

SENATE BILL 5318

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

Read first time January 28, 1991. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to money laundering; amending RCW 9A.82.010; adding
2 a new section to chapter 9A.82 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.82 RCW
5 to read as follows:

6 (1) As used in this section, the term:

7 (a) "Proceeds" means any interest in property of any kind acquired
8 through or caused by an act or omission, or derived from the act or
9 omission, directly or indirectly, and any fruits of this interest, in
10 whatever form;

11 (b) "Proceeds of some form of unlawful activity" means proceeds
12 from some form of activity that is a felony under state or federal law,
13 including, but not limited to those activities specified as "criminal
14 profiteering" as defined in RCW 9A.82.010;

1 (c) "Monetary instruments" means coin or currency of the United
2 States or of any other country, travellers' checks, personal checks,
3 bank checks, money orders, investment securities in bearer form or
4 otherwise in such form that title to them passes upon delivery, and
5 negotiable instruments in bearer form or otherwise in such form that
6 title to them passes upon delivery;

7 (d) "Acquire" means for a person to do any of the following:

8 (i) Act so as to exclude other persons from using their property
9 except on his or her own terms;

10 (ii) Bring about or receive the transfer of any interest in
11 property, whether to himself or to another person, or to secure
12 performance of a service.

13 (2) A person who possesses, receives, acquires or maintains an
14 interest in, transfers, transports, or conceals the existence or nature
15 of property, funds, or monetary instruments knowing or having reason to
16 know that they are the proceeds of some form of unlawful activity is
17 guilty of money laundering in the second degree.

18 (3) A person who knowingly initiates, organizes, plans, finances,
19 directs, manages, supervises, or is in the business of money laundering
20 is guilty of money laundering in the first degree.

21 (4) Money laundering in the second degree is a class C felony.
22 Money laundering in the first degree is a class B felony.

23 (5) A person who violates this section is also liable for a civil
24 penalty of not more than the greater of the value of the property,
25 funds, or monetary instruments involved in the transaction or ten
26 thousand dollars.

27 **Sec. 2.** RCW 9A.82.010 and 1989 c 20 s 17 are each amended to read
28 as follows:

1 Unless the context requires the contrary, the definitions in this
2 section apply throughout this chapter.

3 (1) "Creditor" means a person making an extension of credit or a
4 person claiming by, under, or through a person making an extension of
5 credit.

6 (2) "Debtor" means a person to whom an extension of credit is made
7 or a person who guarantees the repayment of an extension of credit or
8 in any manner undertakes to indemnify the creditor against loss
9 resulting from the failure of a person to whom an extension is made to
10 repay the same.

11 (3) "Extortionate extension of credit" means an extension of credit
12 with respect to which it is the understanding of the creditor and the
13 debtor at the time the extension is made that delay in making repayment
14 or failure to make repayment could result in the use of violence or
15 other criminal means to cause harm to the person, reputation, or
16 property of any person.

17 (4) "Extortionate means" means the use, or an express or implicit
18 threat of use, of violence or other criminal means to cause harm to the
19 person, reputation, or property of any person.

20 (5) "To collect an extension of credit" means to induce in any way
21 a person to make repayment thereof.

22 (6) "To extend credit" means to make or renew a loan or to enter
23 into an agreement, tacit or express, whereby the repayment or
24 satisfaction of a debt or claim, whether acknowledged or disputed,
25 valid or invalid, and however arising, may or shall be deferred.

26 (7) "Repayment of an extension of credit" means the repayment,
27 satisfaction, or discharge in whole or in part of a debt or claim,
28 acknowledged or disputed, valid or invalid, resulting from or in
29 connection with that extension of credit.

1 (8) "Dealer in property" means a person who buys and sells property
2 as a business.

3 (9) "Stolen property" means property that has been obtained by
4 theft, robbery, or extortion.

5 (10) "Traffic" means to sell, transfer, distribute, dispense, or
6 otherwise dispose of stolen property to another person, or to buy,
7 receive, possess, or obtain control of stolen property, with intent to
8 sell, transfer, distribute, dispense, or otherwise dispose of the
9 property to another person.

10 (11) "Control" means the possession of a sufficient interest to
11 permit substantial direction over the affairs of an enterprise.

12 (12) "Enterprise" includes any individual, sole proprietorship,
13 partnership, corporation, business trust, or other profit or nonprofit
14 legal entity, and includes any union, association, or group of
15 individuals associated in fact although not a legal entity, and both
16 illicit and licit enterprises and governmental and nongovernmental
17 entities.

18 (13) "Financial institution" means any bank, trust company, savings
19 and loan association, savings bank, mutual savings bank, credit union,
20 or loan company under the jurisdiction of the state or an agency of the
21 United States.

22 (14) "Criminal profiteering" means any act, including any
23 anticipatory or completed offense, committed for financial gain, that
24 is chargeable or indictable under the laws of the state in which the
25 act occurred and, if the act occurred in a state other than this state,
26 would be chargeable or indictable under the laws of this state had the
27 act occurred in this state and punishable as a felony and by
28 imprisonment for more than one year, regardless of whether the act is
29 charged or indicted, as any of the following:

30 (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;

1 (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
2 (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
3 (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
4 (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, and
5 9A.56.080;
6 (f) Child selling or child buying, as defined in RCW 9A.64.030;
7 (g) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and
8 9A.68.050;
9 (h) Gambling, as defined in RCW 9.46.220 and 9.46.230;
10 (i) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
11 (j) Extortionate extension of credit, as defined in RCW 9A.82.020;
12 (k) Advancing money for use in an extortionate extension of credit,
13 as defined in RCW 9A.82.030;
14 (l) Collection of an extortionate extension of credit, as defined
15 in RCW 9A.82.040;
16 (m) Collection of an unlawful debt, as defined in RCW 9A.82.045;
17 (n) Delivery or manufacture of controlled substances or possession
18 with intent to deliver or manufacture controlled substances under
19 chapter 69.50 RCW;
20 (o) Trafficking in stolen property, as defined in RCW 9A.82.050;
21 (p) Leading organized crime, as defined in RCW 9A.82.060;
22 (q) Money laundering, as defined in section 1 of this act;
23 (r) Obstructing criminal investigations or prosecutions in
24 violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130,
25 9A.76.070, or 9A.76.180;
26 ~~((+r))~~ (s) Fraud in the purchase or sale of securities, as
27 defined in RCW 21.20.010;
28 ~~((+s))~~ (t) Promoting pornography, as defined in RCW 9.68.140;
29 ~~((+t))~~ (u) Sexual exploitation of children, as defined in RCW
30 9.68A.040, 9.68A.050, and 9.68A.060;

1 (~~(u)~~) (v) Promoting prostitution, as defined in RCW 9A.88.070 and
2 9A.88.080;

3 (~~(v)~~) (w) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

4 (~~(w)~~) (x) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

5 (~~(x)~~) (y) A pattern of equity skimming, as defined in RCW
6 61.34.020; or

7 (~~(y)~~) (z) Commercial telephone solicitation in violation of RCW
8 19.158.040(1).

9 (15) "Pattern of criminal profiteering activity" means engaging in
10 at least three acts of criminal profiteering, one of which occurred
11 after July 1, 1985, and the last of which occurred within five years,
12 excluding any period of imprisonment, after the commission of the
13 earliest act of criminal profiteering. In order to constitute a
14 pattern, the three acts must have the same or similar intent, results,
15 accomplices, principals, victims, or methods of commission, or be
16 otherwise interrelated by distinguishing characteristics including a
17 nexus to the same enterprise, and must not be isolated events.
18 However, in any civil proceedings brought pursuant to RCW 9A.82.100 by
19 any person other than the attorney general or county prosecuting
20 attorney in which one or more acts of fraud in the purchase or sale of
21 securities are asserted as acts of criminal profiteering activity, it
22 is a condition to civil liability under RCW 9A.82.100 that the
23 defendant has been convicted in a criminal proceeding of fraud in the
24 purchase or sale of securities under RCW 21.20.400 or under the laws of
25 another state or of the United States requiring the same elements of
26 proof, but such conviction need not relate to any act or acts asserted
27 as acts of criminal profiteering activity in such civil action under
28 RCW 9A.82.100.

29 (16) "Records" means any book, paper, writing, record, computer
30 program, or other material.

1 (17) "Documentary material" means any book, paper, document,
2 writing, drawing, graph, chart, photograph, phonograph record, magnetic
3 tape, computer printout, other data compilation from which information
4 can be obtained or from which information can be translated into usable
5 form, or other tangible item.

6 (18) "Unlawful debt" means any money or other thing of value
7 constituting principal or interest of a debt that is legally
8 unenforceable in the state in full or in part because the debt was
9 incurred or contracted:

10 (a) In violation of any one of the following:

11 (i) Chapter 67.16 RCW relating to horse racing;

12 (ii) Chapter 9.46 RCW relating to gambling;

13 (b) In a gambling activity in violation of federal law; or

14 (c) In connection with the business of lending money or a thing of
15 value at a rate that is at least twice the permitted rate under the
16 applicable state or federal law relating to usury.

17 (19) (a) "Beneficial interest" means:

18 (i) The interest of a person as a beneficiary under a trust
19 established under Title 11 RCW in which the trustee for the trust holds
20 legal or record title to real property;

21 (ii) The interest of a person as a beneficiary under any other
22 trust arrangement under which a trustee holds legal or record title to
23 real property for the benefit of the beneficiary; or

24 (iii) The interest of a person under any other form of express
25 fiduciary arrangement under which one person holds legal or record
26 title to real property for the benefit of the other person.

27 (b) "Beneficial interest" does not include the interest of a
28 stockholder in a corporation or the interest of a partner in a general
29 partnership or limited partnership.

1 (c) A beneficial interest shall be considered to be located where
2 the real property owned by the trustee is located.

3 (20) "Real property" means any real property or interest in real
4 property, including but not limited to a land sale contract, lease, or
5 mortgage of real property.

6 (21) (a) "Trustee" means:

7 (i) A person acting as a trustee under a trust established under
8 Title 11 RCW in which the trustee holds legal or record title to real
9 property;

10 (ii) A person who holds legal or record title to real property in
11 which another person has a beneficial interest; or

12 (iii) A successor trustee to a person who is a trustee under
13 subsection (21)(a) (i) or (ii) of this section.

14 (b) "Trustee" does not mean a person appointed or acting as:

15 (i) A personal representative under Title 11 RCW;

16 (ii) A trustee of any testamentary trust;

17 (iii) A trustee of any indenture of trust under which a bond is
18 issued; or

19 (iv) A trustee under a deed of trust.