

HOUSE BILL No. 5748

April 1, 2004, Introduced by Rep. Koetje and referred to the Committee on Commerce.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 159g and 411j (MCL 750.159g and 750.411j),
section 159g as amended by 2002 PA 124 and section 411j as
amended by 2002 PA 136.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 159g. As used in this chapter, "racketeering" means
2 committing, attempting to commit, conspiring to commit, or aiding
3 or abetting, soliciting, coercing, or intimidating a person to
4 commit an offense for financial gain, involving any of the
5 following:

6 (a) A felony violation of section 8 of the tobacco products
7 tax act, 1993 PA 327, MCL 205.428, concerning tobacco product
8 taxes, or section 9 of former 1947 PA 265, concerning cigarette
9 taxes.

1 (b) A violation of section 11151(3) of the natural resources
2 and environmental protection act, 1994 PA 451, MCL 324.11151, or
3 section 48(3) of former 1979 PA 64, concerning felonious disposal
4 of hazardous waste.

5 (c) A felony violation of part 74 or section 17766a of the
6 public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and
7 333.17766a, concerning controlled substances or androgenic
8 anabolic steroids.

9 (d) A felony violation of section 60 of the social welfare
10 act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

11 (e) A violation of section 4, 5, or 7 of the medicaid false
12 claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607,
13 concerning medicaid fraud.

14 (f) A felony violation of section 18 of the Michigan gaming
15 control and revenue act, the Initiated Law of 1996, MCL 432.218,
16 concerning the business of gaming.

17 (g) A violation of section 409 of the uniform securities act,
18 1964 PA 265, MCL 451.809, **or section 508 of the uniform**
19 **securities act (2002), MCL 451.2508**, concerning securities
20 fraud.

21 (h) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675
22 and 722.677, concerning the display or dissemination of obscene
23 matter to minors.

24 (i) A felony violation of section 72, 73, 74, 75, or 77,
25 concerning arson.

26 (j) A violation of section 93, 94, 95, or 96, concerning bank
27 bonds, bills, notes, and property.

1 (k) A violation of section 110 or 110a, concerning breaking
2 and entering or home invasion.

3 (l) A violation of section 117, 118, 119, 120, 121, or 124,
4 concerning bribery.

5 (m) A violation of section 120a, concerning jury tampering.

6 (n) A violation of section 145c, concerning child sexually
7 abusive activity or material.

8 (o) A felony violation of section 157n, 157p, 157q, 157r,
9 157s, 157t, or 157u, concerning credit cards or financial
10 transaction devices.

11 (p) A felony violation of section 174, 175, 176, 180, 181, or
12 182, concerning embezzlement.

13 (q) A felony violation of chapter XXXVIII, concerning
14 explosives and bombs.

15 (r) A violation of section 213, concerning extortion.

16 (s) A felony violation of section 218, concerning false
17 pretenses.

18 (t) A felony violation of section 223(2), 224(1)(a), (b), or
19 (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a,
20 concerning firearms or dangerous weapons.

21 (u) A felony violation of chapter XLI, concerning forgery and
22 counterfeiting.

23 (v) A violation of section 271, 272, 273, or 274, concerning
24 securities fraud.

25 (w) A violation of section 300a, concerning food stamps or
26 coupons or access devices.

27 (x) A violation of section 301, 302, 303, 304, 305, 305a, or

1 313, concerning gambling.

2 (y) A violation of section 316 or 317, concerning murder.

3 (z) A violation of section 330, 331, or 332, concerning horse
4 racing.

5 (aa) A violation of section 349, 349a, or 350, concerning
6 kidnapping.

7 (bb) A felony violation of chapter LII, concerning larceny.

8 (cc) A violation of section 411k, concerning money
9 laundering.

10 (dd) A violation of section 422, 423, 424, or 425, concerning
11 perjury or subornation of perjury.

12 (ee) A violation of section 452, 455, 457, 458, or 459,
13 concerning prostitution.

14 (ff) A violation of section 529, 529a, 530, or 531,
15 concerning robbery.

16 (gg) A felony violation of section 535, 535a, or 536a,
17 concerning stolen, embezzled, or converted property.

18 (hh) A violation of chapter LXXXIII-A, concerning terrorism.

19 (ii) A violation of section 5 of 1984 PA 343, MCL 752.365,
20 concerning obscenity.

21 (jj) An offense committed within this state or another state
22 that constitutes racketeering activity as defined in ~~section~~
23 ~~1961(1) of title 18 of the United States Code, 18 U.S.C. 1961~~ **18**
24 **USC 1961(1)**.

25 (kk) An offense committed within this state or another state
26 in violation of a law of the United States that is substantially
27 similar to a violation listed in subdivisions (a) through (ii).

1 (ll) An offense committed in another state in violation of a
2 statute of that state that is substantially similar to a
3 violation listed in subdivisions (a) through (ii).

4 Sec. 411j. As used in this section and sections 411k to
5 411q:

6 (a) "Controlled substance offense" means a felony violation
7 of part 74 or section 17766a of the public health code, 1978 PA
8 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning
9 controlled substances or androgenic anabolic steroids.

10 (b) "Knowingly", in the case of a corporation, means with the
11 approval or prior actual knowledge of the board of directors, a
12 majority of the directors, or persons who together hold a
13 majority of the voting ownership interests in the corporation.
14 In determining whether a majority of the directors approved of or
15 had knowledge of the activity, a director who was not aware of
16 the activity due to his or her own negligence or other fault is
17 regarded as having had knowledge of the activity. This
18 subdivision does not limit the liability of any individual
19 officer, employee, director, or stockholder of a corporation.

20 (c) "Financial transaction" means a purchase, sale, loan,
21 pledge, gift, transfer, delivery, exchange, or other disposition
22 of a monetary instrument or other property and, with respect to a
23 financial institution, includes a deposit, withdrawal, transfer
24 between accounts, exchange of currency, loan, extension of
25 credit, purchase or sale of any stock, bond, certificate of
26 deposit, or other monetary instrument, or any other payment,
27 transfer, or delivery by, through, or to a financial institution,

1 by whatever means effected.

2 (d) "Financial institution" means 1 or more of the following,
3 if located in or doing business in this state:

4 (i) An insured bank, as defined in section 3(h) of the
5 federal deposit insurance act, ~~chapter 967, 64 Stat. 873,~~ 12
6 ~~U.S.C.~~ USC 1813(h).

7 (ii) A commercial bank or trust company.

8 (iii) A private banker.

9 (iv) An agency or branch of a foreign bank.

10 (v) A savings and loan institution.

11 (vi) A thrift institution.

12 (vii) A credit union.

13 (viii) A broker or dealer registered with the securities and
14 exchange commission under the securities exchange act of 1934,
15 chapter 404, 48 Stat. 881.

16 (ix) A broker or dealer in securities or commodities.

17 (x) An investment banker or investment company.

18 (xi) A currency exchange.

19 (xii) An insurer, redeemer, or cashier of traveler's checks,
20 checks, or money orders.

21 (xiii) An operator of a credit card system.

22 (xiv) An insurance company.

23 (xv) A dealer in precious metals, stones, or jewels.

24 (xvi) A pawnbroker.

25 (xvii) A loan, finance, or mortgage company.

26 (xviii) A travel agency.

27 (xix) A licensed sender of money.

1 (xx) A telegraph company.

2 (e) "Monetary instrument" means coin or currency of the
3 United States or another country, or group of countries, a
4 traveler's check, personal check, bank check, money order, or
5 investment security or negotiable instrument in bearer form or in
6 any other form such that delivery is sufficient to pass title.

7 (f) "Proceeds of a specified criminal offense" means any
8 monetary instrument or other real, personal, or intangible
9 property obtained through the commission of a specified criminal
10 offense, including any appreciation in the value of the monetary
11 instrument or property.

12 (g) "Specified criminal offense" means any of the following:

13 (i) A felony violation of section 8 of the tobacco products
14 tax act, 1993 PA 327, MCL 205.428, or section 9 of former 1947 PA
15 265, concerning cigarette taxes.

16 (ii) A violation of section 11151 of the natural resources
17 and environmental protection act, 1994 PA 451, MCL 324.11151, or
18 section 48(3) of former 1979 PA 64, concerning felonious disposal
19 of hazardous waste.

20 (iii) A controlled substance offense.

21 (iv) A felony violation of section 60 of the social welfare
22 act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

23 (v) A violation of section 4, 5, or 7 of the medicaid false
24 claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607,
25 concerning medicaid fraud.

26 (vi) A felony violation of section 18 of the Michigan gaming
27 control and revenue act, the Initiated Law of 1996, MCL 432.218,

1 concerning the business of gaming.

2 (vii) A violation of section 409 of the uniform securities
3 act, 1964 PA 265, MCL 451.809, **or section 508 of the uniform**
4 **securities act (2002), MCL 451.2508**, concerning securities
5 fraud.

6 (viii) A violation of section 5 or 7 of 1978 PA 33, MCL
7 722.675 and 722.677, concerning the display or dissemination of
8 obscene matter to minors.

9 (ix) A felony violation of section 72, 73, 74, or 75,
10 concerning arson.

11 (x) A violation of section 93, 94, 95, or 96, concerning bank
12 bonds, bills, notes, or property.

13 (xi) A violation of section 117, 118, 119, 120, 121, or 124,
14 concerning bribery.

15 (xii) A violation of section 120a, concerning jury
16 tampering.

17 (xiii) A violation of section 145c, concerning child sexually
18 abusive activity or material.

19 (xiv) A felony violation of section 157n, 157p, 157q, 157r,
20 157s, 157t, or 157u, concerning credit cards or financial
21 transaction devices.

22 (xv) A violation of section 159i, concerning racketeering.

23 (xvi) A felony violation of section 174, 175, 176, 180, 181,
24 or 182, concerning embezzlement.

25 (xvii) A felony violation of chapter XXXIII, concerning
26 explosives or bombs.

27 (xviii) A violation of section 213, concerning extortion.

1 (xix) A felony violation of section 218, concerning false
2 pretenses.

3 (xx) A felony violation of chapter XLI, concerning forgery or
4 counterfeiting.

5 (xxi) A violation of section 271, 272, 273, or 274,
6 concerning securities fraud.

7 (xxii) A violation of section 301, 302, 303, 304, 305, 305a,
8 or 313, concerning gambling.

9 (xxiii) A violation of section 316 or 317 concerning murder.

10 (xxiv) A violation of section 330, 331, or 332, concerning
11 horse racing.

12 (xxv) A violation of section 349, 349a, or 350, concerning
13 kidnapping.

14 (xxvi) A felony violation of chapter LII, concerning
15 larceny.

16 (xxvii) A violation of section 422, 423, 424, or 425,
17 concerning perjury or subornation of perjury.

18 (xxviii) A violation of section 452, 455, 457, 458, or 459,
19 concerning prostitution.

20 (xxix) A violation of section 529, 530, or 531, concerning
21 robbery.

22 (xxx) A felony violation of section 535, 535a, or 536a,
23 concerning stolen, embezzled, or converted property.

24 (xxxi) A violation of chapter LXXXIII-A, concerning
25 terrorism.

26 (xxxii) A violation of section 5 of 1984 PA 343, MCL 752.365,
27 concerning obscenity.

1 (*xxxiii*) A conspiracy, attempt, or solicitation to commit an
2 offense listed in subparagraphs (*i*) to (*xxxii*).

3 (h) "Substituted proceeds of a specified criminal offense"
4 means any monetary instrument or other real, personal, or
5 intangible property obtained or any gain realized by the sale or
6 exchange of proceeds of a specified criminal offense.

7 Enacting section 1. This amendatory act does not take
8 effect unless Senate Bill No. _____ or House Bill No. 5746
9 (request no. 06004'03) of the 92nd Legislature is enacted into
10 law.