

SENATE No. 696

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act establishing the crime of money laundering..

PETITION OF:

NAME:

Cynthia S. Creem

DISTRICT/ADDRESS:

-
-

[District]

SENATE No. 696

By Ms. Creem, a petition (accompanied by bill, Senate, No. 696) of Cynthia S. Creem for legislation to establish the crime of money laundering. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
□ SENATE
□ , NO. 1661 OF 2009-2010.]

The Commonwealth of Massachusetts

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 following:
- 2 a. Persons who engage in criminal activity such as drug trafficking, organized
- 3 crime and terror organizations have utilized the practice of money laundering, which takes
- 4 illegally acquired income and makes that money appear to be legitimate.
- 5 b. Money laundering increases the threat posed by serious crime by facilitating
- 6 the underlying crime and providing funds for reinvestment that allow a criminal enterprise to
- 7 continue its operations.
- 8 c. In 1986, the President’s Commission on Organized Crime called the
- 9 detection and prevention of money laundering a “promising weapon against organized crime.”
- 10 The Commission also identified a “critical need” for greater cooperation between state and
- 11 federal officials to combat the problem of money laundering.
- 12 d. In October 1995, President Clinton, in an address to the United Nations
- 13 General Assembly identified money laundering, along with drug trafficking and terrorism, as a
- 14 threat to global peace and freedom.
- 15 e. In the wake of September 11, 2001, two Boston residents were charged by
- 16 federal authorities with running an illegal money transfer operation in Massachusetts that
- 17 funneled money to terrorist cells operating in the Boston area.

18 f. Therefore, in order to safeguard the public interest and stop the conversion of
19 ill-gotten criminal profits, effective criminal and civil sanctions are needed to deter and punish
20 those who are converting illegal profits, those who are providing a method of hiding the true
21 source of funds, and those who facilitate such activities.

22 SECTION 2. The General Laws, as appearing in the 2000 Official Edition, are
23 hereby amended by adding after chapter 267 the following new chapter:-

24 Chapter 267A

25 Money Laundering

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

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

29 “Criminal activity”, a criminal offense punishable under the laws of the
30 commonwealth by imprisonment in a state prison or from a criminal offense committed in
31 another jurisdiction punishable under the laws of that jurisdiction as a felony.

32 “Financial institution”, (a) any bank as defined in section one of chapter 167;
33 (b) any national banking association, bank, savings and loan, savings bank, cooperative bank,
34 building and loan, or credit union organized under the laws of the United States; (c) any banking
35 association, bank, savings and loan, savings bank, cooperative bank, building and loan or credit
36 union organized under the laws of any state; (d) any agency, agent, or branch of a foreign bank;
37 (e) any currency dealer or exchange; (f) any person or business engaged primarily in the cashing
38 of checks; (g) any person or business regularly engaged in the issuing, selling, or redeeming of
39 traveler’s checks, money orders or similar instruments; (h) any broker or dealer in securities or
40 commodities; (i) any licensed transmitter of funds or other person or business regularly engaged
41 in the transmission of funds to a foreign nation for others; (j) any investment banker or
42 investment company; (k) any insurer; (l) any dealer in precious metals, stones and jewels; (m)
43 any pawnbroker; (n) any telegraph company; (o) any personal property or real estate broker; (p)
44 any dealer in motor vehicles; (q) any operator of a betting or gambling facility; or (r) any travel
45 agent.

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

53 “Transaction”, the deposit, withdrawal, transfer, bailment, loan, pledge,
54 payment, or exchange of currency, or a monetary instrument, as defined in this section, by,
55 through, or to a monetary instrument as defined in this section.

56 Section 2. Whoever knowingly and willfully:

57 (a) engages in a transaction involving a monetary instrument or other property
58 known to be derived from criminal activity with the intent to promote, carry on or facilitate
59 criminal activity, or knowing that the transaction is designed in whole or in part to either conceal
60 or disguise the nature, location, source, ownership or control of the property derived from
61 criminal activity or to avoid a transaction reporting requirement of this chapter, of the United
62 States, or of any other state; or

63 (b) transports or possesses a monetary instrument or other property that was
64 derived from criminal activity; or

65 (c) directs, organizes, finances, plans, manages, supervises, or controls the
66 transportation of or transactions in monetary instruments or other property derived from criminal
67 activity is guilty of the crime of money laundering and shall be punished by imprisonment in the
68 state prison for not more than 5 years or by imprisonment in the house of correction for not more
69 than 2 ½ years or by a fine of not more than \$100,000 or twice the value of the property
70 transacted, whichever is greater, or by both such imprisonment and fine.

71 Section 3. (a) A financial institution shall make and keep a record of each
72 transaction which involves currency of more than \$10,000 or which results in the exchange of a
73 monetary instrument or instruments of a value in excess of \$10,000 for another monetary
74 instrument or instruments. A financial institution shall file a report of such transaction, or any
75 transaction that it believes to be suspicious, with the attorney general. A duplicate copy of a
76 report of a transaction required by section 60501 of Title 26 or sections 5313, 5314 and 5315 of
77 Title 31 of the United States Code shall satisfy all reporting and record-keeping requirements for
78 such financial institutions under this chapter.

79 (b) A financial institution, or any officer, employee, or agent thereof that keeps
80 and files a record in reliance of this section shall not be liable to its customer, to a state or local
81 agency, or to any person for any loss or damage caused in whole or in part by the making, filing,
82 or governmental use of the report, or any information contained therein. Nothing in this chapter
83 shall be construed to give rise to a private cause of action for relief or damages. This paragraph
84 does not preclude a financial institution, in its discretion, from instituting contact with, and
85 thereafter communicating with and disclosing customer financial records to appropriate federal,
86 state, or local law enforcement agencies when the financial institution has reason to suspect that
87 the records or information demonstrate that the customer has violated any provisions of this
88 chapter.

89 (c) Any report, record, or information obtained by the attorney general is not a
90 public record and is not subject to disclosure, except to district attorneys, the department of
91 revenue and other law enforcement agencies.

92 (d) Any violation of this section, which is not a violation of section 2, shall be
93 punished by a fine of \$100 for each report not filed.

94 SECTION 3. The attorney general shall promulgate regulations for the
95 administration of the provisions of this section. These regulations shall be designed to minimize
96 the cost and difficulty of compliance and shall, to the greatest extent possible, result in report and
97 record-keeping forms consistent with those used in compliance with Sections 5311 et seq. of
98 Title 31 of the United States Code, Section 60501 of Title 26 of the United States Code, and
99 regulations adopted there under.

100 SECTION 4. A Special Commission is hereby established to further study the
101 problem of money laundering and the Commonwealth's response including, but not limited to:
102 further legislation or revisions to existing legislation on reporting requirements for financial
103 institutions, the needs of law enforcement to fully investigate and prosecute money laundering,
104 cooperation and communication between state and federal authorities, and the possibility of
105 creating a financial intelligence unit within the department of State Police to more effectively
106 investigate financial crimes. The Commission shall consist of the following members: the
107 attorney general or his designee; the secretary of public safety or his designee; the colonel of
108 state police; the Senate and House chairs of the Joint Committee on Criminal Justice; and the
109 Senate and House Chairs of the Joint Committee on Public Safety. The Commission shall
110 submit a report to the Clerks of the Senate and the House of Representatives by December 4,
111 2011.