

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0516.01 Richard Sweetman

HOUSE BILL 10-1081

HOUSE SPONSORSHIP

Priola,

SENATE SPONSORSHIP

Steadman,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MONEY LAUNDERING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill eliminates money laundering as a criminal offense specific to the "Uniform Controlled Substances Act of 1992" and relocates it, with amendments, as a criminal offense involving fraud. The bill also adds money laundering to the definition of "racketeering activity" for the purposes of the "Colorado Organized Crime Control Act".

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 3 of article 5 of title 18, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **18-5-309. Money laundering - illegal investments - penalty -**
6 **definitions.**

7 (1) A PERSON COMMITS MONEY LAUNDERING IF HE OR SHE:

8 (a) CONDUCTS OR ATTEMPTS TO CONDUCT A FINANCIAL
9 TRANSACTION THAT INVOLVES MONEY OR ANY OTHER THING OF VALUE
10 THAT HE OR SHE KNOWS OR BELIEVES TO BE THE PROCEEDS, IN ANY FORM,
11 OF A CRIMINAL OFFENSE:

12 (I) WITH THE INTENT TO PROMOTE THE COMMISSION OF A
13 CRIMINAL OFFENSE; OR

14 (II) WITH KNOWLEDGE OR A BELIEF THAT THE TRANSACTION IS
15 DESIGNED IN WHOLE OR IN PART TO:

16 (A) CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE,
17 OWNERSHIP, OR CONTROL OF THE PROCEEDS OF A CRIMINAL OFFENSE; OR

18 (B) AVOID A TRANSACTION REPORTING REQUIREMENT UNDER
19 FEDERAL LAW;

20 (b) TRANSPORTS, TRANSMITS, OR TRANSFERS A MONETARY
21 INSTRUMENT OR MONEYS:

22 (I) WITH THE INTENT TO PROMOTE THE COMMISSION OF A
23 CRIMINAL OFFENSE; OR

24 (II) WITH KNOWLEDGE OR A BELIEF THAT THE MONETARY
25 INSTRUMENT OR MONEYS REPRESENT THE PROCEEDS OF A CRIMINAL
26 OFFENSE AND THAT THE TRANSPORTATION, TRANSMISSION, OR TRANSFER
27 IS DESIGNED, IN WHOLE OR IN PART, TO:

1 (A) CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE,
2 OWNERSHIP, OR CONTROL OF THE PROCEEDS OF A CRIMINAL OFFENSE; OR

3 (B) AVOID A TRANSACTION REPORTING REQUIREMENT UNDER
4 FEDERAL LAW; OR

5 (c) INTENTIONALLY CONDUCTS A FINANCIAL TRANSACTION
6 INVOLVING PROPERTY THAT IS REPRESENTED TO BE THE PROCEEDS OF A
7 CRIMINAL OFFENSE, OR INVOLVING PROPERTY THAT THE PERSON KNOWS
8 OR BELIEVES TO HAVE BEEN USED TO CONDUCT OR FACILITATE A CRIMINAL
9 OFFENSE, TO:

10 (I) PROMOTE THE COMMISSION OF A CRIMINAL OFFENSE;

11 (II) CONCEAL OR DISGUISE THE NATURE, LOCATION, SOURCE,
12 OWNERSHIP, OR CONTROL OF PROPERTY THAT THE PERSON BELIEVES TO BE
13 THE PROCEEDS OF A CRIMINAL OFFENSE; OR

14 (III) AVOID A TRANSACTION REPORTING REQUIREMENT UNDER
15 FEDERAL LAW.

16 (2) MONEY LAUNDERING IS A CLASS 3 FELONY.

17 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
18 REQUIRES:

19 (a) "CONDUCTS OR ATTEMPTS TO CONDUCT A FINANCIAL
20 TRANSACTION" INCLUDES, BUT IS NOT LIMITED TO, INITIATING,
21 CONCLUDING, OR PARTICIPATING IN THE INITIATION OR CONCLUSION OF A
22 TRANSACTION.

23 (b) "FINANCIAL TRANSACTION" MEANS A TRANSACTION
24 INVOLVING:

25 (I) THE MOVEMENT OF MONEYS BY WIRE OR OTHER MEANS;

26 (II) ONE OR MORE MONETARY INSTRUMENTS;

1 (III) THE TRANSFER OF TITLE TO ANY REAL PROPERTY, VEHICLE,
2 VESSEL, OR AIRCRAFT; OR

3 (IV) THE USE OF A FINANCIAL INSTITUTION.

4 (c) "MONETARY INSTRUMENT" MEANS:

5 (I) COIN OR CURRENCY OF THE UNITED STATES OR ANY OTHER
6 COUNTRY; A TRAVELER'S CHECK; A PERSONAL CHECK; A BANK CHECK; A
7 CASHIER'S CHECK; A MONEY ORDER; A BANK DRAFT OF ANY COUNTRY; OR
8 GOLD, SILVER, OR PLATINUM BULLION OR COINS;

9 (II) AN INVESTMENT SECURITY OR NEGOTIABLE INSTRUMENT IN
10 BEARER FORM OR IN OTHER FORM SUCH THAT TITLE PASSES UPON
11 DELIVERY; OR

12 (III) A GIFT CARD OR OTHER DEVICE THAT IS THE EQUIVALENT OF
13 MONEY AND CAN BE USED TO OBTAIN CASH, PROPERTY, OR SERVICES.

14 (d) "REPRESENT" INCLUDES, BUT IS NOT LIMITED TO, THE MAKING
15 OF A REPRESENTATION BY A PEACE OFFICER, A FEDERAL OFFICER, OR
16 ANOTHER PERSON ACTING AT THE DIRECTION OF, OR WITH THE APPROVAL
17 OF, A PEACE OFFICER OR FEDERAL OFFICER.

18 (e) "TRANSACTION" INCLUDES A PURCHASE, SALE, LOAN, PLEDGE,
19 GIFT, TRANSFER, DELIVERY, OR OTHER DISPOSITION AND, WITH RESPECT TO
20 A FINANCIAL INSTITUTIONS, INCLUDES A DEPOSIT; A WITHDRAWAL; A
21 TRANSFER BETWEEN ACCOUNTS; AN EXCHANGE OF CURRENCY; A LOAN; AN
22 EXTENSION OF CREDIT; A PURCHASE OR SALE OF ANY STOCK, BOND,
23 CERTIFICATE OF DEPOSIT, OR OTHER MONETARY INSTRUMENT; THE USE OF
24 A SAFE DEPOSIT BOX; OR ANY OTHER PAYMENT, TRANSFER, OR DELIVERY
25 BY, THROUGH, OR TO A FINANCIAL INSTITUTION BY WHATEVER MEANS.

26 **SECTION 2.** 18-17-103 (5) (b) (IV), Colorado Revised Statutes,
27 as it exists until July 1, 2011, is amended to read:

1 **18-17-103. Definitions.** As used in this article, unless the context
2 otherwise requires:

3 (5) "Racketeering activity" means to commit, to attempt to
4 commit, to conspire to commit, or to solicit, coerce, or intimidate another
5 person to commit:

6 (b) Any violation of the following provisions of the Colorado
7 statutes or any criminal act committed in any jurisdiction of the United
8 States which, if committed in this state, would be a crime under the
9 following provisions of the Colorado statutes:

10 (IV) Offenses involving fraud, as defined in sections 18-5-102
11 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal
12 possession of forged instrument), 18-5-109 (criminal possession of
13 forgery devices), 18-5-110.5 (trademark counterfeiting), 6-16-111,
14 C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor
15 or debtor), 18-5-309 (MONEY LAUNDERING), 18-5-403 (bribery in sports),
16 18-5-113 (criminal impersonation), 18-5-114 (offering a false document
17 for recording), 18-5-702 (unauthorized use of a financial transaction
18 device), 18-5-705 (criminal possession or sale of a blank financial
19 transaction device), 18-5-706 (criminal possession of forgery devices),
20 18-5-707 (unlawful manufacture of a financial transaction device),
21 18-5-902 (identity theft), 18-5-903 (criminal possession of a financial
22 device), 18-5-904 (gathering identity information by deception), and
23 18-5-905 (possession of identity theft tools);

24 **SECTION 3.** 18-17-103 (5) (b) (IV), Colorado Revised Statutes,
25 as it will become effective July 1, 2011, is amended to read:

26 **18-17-103. Definitions.** As used in this article, unless the context
27 otherwise requires:

1 (5) "Racketeering activity" means to commit, to attempt to
2 commit, to conspire to commit, or to solicit, coerce, or intimidate another
3 person to commit:

4 (b) Any violation of the following provisions of the Colorado
5 statutes or any criminal act committed in any jurisdiction of the United
6 States which, if committed in this state, would be a crime under the
7 following provisions of the Colorado statutes:

8 (IV) Offenses involving fraud, as defined in sections 18-5-102
9 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal
10 possession of forged instrument), 18-5-109 (criminal possession of
11 forgery devices), 18-5-110.5 (trademark counterfeiting), 6-16-111,
12 C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor
13 or debtor), 18-5-309 (MONEY LAUNDERING), 18-5-403 (bribery in sports),
14 18-5-113 (criminal impersonation), 18-5-114 (offering a false document
15 for recording), 18-5-702 (unauthorized use of a financial transaction
16 device), 18-5-705 (criminal possession or sale of a blank financial
17 transaction device), 18-5-706 (criminal possession of forgery devices),
18 18-5-707 (unlawful manufacture of a financial transaction device),
19 18-5-902 (identity theft), 18-5-903 (criminal possession of a financial
20 device), 18-5-903.5 (criminal possession of an identification document),
21 18-5-904 (gathering identity information by deception), and 18-5-905
22 (possession of identity theft tools);

23 **SECTION 4. Repeal.** 18-18-408, Colorado Revised Statutes, is
24 repealed.

25 **SECTION 5. Act subject to petition - effective date -**
26 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
27 following the expiration of the ninety-day period after final adjournment

1 of the general assembly (August 11, 2010, if adjournment sine die is on
2 May 12, 2010); except that, if a referendum petition is filed pursuant to
3 section 1 (3) of article V of the state constitution against this act or an
4 item, section, or part of this act within such period, then the act, item,
5 section, or part shall not take effect unless approved by the people at the
6 general election to be held in November 2010 and shall take effect on the
7 date of the official declaration of the vote thereon by the governor.

8 (2) The provisions of this act shall apply to offenses committed on
9 or after the applicable effective date of this act.