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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO CRIMINAL LAW; REQUIRING PERSONS CONVICTED OF MONEY LAUNDERING TO PAY COSTS OF INVESTIGATION AND PROSECUTION; PROVIDING FOR FORFEITURE OF ANY INTEREST, PROPERTY OR CONTRACTUAL RIGHT ACQUIRED OR MAINTAINED IN VIOLATION OF THE MONEY LAUNDERING ACT; INCREASING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-51-1 NMSA 1978 (being Laws 1998, Chapter 113, Section 1) is amended to read:

"30-51-1. SHORT TITLE.--~~[Sections 1 through 5 of this act]~~ Chapter 30, Article 51 NMSA 1978 may be cited as the "Money Laundering Act"."

SECTION 2. Section 30-51-4 NMSA 1978 (being Laws 1998, Chapter 113, Section 4) is amended to read:

"30-51-4. PROHIBITED ACTIVITY--CRIMINAL PENALTIES--CIVIL

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PENALTIES.--

A. It is unlawful for a person who knows that the property involved in a financial transaction is, or was represented to be, the proceeds of a specified unlawful activity to:

(1) conduct, structure, engage in or participate in a financial transaction that involves the property knowing that the financial transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property or to avoid a transaction reporting requirement under state or federal law;

(2) conduct, structure, engage in or participate in a financial transaction that involves the property for the purpose of committing or furthering the commission of any other specified unlawful activity;

(3) transport the property with the intent to further a specified unlawful activity knowing that the transport is designed, in whole or in part, to conceal or disguise the nature, location, source, ownership or control of the monetary instrument or to avoid a transaction reporting requirement under state or federal law; or

(4) make the property available to another person by means of a financial transaction or by transporting the property when ~~he~~ the person knows that the property is intended for use by the other person to commit or further the

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1 commission of a specified unlawful activity.

2 B. A person who violates any provision of
3 Subsection A of this section is guilty of a:

4 (1) second degree felony if the illegal
5 financial transaction involves more than [~~one hundred thousand~~
6 ~~dollars (\$100,000)~~] twenty thousand dollars (\$20,000);

7 (2) third degree felony if the illegal
8 financial transaction involves over [~~fifty thousand dollars~~
9 ~~(\$50,000)~~] two thousand five hundred dollars (\$2,500) but not
10 more than [~~one hundred thousand dollars (\$100,000)~~] twenty
11 thousand dollars (\$20,000);

12 (3) fourth degree felony if the illegal
13 financial transaction involves over [~~ten thousand dollars~~
14 ~~(\$10,000)~~] five hundred dollars (\$500) but not more than [~~fifty~~
15 ~~thousand dollars (\$50,000)~~] two thousand five hundred dollars
16 (\$2,500); or

17 (4) misdemeanor if the illegal financial
18 transaction involves [~~ten thousand dollars (\$10,000)~~] five
19 hundred dollars (\$500) or less.

20 C. In addition to any criminal penalty, a person
21 who violates [~~any~~] a provision of Subsection A of this section
22 is subject to a civil penalty of three times the value of the
23 property involved in the transaction.

24 D. In addition to any criminal or civil penalty, a
25 person who violates a provision of Subsection A of this section

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1 shall pay all costs and expenses incurred for the investigation
2 and prosecution of the action to the general fund of the
3 governing body of the investigating and prosecuting agencies.

4 E. Whoever violates a provision of Subsection A of
5 this section shall forfeit to the state, pursuant to the
6 provisions of the Forfeiture Act, the following:

7 (1) any interest acquired or maintained in
8 violation of the Money Laundering Act; and

9 (2) any interest, security or claim in
10 property or contractual right of any kind affording a source of
11 influence over any enterprise that the person has established,
12 operated, controlled or conducted or in which the person has
13 participated in violation of the Money Laundering Act.

14 ~~[D-]~~ F. Nothing contained in the Money Laundering
15 Act precludes civil or criminal remedies provided by the
16 Racketeering Act or the Controlled Substances Act or by any
17 other New Mexico law. Those remedies are in addition to and
18 not in lieu of remedies provided in the Money Laundering Act."

19 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
20 provisions of this act is July 1, 2013.