

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

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:

1 Section 1. Subdivision 1 of section 650 of the banking law, as amended
2 by chapter 201 of the laws of 1969, is amended to read as follows:
3 1. [Any person who violates or participates in the violation of any
4 provisions of this article, or who knowingly makes any incorrect state-
5 ment of a material fact in any application, report or statement made
6 pursuant to this article, or who knowingly omits to state any material
7 fact necessary to give the superintendent any information lawfully
8 required by him or refuses to permit any lawful investigation by the
9 superintendent shall be guilty of a misdemeanor and, upon conviction,
10 shall be fined not more than five hundred dollars or imprisoned for not
11 more than six months or both, in the discretion of the court]A. ANY
12 PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT, MISREPRESENTATION OR
13 FALSE CERTIFICATION IN ANY APPLICATION, FINANCIAL STATEMENT, ACCOUNT
14 RECORD, CUSTOMER RECEIPT, REPORT OR OTHER DOCUMENT FILED OR REQUIRED TO
15 BE MAINTAINED OR FILED UNDER THIS ARTICLE, OR WHO KNOWINGLY MAKES ANY
16 FALSE ENTRY OR OMITTS A MATERIAL ENTRY IN ANY SUCH DOCUMENT OR REFUSES TO
17 PERMIT ANY LAWFUL INVESTIGATION BY THE SUPERINTENDENT, SHALL BE GUILTY
18 OF A CLASS E FELONY.
19 B. ANY LICENSEE OR AGENT WHO:

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

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

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

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

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

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

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

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

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

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

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

47 (H) A PROSECUTION FOR ANY CRIME DEFINED UNDER ARTICLE TWELVE-D, THIR-
48 TEEN-B OR THIRTEEN-D OF THE BANKING LAW, OR UNDER ARTICLE ONE HUNDRED
49 FIFTY-FIVE, ONE HUNDRED SEVENTY, ONE HUNDRED SEVENTY-FIVE, ONE HUNDRED
50 SEVENTY-SIX, ONE HUNDRED EIGHTY, ONE HUNDRED EIGHTY-FIVE, ONE HUNDRED
51 EIGHTY-SEVEN, ONE HUNDRED NINETY, TWO HUNDRED, TWO HUNDRED TEN, OR FOUR
52 HUNDRED SEVENTY OF THE PENAL LAW INSOFAR AS IT RELATES TO PERSONS AND
53 ENTITIES THAT ARE LICENSED, REGISTERED, OR INCORPORATED OR OTHERWISE
54 FORMED PURSUANT TO THE BANKING LAW, OR PERSONS IN THEIR CAPACITY AS
55 DIRECTORS, OFFICERS, MANAGERS, OR EMPLOYEES OR PERSONS OR ENTITIES THAT
56 CONTROL, AS SUCH TERM IS DEFINED IN SECTION ONE HUNDRED FORTY-THREE-B OF

1 THE BANKING LAW WITH RESPECT TO BANKING INSTITUTIONS, ANY SUCH PERSONS
2 OR ENTITIES THAT ARE LICENSED, REGISTERED, OR INCORPORATED OR OTHERWISE
3 FORMED PURSUANT TO THE BANKING LAW, MAY BE COMMENCED WITHIN TEN YEARS
4 AFTER THE COMMISSION THEREOF.

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