

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Ms. 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 bill:

An Act establishing the crime of money laundering.

PETITION OF:

NAME:

Ms. Creem

DISTRICT/ADDRESS:

First Middlesex and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00899 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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 crime and terror
- 3 organizations have utilized the practice of money laundering, which takes illegally acquired
- 4 income and makes that money appear to be legitimate.
- 5 b. Money laundering increases the threat posed by serious crime by facilitating the underlying
- 6 crime and providing funds for reinvestment that allow a criminal enterprise to continue its
- 7 operations.
- 8 c. In 1986, the President’s Commission on Organized Crime called the detection and prevention
- 9 of money laundering a “promising weapon against organized crime.” The Commission also

10 identified a “critical need” for greater cooperation between state and federal officials to combat
11 the problem of money laundering.

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

15 e. In the wake of September 11, 2001, two Boston residents were charged by federal authorities
16 with running an illegal money transfer operation in Massachusetts that funneled money to
17 terrorist cells operating in the Boston area.

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

22 SECTION 2. The General Laws, as appearing in the 2000 Official Edition, are hereby amended
23 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 following meanings:

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

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

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

45 “Monetary instrument”, The currency and coin of the United States or any foreign country; any
46 bank check, money order, stock, investment security, or negotiable instrument in bearer form or
47 otherwise in such form that title passes upon delivery; gold, silver or platinum bullion or coins;
48 and diamonds, emeralds, rubies, or sapphires. Any negotiable instrument including, bank

49 checks, cashier's checks, traveler's checks, or monetary orders made payable to the order of a
50 named party that have not been endorsed or which bear restrictive endorsements.

51 "Transaction", the deposit, withdrawal, transfer, bailment, loan, pledge, payment, or exchange of
52 currency, or a monetary instrument, as defined in this section, by, through, or to a monetary
53 instrument as defined in this section.

54 Section 2. Whoever knowingly and willfully:

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

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

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

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

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

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

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

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

97 SECTION 4. A Special Commission is hereby established to further study the problem of
98 money laundering and the Commonwealth's response including, but not limited to: further
99 legislation or revisions to existing legislation on reporting requirements for financial institutions,
100 the needs of law enforcement to fully investigate and prosecute money laundering, cooperation
101 and communication between state and federal authorities, and the possibility of creating a
102 financial intelligence unit within the department of State Police to more effectively investigate
103 financial crimes. The Commission shall consist of the following members: the attorney general
104 or his designee; the secretary of public safety or his designee; the colonel of state police; the
105 Senate and House chairs of the Joint Committee on Criminal Justice; and the Senate and House
106 Chairs of the Joint Committee on Public Safety. The Commission shall submit a report to the
107 Clerks of the Senate and the House of Representatives by December 4, 2009.