

HOUSE No. 1599

By Mr. Murphy of Burlington, petition of Charles A. Murphy and others for legislation to establish the crime of money laundering. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Charles A. Murphy
David Paul Linsky
Jennifer L. Flanagan

Robert L. Rice, Jr.
Walter F. Timilty
Jennifer M. Callahan

In the Year Two Thousand and Seven.

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

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

1 SECTION 2. The General Laws, as appearing in the 2000 Official
2 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 have
7 the following meanings: “Conducts”, initiates, concludes or partici-
8 pates in a transaction. “Criminal activity”, a criminal offense punish-
9 able under the laws of the commonwealth by imprisonment in a state
10 prison or from a criminal offense committed in another jurisdiction
11 punishable under the laws of that jurisdiction as a felony. “Financial
12 institution”, (a) any bank as defined in section one of chapter 167;
13 (b) any national banking association, bank, savings and loan, savings
14 bank, cooperative bank, building and loan, or credit union organized
15 under the laws of the United States; (c) any banking association,
16 bank, savings and loan, savings bank, cooperative bank, building
17 and loan or credit union organized under the laws of any state;
18 (d) any agency, agent, or branch of a foreign bank; (e) any currency
19 dealer or exchange; (f) any person or business engaged primarily in
20 the cashing of checks; (g) any person or business regularly engaged
21 in the issuing, selling, or redeeming of traveler’s checks, money
22 orders or similar instruments; (h) any broker or dealer in securities
23 or commodities; (i) any licensed transmitter of funds or other person
24 or business regularly engaged in the transmission of funds to a
25 foreign nation for others; (j) any investment banker or investment
26 company; (k) any insurer; (l) any dealer in precious metals, stones
27 and jewels; (m) any pawnbroker; (n) any telegraph company; (o) any
28 personal property or real estate broker; (p) any dealer in motor
29 vehicles; (q) any operator of a betting or gambling facility; or (r) any

30 travel agent. “Monetary instrument”, The currency and coin of the
31 United States or any foreign country; any bank check, money order,
32 stock, investment security, or negotiable instrument in bearer form
33 or otherwise in such form that title passes upon delivery; gold, silver
34 or platinum bullion or coins; and diamonds, emeralds, rubies, or
35 sapphires. Any negotiable instrument including, bank checks,
36 cashier’s checks, traveler’s checks, or monetary orders made payable
37 to the order of a named party that have not been endorsed or which
38 bear restrictive endorsements. “Transaction”, the deposit, with-
39 drawal, transfer, bailment, loan, pledge, payment, or exchange of
40 currency, or a monetary instrument, as defined in this section, by,
41 through, or to a monetary instrument as defined in this section.

42 Section 2. Whoever knowingly and willfully: (a) engages in a
43 transaction involving a monetary instrument or other property
44 known to be derived from criminal activity with the intent to
45 promote, carry on or facilitate criminal activity, or knowing that the
46 transaction is designed in whole or in part to either conceal or
47 disguise the nature, location, source, ownership or control of the
48 property derived from criminal activity or to avoid a transaction
49 reporting requirement of this chapter, of the United States, or of any
50 other state; or (b) transports or possesses a monetary instrument or
51 other property that was derived from criminal activity; or (c) directs,
52 organizes, finances, plans, manages, supervises, or controls the
53 transportation of or transactions in monetary instruments or other
54 property derived from criminal activity is guilty of the crime of
55 money laundering and shall be punished by imprisonment in the
56 state prison for not more than 5 years or by imprisonment in the
57 house of correction for not more than 2½ years or by a fine of not
58 more than \$100,000 or twice the value of the property transacted,
59 whichever is greater, or by both such imprisonment and fine.

60 Section 3. (a) A financial institution shall make and keep a record
61 of each transaction which involves currency of more than \$10,000 or
62 which results in the exchange of a monetary instrument or instru-
63 ments of a value in excess of \$10,000 for another monetary instru-
64 ment or instruments. A financial institution shall file a report of such
65 transaction, or any transaction that it believes to be suspicious, with
66 the attorney general. A duplicate copy of a report of a transaction
67 required by section 60501 of Title 26 or sections 5313, 5314 and
68 5315 of Title 31 of the United States Code shall satisfy all reporting

69 and record-keeping requirements for such financial institutions
70 under this chapter. (b) A financial institution, or any officer,
71 employee, or agent thereof that keeps and files a record in reliance
72 of this section shall not be liable to its customer, to a state or local
73 agency, or to any person for any loss or damage caused in whole or
74 in part by the making, filing, or governmental use of the report, or
75 any information contained therein. Nothing in this chapter shall be
76 construed to give rise to a private cause of action for relief or
77 damages. This paragraph does not preclude a financial institution, in
78 its discretion, from instituting contact with, and thereafter communi-
79 cating with and disclosing customer financial records to appropriate
80 federal, state, or local law enforcement agencies when the financial
81 institution has reason to suspect that the records or information
82 demonstrate that the customer has violated any provisions of this
83 chapter. (c) Any report, record, or information obtained by the
84 attorney general is not a public record and is not subject to disclo-
85 sure, except to district attorneys, the department of revenue and
86 other law enforcement agencies. (d) Any violation of this section,
87 which is not a violation of section 2, shall be punished by a fine of
88 \$100 for each report not filed.

1 SECTION 3. The attorney general shall promulgate regulations
2 for the administration of the provisions of this section. These regula-
3 tions shall be designed to minimize the cost and difficulty of compli-
4 ance and shall, to the greatest extent possible, result in report and
5 record-keeping forms consistent with those used in compliance with
6 Sections 5311 et seq. of Title 31 of the United States Code, Section
7 60501 of Title 26 of the United States Code, and regulations adopted
8 there under.

1 SECTION 4. 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 or
4 revisions to existing legislation on reporting requirements for finan-
5 cial institutions, the needs of law enforcement to fully investigate
6 and prosecute money laundering, cooperation and communication
7 between state and federal authorities, and the possibility of creating
8 a financial intelligence unit within the department of State Police to
9 more effectively investigate financial crimes. The Commission shall

10 consist of the following members: the attorney general or his
11 designee; the secretary of public safety or his designee; the colonel
12 of state police; the Senate and House chairs of the Joint Committee
13 on Criminal Justice; and the Senate and House Chairs of the Joint
14 Committee on Public Safety. The Commission shall submit a report
15 to the Clerks of the Senate and the House of Representatives a year
16 after this new law takes effect.