

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 5606

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[Originating in the Committee on the Judiciary;

Reported on February 16, 2024]

1 A BILL to amend and reenact §61-15-1 and §61-15-2 of the Code of West Virginia, 1931, as
2 amended, all relating to money laundering, providing for a definition; and clarifying the
3 offense of money laundering.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. MONEY LAUNDERING.

§61-15-1. Definitions.

1 As used in this article, unless the context clearly indicates otherwise:

2 (1) "Conducts" includes, but is not limited to, initiating, concluding, participating in, or
3 assisting in a transaction.

4 (2) "Criminal activity" means a violation of:

5 (A) The felony provisions of §33-41-11 of this code;

6 (B) Felony violations of §60A-1-1 *et seq.* of this code;

7 (C) Felony violations of §61-2-1 *et seq.*;

8 (D) The provisions of §61-3-1, §61-3-2, §61-3-3, §61-3-4, §61-3-5, §61-3-11, §61-3-12(a),
9 §61-3-13, §61-3-14, §61-3-18, §61-3-19, §61-3-20, §61-3-20a, §61-3-22, §61-3-24, §61-3-24a,
10 §61-3-24b, and §61-3-24d;

11 (E) Felony provisions of §61-3C-1 *et seq.*, §61-3E-1 *et seq.*, and §61-4-1 *et seq.*;

12 (F) The provisions of §61-8-8; and

13 (G) The felony provisions of §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, and §61-14-1 *et seq.*

14 (3) "Cryptocurrency" means digital currency in which encryption techniques are used to
15 regulate the generation of units of currency and verify the transfer of funds, and which operate
16 independently of a central bank.

17 (4) "Digital currency" means money represented by digital information that is stored, spent,
18 and transferred electronically by a person as part of a financial transaction.

19 ~~(4)~~ (5) "Financial institution" means a financial institution as defined in 31 U.S.C. §5312
20 which institution is located in this state.

21 ~~(5)~~ (6) "Financial transaction" means a transaction which effects intrastate, interstate or
22 foreign commerce, and:

23 (A) Involves the movement of funds by wire or other means;

24 (B) Involves the use of a monetary instrument;

25 (C) Involves the transfer of title to real or personal property; or

26 (D) Involves the use of a financial institution which is engaged in, or the activities of which
27 effect intrastate, interstate or foreign commerce.

28 ~~(6)~~ (7) "Gift card" means a card, voucher or certificate which contains or represents a
29 specific amount of money issued by a retailer or financial institution to be used as an alternative
30 to cash purposes.

31 ~~(7)~~ (8) "~~Knowing~~"Knowingly" means with actual knowledge. For purposes of this article,
32 a person may be considered to have actual knowledge if the belief is based upon representations
33 of a law-enforcement officer engaged in his or her official duties while acting in an undercover
34 capacity or a person acting at the direction of a law-enforcement officer engaged in his or her
35 official duties.

36 ~~(8)~~ (9) "Monetary instruments" means coin or currency of the United States or of any other
37 country, travelers' checks, personal checks, bank checks, gift cards, prepaid credit cards, money
38 orders, cryptocurrency, investment securities in bearer form or otherwise in such form that title
39 thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form
40 that title thereto passes upon delivery.

41 ~~(9)~~ (10) "Proceeds" means property or monetary instrument acquired or derived, directly
42 or indirectly, from, produced through, realized through, or caused by an act or omission and
43 includes property, real or personal, of any kind.

44 ~~(10)~~ (11) "Property" means anything of value, and includes any interest therein, including
45 any benefit, privilege, claim or right with respect to anything of value, whether real or personal,
46 and monetary instruments.

47 ~~(11)~~ (12) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or
48 other disposition. With respect to a financial institution, "transaction" includes a deposit,
49 withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase
50 or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety
51 deposit box, or any other payment, transfer, or delivery by, through or to a financial institution, by
52 whatever means effected.

§61-15-2. Laundering through financial transactions.

1 ~~(a) It is unlawful for any person to conduct or attempt to conduct a financial transaction~~
2 ~~involving the proceeds of criminal activity knowing that the property involved in the financial~~
3 ~~transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of,~~
4 ~~criminal activity:~~

5 ~~(1) With the intent to promote the carrying on of the criminal activity; or~~

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

7 ~~(i) To conceal or disguise the nature, location, source, ownership, or control of the~~
8 ~~proceeds of the criminal activity; or~~

9 ~~(ii) To avoid any transaction reporting requirement imposed by law.~~

10 (a) A person commits the offense of money laundering if the person knowingly:

11 (1) Receives or acquires the proceeds, or solicits or engages in financial transactions
12 involving the proceeds, of any activity that is unlawful under the laws of the United States or the
13 state of West Virginia;

14 (2) Gives, sells, solicits, transfers, trades, invests, conceals, transports, or otherwise
15 makes available anything of value knowingly intended to be used for the purpose of committing
16 or furthering the commission of any activity that is unlawful under the laws of the United States or
17 the state of West Virginia;

18 (3) Directs, solicits, plans, organizes, initiates, finances, manages, supervises, or
19 facilitates the transportation or transfer of proceeds that are knowingly derived from any activity
20 that is unlawful under the laws of the United States or the state of West Virginia; or

21 (4) Conducts a financial transaction involving proceeds that are knowingly derived from
22 any activity that is unlawful under the laws of the United States or the state of West Virginia when
23 the transaction is designed in whole or in part to conceal or disguise the nature, location, source,
24 ownership, or control of the proceeds or to avoid a transaction reporting requirement under law.

25 (b) Any person violating the provisions of subsection (a) of this section where the amount
26 involved in the transaction is less than \$1,000 is guilty of a misdemeanor and, upon conviction,
27 shall be confined in jail for not more than one year or fined not more than \$1,000, or both confined
28 and fined.

29 (c) Any person violating the provisions of subsection (a) of this section where the amount
30 involved in the transaction is not less than \$1,000 nor more than \$20,000 is guilty of a felony and,
31 upon conviction, shall be imprisoned in a state correctional facility for not less than one nor more
32 than five years, or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and
33 fined.

34 (d) Any person violating the provisions of subsection (a) of this section where the amount
35 involved in the transaction in excess of \$20,000 is guilty of a felony and, upon conviction, shall be
36 imprisoned in a state correctional facility for not less than two nor more than ~~ten~~ 10 years, or fined
37 not less than \$5,000 nor more than \$25,000, or both imprisoned and fined.

NOTE: The purpose of this bill generally relates to money laundering. The bill provides for a definition. Finally, the bill clarifies the offense of money laundering.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.