

No. 1989-108

## AN ACT

HB 1277

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for dealing in proceeds of unlawful activities.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

**§ 5111. Dealing in proceeds of unlawful activities.**

*(a) Offense defined.—A person commits a felony of the first degree if the person, knowing that the property involved in a financial transaction represents the proceeds of unlawful activity, conducts a financial transaction which involves the proceeds of unlawful activity under any of the following circumstances:*

*(1) With the intent to promote the carrying on of the unlawful activity.*

*(2) Knowing that the transaction is designed in whole or in part:*

*(i) to conceal or disguise nature, location, source, ownership or control of the proceeds of unlawful activity; or*

*(ii) to avoid a transaction reporting requirement under State or Federal law.*

*(b) Penalty.—Upon conviction of a violation under subsection (a), a person shall be sentenced to a fine of the greater of \$100,000 or twice the value of the property involved in the transaction or to imprisonment for not more than 20 years, or both.*

*(c) Civil penalty.—A person who conducts or attempts to conduct a transaction described in subsection (a) is liable to the Commonwealth for a civil penalty of the greater of:*

*(1) the value of the property, funds or monetary instruments involved in the transaction; or*

*(2) \$10,000.*

*(d) Cumulative remedies.—Any proceedings under this section shall be in addition to any other criminal penalties or forfeitures authorized under the State law.*

*(e) Enforcement.—*

*(1) The Attorney General shall have the power and duty to institute proceedings to recover the civil penalty provided under subsection (c) against any person liable to the Commonwealth for such a penalty.*

*(2) The district attorneys of the several counties shall have authority to investigate and to institute criminal proceedings for any violation of subsection (a).*

(3) *In addition to the authority conferred upon the Attorney General by the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, the Attorney General shall have the authority to investigate and to institute criminal proceedings for any violation of subsection (a) or any series of related violations involving more than one county of the Commonwealth or involving any county of the Commonwealth and another state. No person charged with a violation of subsection (a) by the Attorney General shall have standing to challenge the authority of the Attorney General to investigate or prosecute the case, and, if any such challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of the Commonwealth to the person making the challenge.*

(4) *Nothing contained in this subsection shall be construed to limit the regulatory or investigative authority of any department or agency of the Commonwealth whose functions might relate to persons, enterprises or matters falling within the scope of this section.*

(f) *Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

*“Conducts.” Includes initiating, concluding or participating in initiating or concluding a transaction.*

*“Financial institution.” Any of the following:*

(1) *An insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. § 1813(h)).*

(2) *A commercial bank or trust company.*

(3) *A private banker.*

(4) *An agency or bank of a foreign bank in this Commonwealth.*

(5) *An insured institution as defined in section 401(a) of the National Housing Act (48 Stat. 1246, 12 U.S.C. § 1724(a)).*

(6) *A thrift institution.*

(7) *A broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.).*

(8) *A broker or dealer in securities or commodities.*

(9) *An investment banker or investment company.*

(10) *A currency exchange.*

(11) *An insurer, redeemer or cashier of travelers' checks, checks, money orders or similar instruments.*

(12) *An operator of a credit card system.*

(13) *An insurance company.*

(14) *A dealer in precious metals, stones or jewels.*

(15) *A pawnbroker.*

(16) *A loan or finance company.*

(17) *A travel agency.*

(18) *A licensed sender of money.*

(19) *A telegraph company.*

(20) *An agency of the Federal Government or of a state or local government carrying out a duty or power of a business described in this paragraph.*

*(21) Another business or agency carrying out a similar, related or substitute duty or power which the United States Secretary of the Treasury prescribes.*

*“Financial transaction.” A transaction involving the movement of funds by wire or other means or involving one or more monetary instruments.*

*“Knowing that the property involved in a financial transaction represents the proceeds of unlawful activity.” Knowing that the property involved in the transaction represents proceeds from some form, though not necessarily which form, of unlawful activity, regardless of whether or not the activity is specified in this section.*

*“Monetary instrument.” Coin or currency of the United States or of any other country, travelers’ checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.*

*“Transaction.” Includes a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition. With respect to a financial institution, the term includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit or other monetary instrument and any other payment, transfer or delivery by, through, or to a financial institution, by whatever means effected.*

*“Unlawful activity.” Any activity graded a misdemeanor of the first degree or higher under Federal or State law.*

Section 2. This act shall take effect immediately.

APPROVED—The 22nd day of December, A. D. 1989.

ROBERT P. CASEY