

Act No. 284
Public Acts of 1994
Approved by the Governor
July 12, 1994
Filed with the Secretary of State
July 13, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Van Regenmorter Cisky Welborn Bouchard and Arthurhultz

ENROLLED SENATE BILL No. 196

AN ACT to amend Act No 328 of the Public Acts of 1931 entitled as amended An act to revise consolidate codify and add to the statutes relating to crimes to define crimes and prescribe the penalties therefor to provide for restitution under certain circumstances to provide for the competency of evidence at the trial of persons accused of crime to provide immunity from prosecution for certain witnesses appearing at such trials and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act as amended being sections 750 1 to 750 568 of the Michigan Compiled Laws by adding sections 411j 411k 411l 411m 411n 411o 411p and 411q

The People of the State of Michigan enact

Section 1 Act No 328 of the Public Acts of 1931 as amended being sections 750 1 to 750 568 of the Michigan Compiled Laws is amended by adding sections 411j 411k 411l 411m 411n 411o 411p and 411q to read as follows

Sec 411j As used in this section and sections 411k to 411q

(a) Controlled substance offense means a felony violation of part 74 or section 17766a of the public health code Act No 368 of the Public Acts of 1978 being sections 333 7401 to 333 7461 and 333 17766a of the Michigan Compiled Laws concerning controlled substances or androgenic anabolic steroids

(b) Knowingly in the case of a corporation means with the approval or prior actual knowledge of the board of directors a majority of the directors or persons who together hold a majority of the voting ownership interests in the corporation In determining whether a majority of the directors approved of or had knowledge of the activity a director who was not aware of the activity due to his or her own negligence or other fault is regarded as having had knowledge of the activity This subdivision does not limit the liability of any individual officer employee director or stockholder of a corporation

(c) Financial transaction means a purchase sale loan pledge gift transfer delivery exchange or other disposition of a monetary instrument or other property and with respect to a financial institution includes a deposit withdrawal transfer between accounts exchange of currency loan extension of credit purchase or sale of any stock bond certificate of deposit or other monetary instrument or any other payment transfer or delivery by through or to a financial institution by whatever means effected

(d) Financial institution means 1 or more of the following if located in or doing business in this state

(i) An insured bank as defined in section 3(h) of the federal deposit insurance act 12 U S C 1813(h)

(ii) A commercial bank or trust company

(iii) A private banker

(iv) An agency or branch of a foreign bank

(v) A savings and loan institution

(vi) A thrift institution

(vii) A credit union

(viii) A broker or dealer registered with the securities and exchange commission under the securities exchange act of 1934 15 U S C 78a et seq

(ix) A broker or dealer in securities or commodities

(x) An investment banker or investment company

(xi) A currency exchange

(xii) An insurer redeemer or cashier of traveler s checks checks or money orders

(xiii) An operator of a credit card system

(xiv) An insurance company

(xv) A dealer in precious metals stones or jewels

(xvi) A pawnbroker

(xvii) A loan finance or mortgage company

(xviii) A travel agency

(xix) A licensed sender of money

(xx) A telegraph company

(e) Monetary instrument means coin or currency of the United States or another country or group of countries a traveler s check personal check bank check money order or investment security or negotiable instrument in bearer form or in any other form such that delivery is sufficient to pass title

(f) Proceeds of a specified criminal offense means any monetary instrument or other real personal or intangible property obtained through the commission of a specified criminal offense including any appreciation in the value of the monetary instrument or property

(g) Specified criminal offense means any of the following

(i) A felony violation of section 8 of Act No 327 of the Public Acts of 1993 being section 205 428 of the Michigan Compiled Laws or former section 9 of Act No 265 of the Public Acts of 1974 concerning cigarette taxes

(ii) A violation of section 48(3) of Act No 64 of the Public Acts of 1979 being section 299 548 of the Michigan Compiled Laws concerning felonious disposal of hazardous waste

(iii) A controlled substance offense

(iv) A felony violation of section 60 of the social welfare act Act No 280 of the Public Acts of 1939 being section 400 60 of the Michigan Compiled Laws concerning welfare fraud

(v) A violation of section 4 5 or 7 of the medicaid false claim act Act No 72 of the Public Acts of 1977 being sections 400 604 400 605 and 400 607 of the Michigan Compiled Laws concerning medicaid fraud

(vi) A violation of section 409 of the uniform securities act Act No 265 of the Public Acts of 1964 being section 451 809 of the Michigan Compiled Laws concerning securities fraud

(vii) A violation of section 5 or 7 of Act No 33 of the Public Acts of 1978 being sections 722 675 and 722 677 of the Michigan Compiled Laws concerning the display or dissemination of obscene matter to minors

(viii) A felony violation of section 72 73 74 or 75 concerning arson

(ix) A violation of section 93 94 95 or 96 concerning bank bonds bills notes and property

(x) A violation of section 117 118 119 120 121 or 124 concerning bribery

(xi) A violation of section 120a concerning jury tampering

(xii) A violation of section 145c concerning child sexually abusive activity or material

(xiii) A felony violation of section 157n 157p 157q 157r 157s 157t or 157u concerning credit cards or financial transaction devices

(xiv) A felony violation of section 174 175 176 180 181 or 182 concerning embezzlement

(xv) A felony violation of chapter XXXIII concerning explosives and bombs

(xvi) A violation of section 213 concerning extortion

(xvii) A felony violation of section 218 concerning false pretenses

(xviii) A felony violation of chapter XLI concerning forgery and counterfeiting

(xix) A violation of section 271 272 273 or 274 concerning securities fraud

(xx) A violation of section 301 302 303 304 305 305a or 313 concerning gambling

(xxi) A violation of section 316 or 317 concerning murder

(xxv) A violation of section 330 331 or 332 concerning horse racing

(xxvi) A violation of section 349 349a or 350 concerning kidnapping

(xxvii) A felony violation of chapter LII concerning larceny

(xxviii) A violation of section 422 423 424 or 425 concerning perjury and subornation of perjury

(xxix) A violation of section 452 455 457 458 or 459 concerning prostitution

(xxx) A violation of section 529 530 or 531 concerning robbery

(xxxi) A felony violation of section 535 535a or 536a concerning stolen embezzled or converted property

(xxxii) A violation of section 5 of Act No 343 of the Public Acts of 1984 being section 752 365 of the Michigan Compiled Laws concerning obscenity

(xxxiii) A conspiracy attempt or solicitation to commit an offense listed in subparagraphs (i) to (xxxii)

(h) Substituted proceeds of a specified criminal offense means any monetary instrument or other real personal or intangible property obtained or any gam realized by the sale or exchange of proceeds of a specified criminal offense

Sec 411k (1) A person shall not knowingly receive or acquire a monetary instrument or other property that constitutes the proceeds or substituted proceeds of a specified criminal offense with prior actual knowledge of both of the following

(a) The monetary instrument or other property represents the proceeds or substituted proceeds of a criminal offense

(b) The receipt or acquisition of the proceeds or substituted proceeds meets 1 or more of the following criteria

(i) It will aid that person or another person in promoting or carrying on the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense

(ii) It is designed in whole or in part to conceal or disguise the nature location source ownership or control of the proceeds or substituted proceeds of the specified criminal offense or to avoid a transaction reporting requirement under state or federal law

(2) A person shall not knowingly conduct attempt to conduct or participate in conducting or attempting to conduct a financial transaction involving a monetary instrument or other property that constitutes the proceeds or substituted proceeds of a specified criminal offense with prior actual knowledge of both of the following

(a) The monetary instrument or other property represents the proceeds or substituted proceeds of a criminal offense

(b) The financial transaction meets 1 or more of the following criteria

(i) It will aid that person or another person in promoting or carrying on the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense

(ii) It is designed in whole or in part to conceal or disguise the nature location source ownership or control of the proceeds or substituted proceeds of the specified criminal offense or to avoid a transaction reporting requirement under state or federal law

Sec 411l Except as otherwise provided in sections 411m to 411o a person who violates section 411k is guilty of fourth degree money laundering a misdemeanor punishable by imprisonment for not more than 2 years or by a fine of not more than \$10 000 00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation whichever is greater or both

Sec 411m (1) Except as otherwise provided in sections 411n and 411o a person who violates section 411k is guilty of third degree money laundering if the violation involves 1 of the following circumstances

(a) The value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation is \$10 000 00 or more

(b) The specified criminal offense involved in the violation is a controlled substance offense or an attempt solicitation or conspiracy to commit a controlled substance offense

(c) The violation is committed with the intent to do 1 or more of the following

(i) Promote the commission of the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense

(ii) Conceal or disguise the nature location source ownership or control of the proceeds or substituted proceeds of the specified criminal offense or avoid a transaction reporting requirement under state or federal law

(2) Third degree money laundering is a felony punishable by imprisonment for not more than 5 years or by a fine of not more than \$50 000 00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation whichever is greater or both

(3) For purposes of this section the \$10 000 00 threshold for the value of the proceeds or substituted proceeds of a specified criminal offense may be aggregated over a period of 30 calendar days

Sec 411n (1) Except as otherwise provided in section 411o a person who violates section 411k is guilty of second degree money laundering if the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation is \$10 000 00 or more and the violation involves either of the following

(a) The specified criminal offense involved in the violation is a controlled substance offense or an attempt solicitation or conspiracy to commit a controlled substance offense

(b) The violation is committed with the intent to do 1 or more of the following

(i) Promote the commission of the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense

(ii) Conceal or disguise the nature location source ownership or control of the proceeds or substituted proceeds of the specified criminal offense or avoid a transaction reporting requirement under state or federal law

(2) Second degree money laundering is a felony punishable by imprisonment for not more than 10 years or by a fine of not more than \$100 000 00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation whichever is greater or both

(3) For purposes of this section the \$10 000 00 threshold for the value of the proceeds or substituted proceeds of a specified criminal offense may be aggregated over a period of 30 calendar days

Sec 411o (1) A person who violates section 411k is guilty of first degree money laundering if the violation involves all of the following circumstances

(a) The value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation is \$10 000 00 or more

(b) The specified criminal offense involved in the violation is a controlled substance offense or an attempt solicitation or conspiracy to commit a controlled substance offense

(c) The violation is committed with the intent to do 1 or more of the following

(i) Promote the commission of the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense

(ii) Conceal or disguise the nature location source ownership or control of the proceeds or substituted proceeds of the specified criminal offense or avoid a transaction reporting requirement under state or federal law

(2) First degree money laundering is a felony punishable by imprisonment for not more than 20 years or by a fine of not more than \$500 000 00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation whichever is greater or both

(3) For purposes of this section the \$10 000 00 threshold for the value of the proceeds or substituted proceeds of a specified criminal offense may be aggregated over a period of 30 calendar days

Sec 411p (1) A person who conducts attempts to conduct or participates in conducting or attempting to conduct a financial transaction involving a monetary instrument or other property that a law enforcement officer represents to be the proceeds or substituted proceeds of a specified criminal offense is guilty of a felony punishable as provided in subsection (2) if that person conducts attempts to conduct or participates in conducting or attempting to conduct the financial transaction with the intent to do 1 or more of the following

(a) Promote the commission of a criminal offense

(b) Conceal or disguise the nature location source ownership or control of a monetary instrument or other property believed to be the proceeds or substituted proceeds of a specified criminal offense or avoid a transaction reporting requirement under state or federal law

(2) A person who violates subsection (1) is guilty of a felony punishable as follows

(a) If the monetary instrument or other property involved in the transaction is represented to be the proceeds or substituted proceeds of a controlled substance offense and has a value of \$10 000 00 or more by imprisonment for not more than 20 years or a fine of not more than \$500 000 00 or both

(b) If the monetary instrument or other property involved in the transaction is represented to be the proceeds or substituted proceeds of a controlled substance offense or has a value of \$10 000 00 or more by imprisonment for not more than 10 years or a fine of not more than \$100 000 00 or both

(c) In all cases not described in subdivision (a) or (b) by imprisonment for not more than 5 years or a fine of not more than \$50 000 00 or both

(3) For purposes of this section a representation of a monetary instrument or other property as the proceeds or substituted proceeds of a specified criminal offense may be made by a person at the direction of or with the approval of a law enforcement official authorized to investigate or prosecute violations of this section

(4) For purposes of this section the \$10 000 00 threshold for the value of the monetary instrument or other property represented to be proceeds or substituted proceeds may be aggregated over a period of 30 calendar days

Sec 411q The director of the department of state police in consultation with the attorney general may enter into agreements with federal authorities including the United States department of treasury and the United States department of justice to obtain reported information and access to the financial crimes enforcement network and may disseminate information obtained to state and local law enforcement authorities as authorized by the federal government

Section 2 This amendatory act shall take effect October 1 1994

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor