

SENATE BILL No. 704

July 15, 2009, Introduced by Senators JACOBS, RICHARDVILLE, KAHN and BIRKHOLZ and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 159g and 411j (MCL 750.159g and 750.411j),
section 159g as amended by 2002 PA 124 and section 411j as amended
by 2002 PA 136.

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, 1993 PA 327, MCL 205.428, concerning tobacco product
8 taxes, or section 9 of former 1947 PA 265, concerning cigarette
9 taxes.

10 (b) A violation of section 11151(3) of the natural resources

1 and environmental protection act, 1994 PA 451, MCL 324.11151, or
2 section 48(3) of former 1979 PA 64, concerning felonious disposal
3 of hazardous waste.

4 (c) A felony violation of part 74 ~~or section 17766a~~ of the
5 public health code, 1978 PA 368, MCL 333.7401 to 333.7461, ~~and~~
6 ~~333.17766a~~, concerning controlled substances. ~~or androgenic~~
7 ~~anabolic steroids.~~

8 (d) A felony violation of section 60 of the social welfare
9 act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

10 (e) A violation of section 4, 5, or 7 of the medicaid false
11 claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607,
12 concerning medicaid fraud.

13 (f) A felony violation of section 18 of the Michigan gaming
14 control and revenue act, the Initiated Law of 1996, MCL 432.218,
15 concerning the business of gaming.

16 (g) A violation of section 409 of the uniform securities act,
17 1964 PA 265, MCL 451.809, **OR SECTION 508 OF THE UNIFORM SECURITIES**
18 **ACT (2002), 2008 PA 551, MCL 451.2508**, concerning securities fraud.

19 (h) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675
20 and 722.677, concerning the display or dissemination of obscene
21 matter to minors.

22 (i) A felony violation of section 72, 73, 74, 75, or 77,
23 concerning arson.

24 (j) A violation of section 93, 94, 95, or 96, concerning bank
25 bonds, bills, notes, and property.

26 (k) A violation of section 110 or 110a, concerning breaking
27 and entering or home invasion.

1 (l) A violation of section 117, 118, 119, 120, 121, or 124,
2 concerning bribery.

3 (m) A violation of section 120a, concerning jury tampering.

4 (n) A violation of section 145c, concerning child sexually
5 abusive activity or material.

6 (o) A felony violation of section 157n, 157p, 157q, 157r,
7 157s, 157t, or 157u, concerning credit cards or financial
8 transaction devices.

9 (p) A felony violation of section 174, 175, 176, 180, 181, or
10 182, concerning embezzlement.

11 (q) A felony violation of chapter XXXIII, concerning
12 explosives and bombs.

13 (r) A violation of section 213, concerning extortion.

14 (s) A felony violation of section 218, concerning false
15 pretenses.

16 (t) A felony violation of section 223(2), 224(1)(a), (b), or
17 (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a, concerning
18 firearms or dangerous weapons.

19 (u) A felony violation of chapter XLI, concerning forgery and
20 counterfeiting.

21 (v) A violation of section 271, 272, 273, or 274, concerning
22 securities fraud.

23 (w) A violation of section 300a, concerning food stamps or
24 coupons or access devices.

25 (x) A violation of section 301, 302, 303, 304, 305, 305a, or
26 313, concerning gambling.

27 (y) A violation of section 316 or 317, concerning murder.

1 (z) A violation of section 330, 331, or 332, concerning horse
2 racing.

3 (aa) A violation of section 349, 349a, or 350, concerning
4 kidnapping.

5 (bb) A felony violation of chapter LII, concerning larceny.

6 (cc) A violation of section 411k, concerning money laundering.

7 (dd) A violation of section 422, 423, 424, or 425, concerning
8 perjury or subornation of perjury.

9 (ee) A violation of section 452, 455, 457, 458, or 459,
10 concerning prostitution.

11 (ff) A violation of section 529, 529a, 530, or 531, concerning
12 robbery.

13 (gg) A felony violation of section 535 ~~, OR 535a, or 536a,~~
14 concerning stolen, embezzled, or converted property.

15 (hh) A violation of chapter LXXXIII-A, concerning terrorism.

16 (ii) A violation of section 5 of 1984 PA 343, MCL 752.365,
17 concerning obscenity.

18 (jj) An offense committed within this state or another state
19 that constitutes racketeering activity as defined in ~~section~~
20 ~~1961(1) of title 18 of the United States Code, 18 U.S.C. 1961-18~~
21 **USC 1961(1) .**

22 (kk) An offense committed within this state or another state
23 in violation of a law of the United States that is substantially
24 similar to a violation listed in subdivisions (a) through (ii).

25 (ll) An offense committed in another state in violation of a
26 statute of that state that is substantially similar to a violation
27 listed in subdivisions (a) through (ii).

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

2 (a) "Controlled substance offense" means a felony violation of
3 part 74 ~~or section 17766a~~ of the public health code, 1978 PA 368,
4 MCL 333.7401 to 333.7461, ~~and 333.17766a~~, concerning controlled
5 substances. ~~or androgenic anabolic steroids.~~

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

16 (c) "Financial transaction" means a purchase, sale, loan,
17 pledge, gift, transfer, delivery, exchange, or other disposition of
18 a monetary instrument or other property and, with respect to a
19 financial institution, includes a deposit, withdrawal, transfer
20 between accounts, exchange of currency, loan, extension of credit,
21 purchase or sale of any stock, bond, certificate of deposit, or
22 other monetary instrument, or any other payment, transfer, or
23 delivery by, through, or to a financial institution, by whatever
24 means effected.

25 (d) "Financial institution" means 1 or more of the following,
26 if located in or doing business in this state:

27 (i) An insured bank, as defined in section 3(h) of the federal

1 deposit insurance act, ~~chapter 967, 64 Stat. 873,~~ 12 U.S.C. **USC**
 2 1813(h).

3 (ii) A commercial bank or trust company.

4 (iii) A private banker.

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

6 (v) A savings and loan institution.

7 (vi) A thrift institution.

8 (vii) A credit union.

9 (viii) A broker or dealer registered with the securities and
 10 exchange commission under the securities exchange act of 1934,
 11 ~~chapter 404, 48 Stat. 881~~ **15 USC 78A TO 78NN.**

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

13 (x) An investment banker or investment company.

14 (xi) A currency exchange.

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

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

18 (xiv) An insurance company.

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

20 (xvi) A pawnbroker.

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

22 (xviii) A travel agency.

23 (xix) A licensed sender of money.

24 (xx) A telegraph company.

25 (e) "Monetary instrument" means coin or currency of the United
 26 States or another country, or group of countries, a traveler's
 27 check, personal check, bank check, money order, or investment

1 security or negotiable instrument in bearer form or in any other
2 form such that delivery is sufficient to pass title.

3 (f) "Proceeds of a specified criminal offense" means any
4 monetary instrument or other real, personal, or intangible property
5 obtained through the commission of a specified criminal offense,
6 including any appreciation in the value of the monetary instrument
7 or property.

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

9 (i) A felony violation of section 8 of the tobacco products tax
10 act, 1993 PA 327, MCL 205.428, or section 9 of former 1947 PA 265,
11 concerning cigarette taxes.

12 (ii) A violation of section 11151 of the natural resources and
13 environmental protection act, 1994 PA 451, MCL 324.11151, or
14 section 48(3) of former 1979 PA 64, concerning felonious disposal
15 of hazardous waste.

16 (iii) A controlled substance offense.

17 (iv) A felony violation of section 60 of the social welfare
18 act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

19 (v) A violation of section 4, 5, or 7 of the medicaid false
20 claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607,
21 concerning medicaid fraud.

22 (vi) A felony violation of section 18 of the Michigan gaming
23 control and revenue act, the Initiated Law of 1996, MCL 432.218,
24 concerning the business of gaming.

25 (vii) A violation of section 409 of the uniform securities act,
26 1964 PA 265, MCL 451.809, **OR SECTION 508 OF THE UNIFORM SECURITIES**
27 **ACT (2002), 2008 PA 551, MCL 451.2508**, concerning securities fraud.

1 (viii) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675
2 and 722.677, concerning the display or dissemination of obscene
3 matter to minors.

4 (ix) A felony violation of section 72, 73, 74, or 75,
5 concerning arson.

6 (x) A violation of section 93, 94, 95, or 96, concerning bank
7 bonds, bills, notes, or property.

8 (xi) A violation of section 117, 118, 119, 120, 121, or 124,
9 concerning bribery.

10 (xii) A violation of section 120a, concerning jury tampering.

11 (xiii) A violation of section 145c, concerning child sexually
12 abusive activity or material.

13 (xiv) A felony violation of section 157n, 157p, 157q, 157r,
14 157s, 157t, or 157u, concerning credit cards or financial
15 transaction devices.

16 (xv) A violation of section 159i, concerning racketeering.

17 (xvi) A felony violation of section 174, 175, 176, 180, 181, or
18 182, concerning embezzlement.

19 (xvii) A felony violation of chapter XXXIII, concerning
20 explosives or bombs.

21 (xviii) A violation of section 213, concerning extortion.

22 (xix) A felony violation of section 218, concerning false
23 pretenses.

24 (xx) A felony violation of chapter XLI, concerning forgery or
25 counterfeiting.

26 (xxi) A violation of section 271, 272, 273, or 274, concerning
27 securities fraud.

1 (xxii) A violation of section 301, 302, 303, 304, 305, 305a, or
2 313, concerning gambling.

3 (xxiii) A violation of section 316 or 317 concerning murder.

4 (xxiv) A violation of section 330, 331, or 332, concerning
5 horse racing.

6 (xxv) A violation of section 349, 349a, or 350, concerning
7 kidnapping.

8 (xxvi) A felony violation of chapter LII, concerning larceny.

9 (xxvii) A violation of section 422, 423, 424, or 425, concerning
10 perjury or subornation of perjury.

11 (xxviii) A violation of section 452, 455, 457, 458, or 459,
12 concerning prostitution.

13 (xxix) A violation of section 529, 530, or 531, concerning
14 robbery.

15 (xxx) A felony violation of section 535 ~~, OR 535a, or 536a,~~
16 concerning stolen, embezzled, or converted property.

17 (xxxi) A violation of chapter LXXXIII-A, concerning terrorism.

18 (xxxii) A violation of section 5 of 1984 PA 343, MCL 752.365,
19 concerning obscenity.

20 (xxxiii) A conspiracy, attempt, or solicitation to commit an
21 offense listed in subparagraphs (i) to (xxvii).

22 (h) "Substituted proceeds of a specified criminal offense"
23 means any monetary instrument or other real, personal, or
24 intangible property obtained or any gain realized by the sale or
25 exchange of proceeds of a specified criminal offense.