

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2286

Introduced by
Representatives Sinema: Ableser, Gallardo, Lopes, Lujan, Meza, Prezelski,
Tom

AN ACT

AMENDING SECTION 13-2301, ARIZONA REVISED STATUTES; AMENDING TITLE 13,
CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2320; RELATING TO
ORGANIZED CRIME AND FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-2301, Arizona Revised Statutes, is amended to
3 read:

4 13-2301. Definitions

5 A. For the purposes of sections 13-2302, 13-2303 and 13-2304:

6 1. "Collect an extension of credit" means to induce in any way any
7 person to make repayment of that extension.

8 2. "Creditor" means any person making an extension of credit or any
9 person claiming by, under or through any person making an extension of
10 credit.

11 3. "Debtor" means any person to whom an extension of credit is made or
12 any person who guarantees the repayment of an extension of credit, or in any
13 manner undertakes to indemnify the creditor against loss resulting from the
14 failure of any person to whom an extension is made to repay the extension.

15 4. "Extend credit" means to make or renew any loan or to enter into
16 any agreement, tacit or express, whereby the repayment or satisfaction of any
17 debt or claim, whether acknowledged or disputed, valid or invalid, and
18 however arising, may or shall be deferred.

19 5. "Extortionate extension of credit" means any extension of credit
20 with respect to which it is the understanding of the creditor and the debtor
21 at the time the extension is made that delay in making repayment or failure
22 to make repayment could result in the use of violence or other criminal means
23 to cause harm to the person or the reputation or property of any person.

24 6. "Extortionate means" means the use, or an express or implicit
25 threat of use, of violence or other criminal means to cause harm to the
26 person or the reputation or property of any person.

27 7. "Repayment of any extension of credit" means the repayment,
28 satisfaction or discharge in whole or in part of any debt or claim,
29 acknowledged or disputed, valid or invalid, resulting from or in connection
30 with that extension of credit.

31 B. For the purposes of section 13-2305, 13-2306 or 13-2307:

32 1. "Dealer in property" means a person who buys and sells property as
33 a business.

34 2. "Stolen property" means property of another as defined in section
35 13-1801 that has been the subject of any unlawful taking.

36 3. "Traffic" means to sell, transfer, distribute, dispense or
37 otherwise dispose of stolen property to another person, or to buy, receive,
38 possess or obtain control of stolen property, with the intent to sell,
39 transfer, distribute, dispense or otherwise dispose of the property to
40 another person.

41 C. For the purposes of this chapter:

42 1. "Animal activity" means a commercial enterprise that uses animals
43 for food, clothing or fiber production, agriculture or biotechnology.

44 2. "Animal facility" means a building or premises where a commercial
45 activity in which the use of animals is essential takes place, ~~which may~~

1 ~~include~~ INCLUDING a zoo, rodeo, circus, amusement park, hunting preserve and
2 horse and dog event.

3 3. "Animal or ecological terrorism" means any felony in violation of
4 section 13-2312, subsection B that involves at least three persons acting in
5 concert, that involves the intentional or knowing infliction of property
6 damage in an amount of more than ten thousand dollars to the property that is
7 used by a person for the operation of a lawfully conducted animal activity or
8 to a commercial enterprise that is engaged in a lawfully operated animal
9 facility or research facility and that involves either:

10 (a) The use of a deadly weapon or dangerous instrument.

11 (b) The intentional or knowing infliction of serious physical injury
12 on a person engaged in a lawfully conducted animal activity or participating
13 in a lawfully conducted animal facility or research facility.

14 4. "Biological agent" means any microorganism, virus, infectious
15 substance or biological product that may be engineered through biotechnology
16 or any naturally occurring or bioengineered component of any microorganism,
17 virus, infectious substance or biological product and that is capable of
18 causing any of the following:

19 (a) Death, disease or physical injury in a human, animal, plant or
20 other living organism.

21 (b) The deterioration or contamination of air, food, water, equipment,
22 supplies or material of any kind.

23 5. "Combination" means persons who collaborate in carrying on or
24 furthering the activities or purposes of a criminal syndicate even though
25 such persons may not know each other's identity, membership in the
26 combination changes from time to time or one or more members may stand in a
27 wholesaler-retailer or other arm's length relationship with others as to
28 activities or dealings between or among themselves in an illicit operation.

29 6. "Communication service provider" has the same meaning prescribed in
30 section 13-3001.

31 7. "Criminal syndicate" means any combination of persons or
32 enterprises engaging, or having the purpose of engaging, on a continuing
33 basis in conduct that violates any one or more provisions of any felony
34 statute of this state.

35 8. "Explosive agent" means an explosive as defined in section 13-3101
36 and flammable fuels or fire accelerants in amounts over fifty gallons but
37 excludes:

38 (a) Fireworks as defined in section 36-1601.

39 (b) Firearms.

40 (c) A propellant actuated device or propellant actuated industrial
41 tool.

42 (d) A device that is commercially manufactured primarily for the
43 purpose of illumination.

44 (e) A rocket having a propellant charge of less than four ounces.

1 9. "Material support or resources" includes money or other financial
2 securities, financial services, lodging, sustenance, training, safehouses,
3 false documentation or identification, communications equipment, facilities,
4 weapons, lethal substances, explosives, personnel, transportation, disguises
5 and other physical assets but does not include medical assistance, legal
6 assistance or religious materials.

7 10. "Public establishment" means a structure that is owned, leased or
8 operated by this state or a political subdivision of this state or a health
9 care institution as defined in section 36-401.

10 11. "Research facility" means a laboratory, institution, medical care
11 facility, government facility, public or private educational institution or
12 nature preserve at which a scientific test, experiment or investigation
13 involving the use of animals is lawfully carried out, conducted or attempted.

14 12. "Terrorism" means any felony, including any completed or
15 preparatory offense, that involves the use of a deadly weapon or a weapon of
16 mass destruction or the intentional or knowing infliction of serious physical
17 injury with the intent to either:

18 (a) Influence the policy or affect the conduct of this state or any of
19 the political subdivisions, agencies or instrumentalities of this state.

20 (b) Cause substantial damage to or substantial interruption of public
21 communications, communication service providers, public transportation,
22 common carriers, public utilities, public establishments or other public
23 services.

24 13. "Toxin" means the toxic material of plants, animals,
25 microorganisms, viruses, fungi or infectious substances or a recombinant
26 molecule, whatever its origin or method of reproduction, including:

27 (a) Any poisonous substance or biological product that may be
28 engineered through biotechnology and that is produced by a living organism.

29 (b) Any poisonous isomer or biological product, homolog or derivative
30 of such substance.

31 14. "Vector" means a living organism or molecule, including a
32 recombinant molecule or biological product that may be engineered through
33 biotechnology, that is capable of carrying a biological agent or toxin to a
34 host.

35 15. "Weapon of mass destruction" means:

36 (a) Any device or object that is designed or that the person intends
37 to use to cause multiple deaths or serious physical injuries through the use
38 of an explosive agent or the release, dissemination or impact of a toxin,
39 biological agent, poisonous chemical, or its precursor, or any vector.

40 (b) Except as authorized and used in accordance with a license,
41 registration or exemption by the radiation regulatory agency pursuant to
42 section 30-672, any device or object that is designed or that the person
43 intends to use to release radiation or radioactivity at a level that is
44 dangerous to human life.

1 D. For the purposes of sections 13-2312, 13-2313, 13-2314 and 13-2315,
2 unless the context otherwise requires:

3 1. "Control", in relation to an enterprise, means the possession of
4 sufficient means to permit substantial direction over the affairs of an
5 enterprise and, in relation to property, means to acquire or possess.

6 2. "Enterprise" means any corporation, partnership, association, labor
7 union or other legal entity or any group of persons associated in fact
8 although not a legal entity.

9 3. "Financial institution" means any business under the jurisdiction
10 of the department of financial institutions or a banking or securities
11 regulatory agency of the United States, a business coming within the
12 definition of a bank, financial agency or financial institution as prescribed
13 by 31 United States Code section 5312 or 31 Code of Federal Regulations
14 section 103.11 or a business under the jurisdiction of the securities
15 division of the corporation commission, the state real estate department or
16 the department of insurance.

17 4. "Racketeering" means any act, including any preparatory or
18 completed offense, that is chargeable or indictable under the laws of the
19 state or country in which the act occurred and, if the act occurred in a
20 state or country other than this state, that would be chargeable or
21 indictable under the laws of this state if the act had occurred in this
22 state, and that would be punishable by imprisonment for more than one year
23 under the laws of this state and, if the act occurred in a state or country
24 other than this state, under the laws of the state or country in which the
25 act occurred, regardless of whether the act is charged or indicted, and the
26 act involves either:

27 (a) Terrorism, animal terrorism or ecological terrorism that results
28 or is intended to result in a risk of serious physical injury or death.

29 (b) Any of the following acts if committed for financial gain:

30 (i) Homicide.

31 (ii) Robbery.

32 (iii) Kidnapping.

33 (iv) Forgery.

34 (v) Theft.

35 (vi) Bribery.

36 (vii) Gambling.

37 (viii) Usury.

38 (ix) Extortion.

39 (x) Extortionate extensions of credit.

40 (xi) Prohibited drugs, marijuana or other prohibited chemicals or
41 substances.

42 (xii) Trafficking in explosives, weapons or stolen property.

43 (xiii) Participating in a criminal syndicate.

44 (xiv) Obstructing or hindering criminal investigations or
45 prosecutions.

- 1 (xv) Asserting false claims including, but not limited to, false
2 claims asserted through fraud or arson.
- 3 (xvi) Intentional or reckless false statements or publications
4 concerning land for sale or lease or sale of subdivided lands or sale and
5 mortgaging of unsubdivided lands.
- 6 (xvii) Resale of realty with intent to defraud.
- 7 (xviii) Intentional or reckless fraud in the purchase or sale of
8 securities.
- 9 (xix) Intentional or reckless sale of unregistered securities or real
10 property securities.
- 11 (xx) A scheme or artifice to defraud.
- 12 (xxi) Obscenity.
- 13 (xxii) Sexual exploitation of a minor.
- 14 (xxiii) Prostitution.
- 15 (xxiv) Restraint of trade or commerce in violation of section 34-252.
- 16 (xxv) Terrorism.
- 17 (xxvi) Money laundering.
- 18 (xxvii) Obscene or indecent telephone communications to minors for
19 commercial purposes.
- 20 (xxviii) Counterfeiting marks as proscribed in section 44-1453.
- 21 (xxix) Animal terrorism or ecological terrorism.
- 22 (xxx) Smuggling of human beings.
- 23 (xxxi) **DOMESTIC TERRORISM.**
- 24 5. "Records" means any book, paper, writing, computer program, data,
25 image or information that is collected, recorded, preserved or maintained in
26 any form of storage medium.
- 27 6. "Remedy racketeering" means to enter a civil judgment pursuant to
28 this chapter or chapter 39 of this title against property or a person who is
29 subject to liability, including liability for injury to the state that is
30 caused by racketeering or by actions in concert with racketeering.
- 31 E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:
- 32 1. "Access" means to instruct, communicate with, store data in,
33 retrieve data from or otherwise make use of any resources of a computer,
34 computer system or network.
- 35 2. "Access device" means any card, token, code, account number,
36 electronic serial number, mobile or personal identification number, password,
37 encryption key, biometric identifier or other means of account access,
38 including a canceled or revoked access device, that can be used alone or in
39 conjunction with another access device to obtain money, goods, services,
40 computer or network access or any other thing of value or that can be used to
41 initiate a transfer of any thing of value.
- 42 3. "Computer" means an electronic device that performs logic,
43 arithmetic or memory functions by the manipulations of electronic or magnetic
44 impulses and includes all input, output, processing, storage, software or

1 communication facilities that are connected or related to such a device in a
2 system or network.

3 4. "Computer contaminant" means any set of computer instructions that
4 is designed to modify, damage, destroy, record or transmit information within
5 a computer, computer system or network without the intent or permission of
6 the owner of the information, computer system or network. Computer
7 contaminant includes a group of computer instructions, such as viruses or
8 worms, that is self-replicating or self-propagating and that is designed to
9 contaminate other computer programs or computer data, to consume computer
10 resources, to modify, destroy, record or transmit data or in some other
11 fashion to usurp the normal operation of the computer, computer system or
12 network.

13 5. "Computer program" means a series of instructions or statements, in
14 a form acceptable to a computer, that permits the functioning of a computer
15 system in a manner designed to provide appropriate products from the computer
16 system.

17 6. "Computer software" means a set of computer programs, procedures
18 and associated documentation concerned with the operation of a computer
19 system.

20 7. "Computer system" means a set of related, connected or unconnected
21 computer equipment, devices and software, including storage, media and
22 peripheral devices.

23 8. "Critical infrastructure resource" means any computer or
24 communications system or network that is involved in providing services
25 necessary to ensure or protect the public health, safety or welfare,
26 including services that are provided by any of the following:

- 27 (a) Medical personnel and institutions.
- 28 (b) Emergency services agencies.
- 29 (c) Public and private utilities, including water, power,
30 communications and transportation services.
- 31 (d) Fire departments, districts or volunteer organizations.
- 32 (e) Law enforcement agencies.
- 33 (f) Financial institutions.
- 34 (g) Public educational institutions.
- 35 (h) Government agencies.

36 9. "False or fraudulent pretense" means the unauthorized use of an
37 access device or the use of an access device to exceed authorized access.

38 10. "Financial instrument" means any check, draft, money order,
39 certificate of deposit, letter of credit, bill of exchange, credit card or
40 marketable security or any other written instrument as defined in section
41 13-2001 that is transferable for value.

42 11. "Network" includes a complex of interconnected computer or
43 communication systems of any type.

44 12. "Property" means financial instruments, information, including
45 electronically produced data, computer software and programs in either

1 machine or human readable form, and anything of value, tangible or
2 intangible.

3 13. "Proprietary or confidential computer security information" means
4 information about a particular computer, computer system or network that
5 relates to its access devices, security practices, methods and systems,
6 architecture, communications facilities, encryption methods and system
7 vulnerabilities and that is not made available to the public by its owner or
8 operator.

9 14. "Services" includes computer time, data processing, storage
10 functions and all types of communication functions.

11 Sec. 2. Title 13, chapter 23, Arizona Revised Statutes, is amended by
12 adding section 13-2320, to read:

13 13-2320. Domestic terrorism; classification

14 A. AN INDIVIDUAL OR GROUP OF INDIVIDUALS COMMITS DOMESTIC TERRORISM IF
15 THE INDIVIDUAL OR GROUP OF INDIVIDUALS ARE NOT AFFILIATED WITH A LOCAL, STATE
16 OR FEDERAL LAW ENFORCEMENT ENTITY AND ASSOCIATE WITH ANOTHER INDIVIDUAL OR
17 GROUP OF INDIVIDUALS AS AN ORGANIZATION, GROUP, CORPORATION OR COMPANY FOR
18 THE PURPOSE OF PATROLLING TO DETECT ALLEGED ILLEGAL ACTIVITY OR TO
19 INDIVIDUALLY PATROL FOR THE PURPOSE OF DETECTING ALLEGED ILLEGAL ACTIVITY AND
20 IF THE INDIVIDUAL OR GROUP OF INDIVIDUALS IS ARMED WITH A FIREARM OR OTHER
21 WEAPON.

22 B. ANY CITY, TOWN OR COUNTY THAT SUFFERS INJURY ARISING OUT OF A
23 VIOLATION OF THIS SECTION MAY MAINTAIN AN ACTION IN SUPERIOR COURT FOR THE
24 RECOVERY OF DAMAGES OR FOR AN INJUNCTION, OR BOTH. THE COURT MAY AWARD THE
25 SUCCESSFUL PARTY REASONABLE ATTORNEY FEES.

26 C. IF THE COURT SENTENCES THE DEFENDANT TO A TERM OF PROBATION, THE
27 COURT SHALL ORDER THAT AS AN INITIAL CONDITION OF PROBATION THE DEFENDANT BE
28 IMPRISONED IN THE COUNTY JAIL FOR A PERIOD OF NOT LESS THAN SIX MONTHS. THIS
29 JAIL TERM OF INCARCERATION SHALL NOT BE DEFERRED, DELETED OR OTHERWISE
30 SUSPENDED AND SHALL COMMENCE ON THE DATE OF SENTENCING. THIS SUBSECTION DOES
31 NOT APPLY TO PERSONS WHO ARE SENTENCED TO SERVE A PERIOD OF INCARCERATION IN
32 THE STATE DEPARTMENT OF CORRECTIONS.

33 D. A VIOLATION OF THIS SECTION IS A CLASS 5 FELONY.