

**SENATE . . . . . No. 696**

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

***Cynthia S. Creem***

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*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 adoption of the accompanying bill:

**An Act establishing the crime of money laundering..**

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PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Cynthia S. Creem*

**SENATE . . . . . No. 696**

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By Ms. Creem, a petition (accompanied by bill, Senate, No. 696) of Cynthia S. Creem for legislation to establish the crime of money laundering. The Judiciary.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 1661 OF 2009-2010.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Eleven**  
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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  
3 crime and terror organizations have utilized the practice of money laundering, which takes  
4 illegally acquired income and makes that money appear to be legitimate.

5 b. Money laundering increases the threat posed by serious crime by facilitating  
6 the underlying crime and providing funds for reinvestment that allow a criminal enterprise to  
7 continue its operations.

8 c. In 1986, the President’s Commission on Organized Crime called the  
9 detection and prevention of money laundering a “promising weapon against organized crime.”

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

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

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

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

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

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

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

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

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

51 payable to the order of a named party that have not been endorsed or which bear restrictive  
52 endorsements.

53 “Transaction”, the deposit, withdrawal, transfer, bailment, loan, pledge,  
54 payment, or exchange of currency, or a monetary instrument, as defined in this section, by,  
55 through, or to a monetary instrument as defined in this section.

56 Section 2. Whoever knowingly and willfully:

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

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

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

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

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

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

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

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

100 SECTION 4. A Special Commission is hereby established to further study the  
101 problem of money laundering and the Commonwealth's response including, but not limited to:  
102 further legislation or revisions to existing legislation on reporting requirements for financial  
103 institutions, the needs of law enforcement to fully investigate and prosecute money laundering,  
104 cooperation and communication between state and federal authorities, and the possibility of  
105 creating a financial intelligence unit within the department of State Police to more effectively  
106 investigate financial crimes. The Commission shall consist of the following members: the  
107 attorney general or his designee; the secretary of public safety or his designee; the colonel of  
108 state police; the Senate and House chairs of the Joint Committee on Criminal Justice; and the  
109 Senate and House Chairs of the Joint Committee on Public Safety. The Commission shall  
110 submit a report to the Clerks of the Senate and the House of Representatives by December 4,  
111 2011.