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HOUSE BILL 456

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Rhonda S. King

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; INCLUDING ADDITIONAL CRIMES IN THE CRIMINAL OFFENSE OF RACKETEERING; INCREASING PENALTIES.

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

SECTION 1. Section 30-42-3 NMSA 1978 (being Laws 1980, Chapter 40, Section 3, as amended by Laws 2009, Chapter 253, Section 7 and by Laws 2009, Chapter 261, Section 7) is amended to read:

"30-42-3. DEFINITIONS.--As used in the Racketeering Act:

A. "racketeering" means any act that is chargeable or indictable under the laws of New Mexico and punishable by

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1 imprisonment for more than one year, involving any of the
2 following cited offenses:

3 (1) murder, as provided in Section 30-2-1 NMSA
4 1978;

5 (2) robbery, as provided in Section 30-16-2
6 NMSA 1978;

7 (3) kidnapping, as provided in Section 30-4-1
8 NMSA 1978;

9 (4) forgery, as provided in Section 30-16-10
10 NMSA 1978;

11 (5) larceny, as provided in Section 30-16-1
12 NMSA 1978;

13 (6) fraud, as provided in Section 30-16-6 NMSA
14 1978;

15 (7) embezzlement, as provided in Section
16 30-16-8 NMSA 1978;

17 (8) receiving stolen property, as provided in
18 Section 30-16-11 NMSA 1978;

19 (9) bribery, as provided in Sections 30-24-1
20 through 30-24-3.1 and 30-19-3 NMSA 1978;

21 (10) gambling, as provided in Sections 30-19-3
22 [~~30-19-13~~] and 30-19-15 NMSA 1978;

23 (11) illegal kickbacks, as provided in
24 Sections 30-41-1 and 30-41-2 NMSA 1978;

25 (12) extortion, as provided in Section 30-16-9

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1 NMSA 1978;

2 (13) trafficking in controlled substances, as
3 provided in Section 30-31-20 NMSA 1978;

4 (14) arson and aggravated arson, as provided
5 in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA
6 1978;

7 (15) promoting prostitution, as provided in
8 Section 30-9-4 NMSA 1978;

9 (16) criminal solicitation, as provided in
10 Section 30-28-3 NMSA 1978;

11 (17) fraudulent securities practices, as
12 provided in the New Mexico Uniform Securities Act [~~of 1986~~];

13 (18) loan sharking, as provided in Sections
14 30-43-1 through 30-43-5 NMSA 1978;

15 (19) distribution of controlled substances or
16 controlled substance analogues, as provided in Sections
17 30-31-21 and 30-31-22 NMSA 1978;

18 (20) [~~a violation of the provisions of~~] money
19 laundering, as provided in Section 30-51-4 NMSA 1978;

20 (21) unlawful taking of a vehicle or motor
21 vehicle, as provided in Section 30-16D-1 NMSA 1978;

22 (22) embezzlement of a vehicle or motor
23 vehicle, as provided in Section 30-16D-2 NMSA 1978;

24 (23) fraudulently obtaining a vehicle or motor
25 vehicle, as provided in Section 30-16D-3 NMSA 1978;

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1 (24) receiving or transferring stolen vehicles
2 or motor vehicles, as provided in Section 30-16D-4 NMSA 1978;
3 [~~and~~]

4 (25) altering or changing the serial number,
5 engine number, decal or other numbers or marks of a vehicle or
6 motor vehicle, as provided in Section 30-16D-6 NMSA 1978;

7 (26) accepting the earnings of a prostitute,
8 as provided in Section 30-9-4.1 NMSA 1978;

9 (27) a violation of the Indian Arts and Crafts
10 Sales Act, as provided in Section 30-33-9 NMSA 1978; and

11 (28) human trafficking, as provided in Section
12 30-52-1 NMSA 1978;

13 B. "person" means an individual or entity capable
14 of holding a legal or beneficial interest in property;

15 C. "enterprise" means a sole proprietorship,
16 partnership, corporation, business, labor union, association or
17 other legal entity or a group of individuals associated in fact
18 although not a legal entity and includes illicit as well as
19 licit entities; and

20 D. "pattern of racketeering activity" means
21 engaging in at least two incidents of racketeering with the
22 intent of accomplishing any of the prohibited activities set
23 forth in Subsections A through D of Section 30-42-4 NMSA 1978;
24 provided at least one of the incidents occurred after February
25 28, 1980 and the last incident occurred within five years after

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1 the commission of a prior incident of racketeering."

2 SECTION 2. Section 30-51-1 NMSA 1978 (being Laws 1998,
3 Chapter 113, Section 1) is amended to read:

4 "30-51-1. SHORT TITLE.--~~[Sections 1 through 5 of this~~
5 ~~act]~~ Chapter 30, Article 51 NMSA 1978 may be cited as the
6 "Money Laundering Act"."

7 SECTION 3. Section 30-51-4 NMSA 1978 (being Laws 1998,
8 Chapter 113, Section 4) is amended to read:

9 "30-51-4. PROHIBITED ACTIVITY--CRIMINAL PENALTIES--CIVIL
10 PENALTIES--COSTS--FORFEITURE.--

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

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

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

25 (3) transport the property with the intent to

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

6 (4) make the property available to another
7 person by means of a financial transaction or by transporting
8 the property when [~~he~~] the person knows that the property is
9 intended for use by the other person to commit or further the
10 commission of a specified unlawful activity.

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

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

16 (2) third degree felony if the illegal
17 financial transaction involves over [~~fifty thousand dollars~~
18 ~~(\$50,000)~~] two thousand five hundred dollars (\$2,500) but not
19 more than [~~one hundred thousand dollars (\$100,000)~~] twenty
20 thousand dollars (\$20,000);

21 (3) fourth degree felony if the illegal
22 financial transaction involves over [~~ten thousand dollars~~
23 ~~(\$10,000)~~] five hundred dollars (\$500) but not more than [~~fifty~~
24 ~~thousand dollars (\$50,000)~~] two thousand five hundred dollars
25 (\$2,500); or

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

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

8 D. In addition to any criminal or civil penalty, a
9 person who violates Subsection A of this section shall pay all
10 costs and expenses incurred for the investigation and
11 prosecution of the action to the general fund of the governing
12 body of the investigating and prosecuting agencies.

13 E. Whoever violates Subsection A of this section
14 shall forfeit to the state, pursuant to the provisions of the
15 Forfeiture Act, the following:

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

18 (2) any interest, security or claim in
19 property or contractual right of any kind affording a source of
20 influence over any enterprise that the person has established,
21 operated, controlled or conducted or in which the person has
22 participated in violation of the Money Laundering Act.

23 [~~D-~~] F. Nothing contained in the Money Laundering
24 Act precludes civil or criminal remedies provided by the
25 Racketeering Act or the Controlled Substances Act or by any

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1 other New Mexico law. Those remedies are in addition to and
2 not in lieu of remedies provided in the Money Laundering Act."

3 SECTION 4. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2011.

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