

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 10-0516.01 Richard Sweetman

HOUSE BILL 10-1081

HOUSE SPONSORSHIP

Priola,

SENATE SPONSORSHIP

Steadman,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Finance
Appropriations

A BILL FOR AN ACT

101 CONCERNING MONEY LAUNDERING, AND MAKING AN APPROPRIATION
102 THEREFOR.

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.*

SENATE
2nd Reading Unamended
May 7, 2010

HOUSE
3rd Reading Unamended
April 14, 2010

HOUSE
Amended 2nd Reading
April 13, 2010

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

1 IS DESIGNED, IN WHOLE OR IN PART, TO:

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

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

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

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

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

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

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

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

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

26 (I) THE MOVEMENT OF MONEYS BY WIRE OR OTHER MEANS;
27 (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. 12-52-203 (1), Colorado Revised Statutes, as it will**
26 **become effective July 1, 2010, is amended to read:**

27 **12-52-203. Notice of laws.** (1) **The banking board shall**

1 promulgate rules to create a form containing a notice of the contents of
2 section 18-18-408, C.R.S. SECTION 18-5-309, C.R.S., and other state and
3 federal laws concerning money laundering.

4 SECTION 6. 12-52-205 (1) and (2), Colorado Revised Statutes,
5 as they will become effective July 1, 2010, are amended to read:

6 12-52-205. Agent requirements. (1) No money transmitter
7 licensed pursuant to part 1 of this article shall knowingly contract with an
8 agent or owner of an agent holding more than a ten percent interest in the
9 business who has been convicted of or pleaded guilty or nolo contendere
10 to the offenses in article 5 of title 18, C.R.S., or in section 18-18-408,
11 C.R.S. SECTION 18-5-309, C.R.S.; a felony in the selling or issuing of
12 exchange or in money transmission; a felony involving a financial
13 institution; or an equivalent crime outside Colorado.

14 (2) No agent of a money transmitter licensed pursuant to this
15 article shall knowingly employ a person to perform money transmission
16 services who has been convicted of or pleaded guilty or nolo contendere
17 to the offenses in article 5 of title 18, C.R.S., or in section 18-18-408,
18 C.R.S. SECTION 18-5-309, C.R.S.; a felony in the selling or issuing of
19 exchange or in money transmission; a felony involving a financial
20 institution; or an equivalent crime outside Colorado.

21 SECTION 7. Article 18 of title 17, Colorado Revised Statutes, is
22 amended BY THE ADDITION OF A NEW SECTION to read:

23 17-18-105. Appropriation to comply with section 2-2-703 - HB
24 10-1081 - repeal. (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
25 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
26 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 10-1081,
27 ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SEVENTH

1 GENERAL ASSEMBLY:

2 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION
3 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM
4 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
5 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
6 SECTION 17-1-116, C.R.S., THE SUM OF NINETY-ONE THOUSAND THREE
7 HUNDRED SEVENTY DOLLARS (\$91,370).

8 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION TO
9 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
10 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
11 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT
12 THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

13 (c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
14 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
15 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
16 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT
17 THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

18 (d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION
19 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
20 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
21 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT
22 THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

23 (e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
24 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
25 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
26 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT
27 THOUSAND EIGHT HUNDRED DOLLARS (\$28,800).

1 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

2 **SECTION 8.** 24-75-302 (2) (w), Colorado Revised Statutes, is
3 amended to read:

4 **24-75-302. Capital construction fund - capital assessment fees**
5 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
6 through July 1, 2012, a sum as specified in this subsection (2) shall accrue
7 to the capital construction fund. The state treasurer and the controller
8 shall transfer such sum out of the general fund and into the capital
9 construction fund as moneys become available in the general fund during
10 the fiscal year beginning on said July 1. Transfers between funds
11 pursuant to this subsection (2) shall not be deemed to be appropriations
12 subject to the limitations of section 24-75-201.1. The amount that shall
13 accrue pursuant to this subsection (2) shall be as follows:

14 (w) On July 1, 2010, five hundred twenty-three thousand one
15 hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
16 regular session of the sixty-fifth general assembly; plus five hundred
17 twenty-three thousand one hundred sixty-four dollars pursuant to S.B.
18 06-207, enacted at the second regular session of the sixty-fifth general
19 assembly; plus forty-three thousand five hundred ninety-seven dollars
20 pursuant to H.B. 06-1145, enacted at the second regular session of the
21 sixty-fifth general assembly; plus five hundred twenty-three thousand one
22 hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
23 second regular session of the sixty-fifth general assembly; plus sixty-nine
24 thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004,
25 enacted at the first extraordinary session of the sixty-fifth general
26 assembly; plus seven hundred fifty thousand nine hundred ninety dollars
27 pursuant to S.B. 07-096, enacted at the first regular session of the

1 sixty-sixth general assembly; plus one hundred twelve thousand six
2 hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the
3 second regular session of the sixty-sixth general assembly; plus one
4 hundred thirty-seven thousand six hundred eighty-two dollars pursuant to
5 S.B. 08-239, enacted at the second regular session of the sixty-sixth
6 general assembly; PLUS NINETY-ONE THOUSAND THREE HUNDRED
7 SEVENTY DOLLARS PURSUANT TO H.B. 10-1081, ENACTED AT THE SECOND
8 REGULAR SESSION OF THE SIXTY-SEVENTH GENERAL ASSEMBLY;

9 **SECTION 9. Act subject to petition - effective date -**
10 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
11 following the expiration of the ninety-day period after final adjournment
12 of the general assembly (August 11, 2010, if adjournment sine die is on
13 May 12, 2010); except that:

14 (a) If a referendum petition is filed pursuant to section 1 (3) of
15 article V of the state constitution against this act or an item, section, or
16 part of this act within such period, then the act, item, section, or part shall
17 not take effect unless approved by the people at the general election to be
18 held in November 2010 and shall take effect on the date of the official
19 declaration of the vote thereon by the governor; ___

20 (b) This act shall only take effect if:

21 (I) The final fiscal estimate for House Bill 10-1338, as determined
22 from the appropriations enacted in said bill, shows a net reduction in the
23 amount of general fund revenues appropriated for state fiscal year
24 2010-11, that is equal to or greater than the amount of the general fund
25 transfer made for the implementation of this act for state fiscal year
26 2010-11, as reflected in section 8 of this act; and ___

27 (II) House Bill 10-1338 is enacted at the second regular session

1 of the sixty-seventh general assembly and becomes law; and
2 (III) The staff director of the joint budget committee files written
3 notice with the revisor of statutes no later than July 15, 2010, that the
4 requirement set forth in paragraph (a) of this subsection (1) has been met;
5 and
6 (c) Sections 5 and 6 of this act shall take effect only if House Bill
7 10-1114 is enacted and becomes law.
8 (2) The provisions of this act shall apply to offenses committed on
9 or after the applicable effective date of this act.