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

7493

2011-2012 Regular Sessions

I N A S S E M B L Y

May 6, 2011

Introduced by M. of A. LANCMAN -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the criminal procedure law, in relation to creating a new crime of structuring to avoid a transaction reporting requirement

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

Section 1. The article heading of article 470 of the penal law, as added by chapter 280 of the laws of 1988, is amended to read as follows:

MONEY LAUNDERING AND STRUCTURING TO AVOID A TRANSACTION REPORTING REQUIREMENT

S 2. The penal law is amended by adding a new section 470.30 to read as follows:

S 470.30 STRUCTURING TO AVOID A TRANSACTION REPORTING REQUIREMENT.

A PERSON IS GUILTY OF STRUCTURING TO AVOID A TRANSACTION REPORTING REQUIREMENT WHEN, ACTING ALONE, OR IN CONJUNCTION WITH, OR ON BEHALF OF, OTHER PERSONS, WITH THE INTENT TO AVOID A TRANSACTION REPORTING OR RECORDKEEPING REQUIREMENT IMPOSED BY STATE OR FEDERAL LAW OR REGULATION, INCLUDING BUT NOT LIMITED TO SECTION 116.2 OF TITLE THREE OF THE CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK, SUBCHAPTER II OF CHAPTER FIFTY-THREE OF TITLE THIRTY-ONE OF THE UNITED STATES CODE (31 U.S.C. 5311 ET SEQ.), PART ONE HUNDRED THREE OF TITLE THIRTY-ONE OF THE CODE OF FEDERAL REGULATIONS (31 C.F.R. 103 ET SEQ.), AND ANY RULES OR REGULATIONS ADOPTED PURSUANT TO THE FEDERAL DEPOSIT INSURANCE ACT (12 U.S.C. 1829B) OR SECTION NINETEEN HUNDRED FIFTY-THREE OF TITLE TWELVE OF THE UNITED STATES CODE (12 U.S.C. 1953), HE OR SHE:

1. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION TO FAIL TO FILE A REPORT OR MAINTAIN A RECORD REGARDING CURRENCY TRANSACTIONS OR SUSPICIOUS TRANSACTIONS AS REQUIRED BY STATE OR FEDERAL LAW; OR

2. CAUSES OR ATTEMPTS TO CAUSE A FINANCIAL INSTITUTION TO FILE A REPORT OR MAINTAIN A RECORD REGARDING CURRENCY TRANSACTIONS OR SUSPI-

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

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CIOUS TRANSACTIONS AS REQUIRED BY STATE OR FEDERAL LAW THAT CONTAINS A MATERIAL OMISSION OR MISSTATEMENT OF FACT; OR

3. CONDUCTS OR ATTEMPTS TO CONDUCT ONE OR MORE TRANSACTIONS IN CURRENCY, IN ANY AMOUNT, REGARDLESS OF WHETHER SUCH AMOUNT EXCEEDS ANY APPLICABLE REPORTING OR RECORDKEEPING THRESHOLD, AT ONE OR MORE FINANCIAL INSTITUTIONS, ON ONE OR MORE DAYS, IN ANY MANNER, FOR THE PURPOSE OF AVOIDING CURRENCY TRANSACTION REPORTING OR RECORDKEEPING REQUIREMENTS PROVIDED BY STATE OR FEDERAL LAW. "IN ANY MANNER" INCLUDES, BUT IS NOT LIMITED TO, THE BREAKING DOWN INTO SMALLER SUMS OF A SINGLE SUM OF CURRENCY MEETING OR EXCEEDING THAT WHICH IS NECESSARY TO TRIGGER A CURRENCY REPORTING REQUIREMENT OR THE CONDUCT OF A TRANSACTION, OR SERIES OF CURRENCY TRANSACTIONS, AT OR BELOW THE REPORTING REQUIREMENT. AMONG THE FACTORS THAT THE FINDER OF FACT MAY CONSIDER IN DETERMINING THAT A TRANSACTION HAS THE PURPOSE OF AVOIDING A TRANSACTION REPORTING REQUIREMENT SHALL BE WHETHER THE PERSON, ACTING ALONE OR WITH OTHERS, CONDUCTED ONE OR MORE TRANSACTIONS IN CURRENCY, IN ANY AMOUNT, AT ONE OR MORE FINANCIAL INSTITUTIONS, ON ONE OR MORE DAYS, IN ANY MANNER.

STRUCTURING TO AVOID A TRANSACTION REPORTING REQUIREMENT IS A CLASS E FELONY.

S 3. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as amended by chapter 405 of the laws of 2010, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; section 135.35 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60 and 220.77 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10

which constitute a felony relating to firearms and other dangerous weapons; [and] sections 265.14 and 265.16 relating to criminal sale of a firearm; [and] section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized recordings; [and] sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; AND SECTION 470.30 RELATING TO STRUCTURING TO AVOID A TRANSACTION REPORTING REQUIREMENT; or

S 4. Subdivision 8 of section 700.05 of the criminal procedure law is amended by adding a new paragraph (u) to read as follows:

(U) STRUCTURING TO AVOID A TRANSACTION REPORTING REQUIREMENT AS DEFINED IN SECTION 470.30 OF THE PENAL LAW.

S 5. This act shall take effect on the ninetieth day after it shall have become a law.