

**SENATE BILL NO. 592**

June 5, 1997, Introduced by Senators ROGERS, STEIL, SCHUETTE, STILLE, BULLARD, CARL, GOUGEON and VAN REGENMORTER and referred to the Committee on Gaming and Casino Oversight.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending section 159g and 411j (MCL 750.159g and 750.411j), section 159g as added by 1995 PA 187 and section 411j as amended by 1996 PA 80.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 159g. As used in this chapter, "racketeering" means  
2 committing, attempting to commit, conspiring to commit, or aiding  
3 or abetting, soliciting, coercing, or intimidating a person to  
4 commit an offense for financial gain, involving any of the  
5 following:

6       (a) A felony violation of section 8 of the tobacco products  
7 tax act, ~~Act No. 327 of the Public Acts of 1993, being section~~  
8 ~~205.428 of the Michigan Compiled Laws~~ 1993 PA 327, MCL 205.428,  
9 concerning tobacco product taxes, or ~~former~~ section 9 of ~~Act~~

1 ~~No. 265 of the Public Acts of 1947~~ FORMER 1947 PA 265,  
2 concerning cigarette taxes.

3 (b) A violation of section 11151(3) of the natural resources  
4 and environmental protection act, ~~Act No. 451 of the Public Acts~~  
5 ~~of 1994, being section 324.11151 of the Michigan Compiled Laws~~  
6 1994 PA 451, MCL 324.11151, or ~~former~~ section 48(3) of ~~Act~~  
7 ~~No. 64 of the Public Acts of 1979~~ FORMER 1979 PA 64, concerning  
8 felonious disposal of hazardous waste.

9 (c) A felony violation of part 74 or section 17766a of the  
10 public health code, ~~Act No. 368 of the Public Acts of 1978,~~  
11 ~~being sections 333.7401 to 333.7461 and 333.17766a of the~~  
12 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.7401 TO 333.7461 AND  
13 333.7766A, concerning controlled substances or androgenic ana-  
14 bolic steroids.

15 (d) A felony violation of section 60 of the social welfare  
16 act, ~~Act No. 280 of the Public Acts of 1939, being section~~  
17 ~~400.60 of the Michigan Compiled Laws~~ 1939 PA 280, MCL 400.60,  
18 concerning welfare fraud.

19 (e) A violation of section 4, 5, or 7 of the medicaid false  
20 claim act, ~~Act No. 72 of the Public Acts of 1977, being sections~~  
21 ~~400.604, 400.605, and 400.607 of the Michigan Compiled Laws~~ 1977  
22 PA 72, MCL 400.604, 400.605, AND 400.607, concerning medicaid  
23 fraud.

24 (F) A FELONY VIOLATION OF SECTION 18 OF THE MICHIGAN GAMING  
25 CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.218,  
26 CONCERNING THE BUSINESS OF GAMING.

1 (G) ~~(f)~~ A violation of section 409 of the uniform  
2 securities act, ~~Act No. 265 of the Public Acts of 1964, being~~  
3 ~~section 451.809 of the Michigan Compiled Laws~~ 1964 PA 265, MCL  
4 451.809, concerning securities fraud.

5 (H) ~~(g)~~ A violation of section 5 or 7 of ~~Act No. 33 of~~  
6 ~~the Public Acts of 1978, being sections 722.675 and 722.677 of~~  
7 ~~the Michigan Compiled Laws~~ 1978 PA 33, MCL 722.675 AND 722.677,  
8 concerning the display or dissemination of obscene matter to  
9 minors.

10 (I) ~~(h)~~ A felony violation of section 72, 73, 74, 75, or  
11 77, concerning arson.

12 (J) ~~(i)~~ A violation of section 93, 94, 95, or 96, concern-  
13 ing bank bonds, bills, notes, and property.

14 (K) A VIOLATION OF SECTION 110 OR 110A, CONCERNING BREAKING  
15 AND ENTERING OR HOME INVASION.

16 (L) ~~(j)~~ A violation of section 117, 118, 119, 120, 121, or  
17 124, concerning bribery.

18 (M) ~~(k)~~ A violation of section 120a, concerning jury  
19 tampering.

20 (N) ~~(l)~~ A violation of section 145c, concerning child sex-  
21 ually abusive activity or material.

22 (O) ~~(m)~~ A felony violation of section 157n, 157p, 157q,  
23 157r, 157s, 157t, or 157u, concerning credit cards or financial  
24 transaction devices.

25 (P) ~~(n)~~ A felony violation of section 174, 175, 176, 180,  
26 181, or 182, concerning embezzlement.

1       (Q) ~~(o)~~ A felony violation of chapter XXXIII, concerning  
2 explosives and bombs.

3       (R) ~~(p)~~ A violation of section 213, concerning extortion.

4       (S) ~~(q)~~ A felony violation of section 218, concerning  
5 false pretenses.

6       (T) A FELONY VIOLATION OF SECTION 223(2), 224(1)(A), (B), OR  
7 (C), 224B, 224C, 224E(1), 226, 227, 234A, 234B, OR 237A, CONCERN-  
8 ING FIREARMS OR DANGEROUS WEAPONS.

9       (U) ~~(r)~~ A felony violation of chapter XLI, concerning  
10 forgery and counterfeiting.

11       (V) ~~(s)~~ A violation of section 271, 272, 273, or 274, con-  
12 cerning securities fraud.

13       (W) A VIOLATION OF SECTION 300A, CONCERNING FOOD STAMPS OR  
14 COUPONS OR ACCESS DEVICES.

15       (X) ~~(t)~~ A violation of section 301, 302, 303, 304, 305,  
16 305a, or 313, concerning gambling.

17       (Y) ~~(u)~~ A violation of section 316 or 317, concerning  
18 murder.

19       (Z) ~~(v)~~ A violation of section 330, 331, or 332, concern-  
20 ing horse racing.

21       (AA) ~~(w)~~ A violation of section 349, 349a, or 350, con-  
22 cerning kidnapping.

23       (BB) ~~(x)~~ A felony violation of chapter LII, concerning  
24 larceny.

25       (CC) ~~(y)~~ A violation of section 411k, concerning money  
26 laundering.

1 (DD) ~~(z)~~ A violation of section 422, 423, 424, or 425,  
2 concerning perjury ~~and~~ OR subornation of perjury.

3 (EE) ~~(aa)~~ A violation of section 452, 455, 457, 458, or  
4 459, concerning prostitution.

5 ~~(bb) A felony violation of section 223(2); 224(1)(a), (b),  
6 or (c); 224b; 224c; 224e(1); 226; 227; 234a; 234b; or 237a con-  
7 cerning firearms and dangerous weapons.~~

8 (FF) ~~(cc)~~ A violation of section 529, 529a, 530, or 531,  
9 concerning robbery.

10 (GG) ~~(dd)~~ A felony violation of section 535, 535a, or  
11 536a, concerning stolen, embezzled, or converted property.

12 (HH) ~~(ee)~~ A violation of section 5 of ~~Act No. 343 of the~~  
13 ~~Public Acts of 1984, being section 752.365 of the Michigan~~  
14 ~~Compiled Laws~~ 1984 PA 343, MCL 752.365, concerning obscenity.

15 ~~(ff) A violation of section 110 or 110a, concerning break-  
16 ing and entering or home invasion.~~

17 ~~(gg) A violation of section 300a, concerning food stamps or  
18 coupons or access devices.~~

19 (II) ~~(h)~~ An offense committed within this state or another  
20 state that constitutes ~~"racketeering activity" under~~  
21 RACKETEERING ACTIVITY AS DEFINED IN section 1961(1) of title 18  
22 of the United States Code, 18 U.S.C. 1961.

23 (JJ) ~~(ii)~~ An offense committed within this state or  
24 another state in violation of a law of the United States that is  
25 substantially similar to a violation listed in subdivisions (a)  
26 through ~~(gg)~~ (HH).

1           (KK) ~~(jj)~~ An offense committed in another state in  
2 violation of a statute of ~~the~~ THAT state ~~in which the offense~~  
3 ~~was committed~~ that is substantially similar to a violation  
4 listed in subdivisions (a) through ~~(gg)~~ (HH).

5           Sec. 411j. As used in this section and sections 411k to  
6 411q:

7           (a) "Controlled substance offense" means a felony violation  
8 of part 74 or section 17766a of the public health code, ~~Act~~  
9 ~~No. 368 of the Public Acts of 1978, being sections 333.7401 to~~  
10 ~~333.7461 and 333.17766a of the Michigan Compiled Laws~~ 1978 PA  
11 368, MCL 333.7401 TO 333.7461 AND 333.17766A, concerning con-  
12 trolled substances or androgenic anabolic steroids.

13           (b) "Knowingly", in the case of a corporation, means with  
14 the approval or prior actual knowledge of the board of directors,  
15 a majority of the directors, or persons who together hold a  
16 majority of the voting ownership interests in the corporation.  
17 In determining whether a majority of the directors approved of or  
18 had knowledge of the activity, a director who was not aware of  
19 the activity due to his or her own negligence or other fault is  
20 regarded as having had knowledge of the activity. This subdivi-  
21 sion does not limit the liability of any individual officer,  
22 employee, director, or stockholder of a corporation.

23           (c) "Financial transaction" means a purchase, sale, loan,  
24 pledge, gift, transfer, delivery, exchange, or other disposition  
25 of a monetary instrument or other property and, with respect to a  
26 financial institution, includes a deposit, withdrawal, transfer  
27 between accounts, exchange of currency, loan, extension of

1 credit, purchase or sale of any stock, bond, certificate of  
2 deposit, or other monetary instrument, or any other payment,  
3 transfer, or delivery by, through, or to a financial institution,  
4 by whatever means effected.

5 (d) "Financial institution" means 1 or more of the follow-  
6 ing, if located in or doing business in this state:

7 (i) An insured bank, as defined in section 3(h) of the fed-  
8 eral deposit insurance act, 12 U.S.C. 1813(h).

9 (ii) A commercial bank or trust company.

10 (iii) A private banker.

11 (iv) An agency or branch of a foreign bank.

12 (v) A savings and loan institution.

13 (vi) A thrift institution.

14 (vii) A credit union.

15 (viii) A broker or dealer registered with the securities and  
16 exchange commission under the securities exchange act of 1934,  
17 chapter 404, 48 Stat. 881.

18 (ix) A broker or dealer in securities or commodities.

19 (x) An investment banker or investment company.

20 (xi) A currency exchange.

21 (xii) An insurer, redeemer, or cashier of traveler's checks,  
22 checks, or money orders.

23 (xiii) An operator of a credit card system.

24 (xiv) An insurance company.

25 (xv) A dealer in precious metals, stones, or jewels.

26 (xvi) A pawnbroker.

1 (xvii) A loan, finance, or mortgage company.

2 (xviii) A travel agency.

3 (xix) A licensed sender of money.

4 (xx) A telegraph company.

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

10 (f) "Proceeds of a specified criminal offense" means any  
11 monetary instrument or other real, personal, or intangible prop-  
12 erty obtained through the commission of a specified criminal  
13 offense, including any appreciation in the value of the monetary  
14 instrument or property.

15 (g) "Specified criminal offense" means any of the  
16 following:

17 (i) A felony violation of section 8 of the tobacco products  
18 tax act, ~~Act No. 327 of the Public Acts of 1993, being~~  
19 ~~section 205.428 of the Michigan Compiled Laws~~ 1993 PA 327, MCL  
20 205.428, or ~~former~~ section 9 of ~~Act No. 265 of the Public Acts~~  
21 ~~of 1947~~ FORMER 1947 PA 265, concerning cigarette taxes.

22 (ii) A violation of section 11151 of part 111 (hazardous  
23 waste management) of the natural resources and environmental pro-  
24 tection act, ~~Act No. 451 of the Public Acts of 1994, being sec-~~  
25 ~~tion 324.11151 of the Michigan Compiled Laws~~ 1994 PA 451, MCL  
26 324.11151, OR SECTION 48(3) OF FORMER 1979 PA 64, concerning  
27 felonious disposal of hazardous waste.

- 1       (iii) A controlled substance offense.
- 2       (iv) A felony violation of section 60 of the social welfare  
3 act, ~~Act No. 280 of the Public Acts of 1939, being section~~  
4 ~~400.60 of the Michigan Compiled Laws~~ 1939 PA 280, MCL 400.60,  
5 concerning welfare fraud.
- 6       (v) A violation of section 4, 5, or 7 of the medicaid false  
7 claim act, ~~Act No. 72 of the Public Acts of 1977, being sections~~  
8 ~~400.604, 400.605, and 400.607 of the Michigan Compiled Laws~~ 1977  
9 PA 72, MCL 400.604, 400.605, AND 400.607, concerning medicaid  
10 fraud.
- 11       (vi) A FELONY VIOLATION OF SECTION 18 OF THE MICHIGAN GAMING  
12 CONTROL AND REVENUE ACT, THE INITIATED LAW OF 1996, MCL 432.218,  
13 CONCERNING THE BUSINESS OF GAMING.
- 14       (vii) ~~(vi)~~ A violation of section 409 of the uniform  
15 securities act, ~~Act No. 265 of the Public Acts of 1964, being~~  
16 ~~section 451.809 of the Michigan Compiled Laws~~ 1964 PA 265, MCL  
17 451.809, concerning securities fraud.
- 18       (viii) ~~(vii)~~ A violation of section 5 or 7 of ~~Act No. 33~~  
19 ~~of the Public Acts of 1978, being sections 722.675 and 722.677 of~~  
20 ~~the Michigan Compiled Laws~~ 1978 PA 33, MCL 722.675 AND 722.677,  
21 concerning the display or dissemination of obscene matter to  
22 minors.
- 23       (ix) ~~(viii)~~ A felony violation of section 72, 73, 74, or  
24 75, concerning arson.
- 25       (x) ~~(ix)~~ A violation of section 93, 94, 95, or 96, con-  
26 cerning bank bonds, bills, notes, ~~and~~ OR property.

- 1       (xi) ~~(x)~~ A violation of section 117, 118, 119, 120, 121,  
2 or 124, concerning bribery.
- 3       (xii) ~~(xi)~~ A violation of section 120a, concerning jury  
4 tampering.
- 5       (xiii) ~~(xii)~~ A violation of section 145c, concerning child  
6 sexually abusive activity or material.
- 7       (xiv) ~~(xiii)~~ A felony violation of section 157n, 157p,  
8 157q, 157r, 157s, 157t, or 157u, concerning credit cards or  
9 financial transaction devices.
- 10      (xv) ~~(xiv)~~ A felony violation of section 174, 175, 176,  
11 180, 181, or 182, concerning embezzlement.
- 12      (xvi) ~~(xv)~~ A felony violation of chapter XXXIII, concern-  
13 ing explosives ~~and~~ OR bombs.
- 14      (xvii) ~~(xvi)~~ A violation of section 213, concerning  
15 extortion.
- 16      (xviii) ~~(xvii)~~ A felony violation of section 218, concern-  
17 ing false pretenses.
- 18      (xix) ~~(xviii)~~ A felony violation of chapter XLI, concern-  
19 ing forgery ~~and~~ OR counterfeiting.
- 20      (xx) ~~(xix)~~ A violation of section 271, 272, 273, or 274,  
21 concerning securities fraud.
- 22      (xxi) ~~(xx)~~ A violation of section 301, 302, 303, 304, 305,  
23 305a, or 313, concerning gambling.
- 24      (xxii) ~~(xxi)~~ A violation of section 316 or 317 concerning  
25 murder.
- 26      (xxiii) ~~(xxii)~~ A violation of section 330, 331, or 332,  
27 concerning horse racing.

1       (xiv) ~~(xxiii)~~ A violation of section 349, 349a, or 350,  
2 concerning kidnapping.

3       (xxv) ~~(xxiv)~~ A felony violation of chapter LII, concerning  
4 larceny.

5       (xxvi) ~~(xxv)~~ A violation of section 422, 423, 424, or 425,  
6 concerning perjury ~~and~~ OR subornation of perjury.

7       (xxvii) ~~(xxvi)~~ A violation of section 452, 455, 457, 458,  
8 or 459, concerning prostitution.

9       (xxviii) ~~(xxvii)~~ A violation of section 529, 530, or 531,  
10 concerning robbery.

11       (xxix) ~~(xxviii)~~ A felony violation of section 535, 535a,  
12 or 536a, concerning stolen, embezzled, or converted property.

13       (xxx) ~~(xxix)~~ A violation of section 5 of ~~Act No. 343 of~~  
14 ~~the Public Acts of 1984, being section 752.365 of the Michigan~~  
15 ~~Compiled Laws~~ 1984 PA 343, MCL 752.365, concerning obscenity.

16       (xxxi) ~~(xxx)~~ A conspiracy, attempt, or solicitation to  
17 commit an offense listed in subparagraphs (i) to ~~(xxix)~~ (xxx).

18       (h) "Substituted proceeds of a specified criminal offense"  
19 means any monetary instrument or other real, personal, or intan-  
20 gible property obtained or any gain realized by the sale or  
21 exchange of proceeds of a specified criminal offense.