY 5, 1991

**Brief Description:** Prescribing penalties for money laundering.

**SPONSORS:** Senators von Reichbauer, Pelz, Owen, Johnson, Vognild, Moore, Rasmussen, McCaslin, Matson, Sellar and West.

**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE**

**Majority Report:** That Substitute Senate Bill No. 5318 be substituted therefor, and the substitute bill do pass.

Signed by Senators von Reichbauer, Chairman; Johnson, Vice Chairman; McCaslin, Moore, Owen, Pelz, Rasmussen, Sellar, and West.

**Staff:** Steve Nelsen (786-7535)

**Hearing Dates:** January 25, 1991; February 5, 1991

**BACKGROUND:**

Money laundering can briefly be described as the process by which a person manipulates the proceeds of some form of unlawful activity in order to conceal their criminal origin and make the proceeds appear legitimate. The actual process of money laundering can take place in a wide variety of ways.

The federal government has adopted several measures designed to combat money laundering. In 1986, Congress made the act of "laundering of monetary instruments" a federal crime. Congress also has adopted the Bank Secrecy Act which, in part, requires financial institutions to file a Currency Transaction Report (CTR) for cash transactions which exceed \$10,000 and to maintain certain records and procedures for the purpose of ensuring compliance with the act. In addition, the Internal Revenue Code requires certain businesses that accept over \$10,000 in a cash transaction to file a report.

Ten states have made money laundering a crime within their state criminal codes and some states have also adopted their own reporting requirements to enhance law enforcement efforts.

**SUMMARY:**

A new state crime of money laundering is created with two levels of culpability:

Money laundering in the second degree (class C felony: 1-5 years) occurs when a person possesses, receives, acquires or maintains an interest in, transfers, transports, or conceals

the existence or nature of property, funds, or monetary instruments knowing or having reason to know that they are the proceeds of some form of unlawful activity.

Money laundering in the first degree (class B felony: 1-10 years) occurs when a person knowingly initiates, organizes, plans, finances, directs, manages, supervises, or is in the business of money laundering.

There is a provision for a civil penalty up to the amount involved or \$10,000, whichever is greater.

Money laundering is included in the list of activities which constitute criminal racketeering.

**EFFECT OF PROPOSED SUBSTITUTE:**

Real property is expressly included within the definition of "proceeds of unlawful activity." Concealment of the origin of proceeds of unlawful activity is included within the acts that constitute money laundering in the second degree. A money laundering conviction is not required before the property involved can be considered "proceeds of unlawful activity."

A court in imposing sentence on a person convicted of money laundering is required to order forfeiture of the proceeds. Protections are included for security interests in property which may be subject to forfeiture. The Attorney General or county prosecutor is authorized to file a civil action for forfeiture of the proceeds of unlawful activity.

Protections are provided for businesses and their employees who report suspicious financial transactions in good faith to law enforcement agencies. A definition is provided for "business" and "financial transactions."

**Appropriation:** none

**Revenue:** yes

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Washington has a need for a state statute criminalizing money laundering and allowing for state recovery of the funds involved. The intent required to convict a person for money laundering under existing federal law makes the law less effective. Any protection which would encourage businesses to cooperate with law enforcement agencies regarding the disclosure of suspicious financial transactions will be helpful in prosecuting money launderers. The protection of secured interests is similar to past legislation.

**TESTIMONY AGAINST:**

The definition of unlawful activity is too broad and the protection afforded those who report suspicious financial transactions sets bad state policy.

**TESTIFIED:** Marilyn Brenneman, King County Prosecuting Attorney (pro); Tim Erickson, State Patrol (pro); Joe Brennan (con); Trevor Sandison