S T A T E O F N E W Y O R K

2176--B

2009-2010 Regular Sessions

I N S E N A T E

February 13, 2009

Introduced by Sens. DIAZ, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Banks in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to clarifying the definition of illegal money transmission and increasing the penalties for certain activities by licensed and unlicensed money transmitters; to amend the penal law, in relation to the definition of money laundering; and to amend the criminal procedure law, in relation to timeliness of prosecutions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 650 of the banking law, as amended by chapter 201 of the laws of 1969, is amended to read as follows:

1. [Any person who violates or participates in the violation of any provisions of this article, or who knowingly makes any incorrect statement of a material fact in any application, report or statement made pursuant to this article, or who knowingly omits to state any material fact necessary to give the superintendent any information lawfully required by him or refuses to permit any lawful investigation by the superintendent shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both, in the discretion of the court]*A. ANY PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT, MISREPRESENTATION OR FALSE CERTIFICATION IN ANY APPLICATION, FINANCIAL STATEMENT, ACCOUNT RECORD, CUSTOMER RECEIPT, REPORT OR OTHER DOCUMENT FILED OR REQUIRED TO BE MAINTAINED OR FILED UNDER THIS ARTICLE, OR WHO KNOWINGLY MAKES ANY*

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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FALSE ENTRY OR OMITS A MATERIAL ENTRY IN ANY SUCH DOCUMENT OR REFUSES TO PERMIT ANY LAWFUL INVESTIGATION BY THE SUPERINTENDENT, SHALL BE GUILTY OF A CLASS E FELONY.

B. ANY LICENSEE OR AGENT WHO:

(1) RECEIVES MONEY FOR TRANSMITTING OR TRANSMITS THE SAME, KNOWING SUCH MONEY TO BE THE PROCEEDS OF OR DERIVED FROM ANY CRIMINAL CONDUCT; OR

(2) SELLS OR ISSUES NEW YORK INSTRUMENTS OR NEW YORK TRAVELER'S CHECKS AS THOSE TERMS ARE DEFINED BY SECTION SIX HUNDRED FIFTY-THREE OF THIS CHAPTER, KNOWING SUCH INSTRUMENTS OR CHECKS TO BE PURCHASED WITH THE PROCEEDS OF OR DERIVED FROM ANY CRIMINAL CONDUCT, SHALL BE GUILTY OF A CLASS E FELONY.

S 2. Paragraph a and subparagraphs 1, 2 and 4 of paragraph b of subdivision 2 of section 650 of the banking law, as amended by chapter 543 of the laws of 1990, are amended to read as follows:

a. Any person who either (1) engages in the business of receiving money for transmission or transmitting the same or (2) sells or issues New York instruments or New York traveler's checks as those terms are defined by section six hundred fifty-three of this chapter, without a license therefor obtained from the superintendent OR WITHOUT HAVING BEEN DESIGNATED OR APPOINTED AS AN AGENT OF A LICENSEE as provided in this article, shall be guilty of a [Class A misdemeanor] CLASS D FELONY.

(1) knowingly receives or agrees to receive for transmission from one or more [individuals] PERSONS a total of ten thousand dollars or more in a single transaction, a total of twenty-five thousand dollars or more during a period of thirty days or less, or a total of two hundred fifty thousand dollars or more during a period of one year or less; or

(2) knowingly sells or issues New York instruments or New York traveler's checks to one or more [individuals] PERSONS totaling ten thousand dollars or more in a single transaction, a total of twenty-five thousand dollars or more during a period of thirty days or less, or a total of two hundred fifty thousand dollars or more during a period of one year or less; or

(4) knowingly sells or issues New York instruments or New York traveler's checks as those terms are defined by section six hundred fifty-three of this chapter, knowing such instruments or checks to be purchased with the proceeds of or derived from any criminal conduct; shall be guilty of a class [E] C felony.

S 3. Subdivision 5 of section 470.00 of the penal law, as amended by chapter 489 of the laws of 2000, is amended to read as follows:

5. "Specified criminal conduct" means criminal conduct committed in this state constituting a criminal act, as the term criminal act is defined in section 460.10 of this [chapter] TITLE, or constituting the crime of enterprise corruption, as defined in section 460.20 of this [chapter] TITLE, OR CONSTITUTING VIOLATIONS OF SECTIONS SIX HUNDRED SEVENTY-TWO AND SIX HUNDRED SEVENTY-THREE OF THE BANKING LAW, or conduct committed in any other jurisdiction which is or would be specified criminal conduct if committed in this state.

S 4. Subdivision 3 of section 30.10 of the criminal procedure law is amended by adding a new paragraph (h) to read as follows:

(H) A PROSECUTION FOR ANY CRIME DEFINED UNDER ARTICLE TWELVE-D, THIRTEEN-B OR THIRTEEN-D OF THE BANKING LAW, OR UNDER ARTICLE ONE HUNDRED FIFTY-FIVE, ONE HUNDRED SEVENTY, ONE HUNDRED SEVENTY-FIVE, ONE HUNDRED SEVENTY-SIX, ONE HUNDRED EIGHTY, ONE HUNDRED EIGHTY-FIVE, ONE HUNDRED EIGHTY-SEVEN, ONE HUNDRED NINETY, TWO HUNDRED, TWO HUNDRED TEN, OR FOUR HUNDRED SEVENTY OF THE PENAL LAW INSOFAR AS IT RELATES TO PERSONS AND

ENTITIES THAT ARE LICENSED, REGISTERED, OR INCORPORATED OR OTHERWISE FORMED PURSUANT TO THE BANKING LAW, OR PERSONS IN THEIR CAPACITY AS DIRECTORS, OFFICERS, MANAGERS, OR EMPLOYEES OR PERSONS OR ENTITIES THAT CONTROL, AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED FORTY-THREE-B OF THE BANKING LAW WITH RESPECT TO BANKING INSTITUTIONS, ANY SUCH PERSONS OR ENTITIES THAT ARE LICENSED, REGISTERED, OR INCORPORATED OR OTHERWISE FORMED PURSUANT TO THE BANKING LAW, MAY BE COMMENCED WITHIN TEN YEARS AFTER THE COMMISSION THEREOF.

S 5. This act shall take effect immediately; provided, however, that the provisions of section four of this act shall only apply to crimes committed after such effective date.