

REFERENCE TITLE: money transmitters; money laundering; definitions

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1408

Introduced by
Senators Murphy: Yarbrough

AN ACT

AMENDING SECTIONS 6-1201, 6-1241, 13-2301 AND 13-2317, ARIZONA REVISED
STATUTES; RELATING TO MONEY TRANSMITTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 6-1201, Arizona Revised Statutes, is amended to
3 read:

4 6-1201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Authorized delegate" means a person designated by the licensee
7 under section 6-1208.

8 2. "Check cashing" means exchanging for compensation a check, debit
9 card payment order, draft, money order, traveler's check or payment
10 instrument of a licensee for money delivered to the presenter at the time and
11 place of the presentation.

12 3. "Control" means ownership of fifteen per cent or more of a licensee
13 or controlling person, or the power to vote fifteen per cent or more of the
14 outstanding voting securities of a licensee or controlling person. For the
15 purpose of determining the percentage controlled by any one person, that
16 person's interest shall be aggregated with the interest of any other person
17 controlled by that person, ~~or~~ BY an officer, partner or authorized delegate of
18 that person, or by a spouse, parent or child of that person.

19 4. "Controlling person" means a person directly or indirectly in
20 control of a licensee.

21 5. "Engage in the business" means conducting activities regulated
22 under this chapter more than ten times in any calendar year for compensation
23 or in the expectation of compensation. For purposes of this paragraph,
24 "compensation" means any fee, commission or other benefit.

25 6. "Foreign money exchange" means exchanging for compensation money of
26 the United States government or a foreign government to or from money of
27 another government at a conspicuously posted exchange rate at the time and
28 place of the presentation of the money to be exchanged.

29 7. "Licensee" means a person licensed under this chapter.

30 8. "Location" means a place of business at which activity regulated by
31 this chapter occurs.

32 9. "Money" means a medium of exchange that is authorized or adopted by
33 a domestic or foreign government as a part of its currency and that is
34 customarily used and accepted as a medium of exchange in the country of
35 issuance.

36 10. "Money accumulation business" means obtaining money from a money
37 transmitter as part of any activity that is carried on for financial gain if
38 the money that is obtained by all persons acting in concert in the activity,
39 in amounts of one thousand dollars or more, totals over fifty thousand
40 dollars in the preceding twelve-month period. Money accumulation business
41 does not include a person who is subject to the reporting requirements under
42 31 United States Code section 5313. The exception that is established by 31
43 United States Code section 5331, subsection (c), paragraph 1 does not apply
44 to persons who are engaged in the money accumulation business.

1 11. "Money transmitter" means a person who is located or doing business
2 in this state, including a check casher and a foreign money exchanger, and
3 who does any of the following:

4 (a) Sells or issues payment instruments.

5 (b) Engages in the business of receiving money for the transmission of
6 or transmitting money.

7 (c) Engages in the business of exchanging payment instruments or money
8 into any form of money or payment instrument.

9 (d) Engages in the business of receiving money for obligors for the
10 purpose of paying that obligor's bills, invoices or accounts.

11 (e) Meets the definition of a bank, financial agency or financial
12 institution as prescribed by 31 United States Code section 5312 or 31 Code of
13 Federal Regulations section ~~103.11~~ 1010.100.

14 12. "Outstanding payment instruments" means unpaid payment instruments
15 whose sale has been reported to a licensee.

16 13. "Payment instrument" means a check, draft, money order, traveler's
17 check or other instrument or order for the transmission or payment of money
18 sold to one or more persons whether or not that instrument or order is
19 negotiable. Payment instrument does not include an instrument that is
20 redeemable by the issuer in merchandise or service, a credit card voucher or
21 a letter of credit.

22 14. "Permissible investment" means any of the following:

23 (a) Money on hand or on deposit in the name of the licensee.

24 (b) Certificates of deposit or other debt instruments of a bank,
25 savings and loan association or credit union.

26 (c) Bills of exchange or time drafts that are drawn on and accepted by
27 a bank, otherwise known as banker's acceptances, and that are eligible for
28 purchase by member banks of the federal reserve system.

29 (d) Commercial paper bearing a rating of one of the three highest
30 grades as defined by a nationally recognized organization that rates these
31 securities.

32 (e) Securities, obligations or other instruments whose payment is
33 guaranteed by the general taxing authority of the issuer, of the United
34 States or of any state or by any other governmental entity or any political
35 subdivision or instrumentality of a governmental entity and that bear a
36 rating of one of the three highest grades by a nationally recognized
37 investment service organization that has been engaged regularly in rating
38 state and municipal issues for at least five years.

39 (f) Stocks, bonds or other obligations of a corporation organized in
40 any state of the United States, the District of Columbia, the Commonwealth of
41 Puerto Rico or the several territories organized by Congress that bear a
42 rating of one of the three highest grades by a nationally recognized
43 investment service organization that has been engaged regularly in rating
44 corporate securities for at least five years.

1 (g) Any receivable that is due to a licensee from its authorized
2 delegate pursuant to a contract between the licensee and authorized delegate
3 as prescribed in section 6-1208 if the amount of investment in those
4 receivables does not exceed ninety per cent of the total amount of those
5 receivables after subtracting the amount of those receivables that ~~are~~ IS
6 past due or doubtful of collection.

7 15. "Responsible individual" means a person who is employed by a
8 licensee and who has principal active management authority over the business
9 of the licensee in this state that is regulated under this chapter.

10 16. "Trade or business" has the same meaning prescribed in section 162
11 of the internal revenue code of 1954 and includes the money accumulation
12 business.

13 17. "Transmitting money" means the transmission of money by any means
14 including transmissions within this country or to or from locations abroad by
15 payment instrument, wire, facsimile, internet or any other electronic
16 transfer, courier or otherwise.

17 18. "Traveler's check" means an instrument identified as a traveler's
18 check on its face or commonly recognized as a traveler's check and issued in
19 a money multiple of United States or foreign currency with a provision for a
20 specimen signature of the purchaser to be completed at the time of purchase
21 and a countersignature of the purchaser to be completed at the time of
22 negotiation.

23 Sec. 2. Section 6-1241, Arizona Revised Statutes, is amended to read:
24 6-1241. Reports to the attorney general; investigation;
25 violation; classification

26 A. Within thirty days after any transaction or series or pattern of
27 transactions that is conducted or attempted by, at or through the business
28 and that involves or aggregates five thousand dollars or more in funds or
29 other assets, each licensee and authorized delegate of a licensee and each
30 money transmitter shall file with the attorney general's office in a form
31 prescribed by the attorney general a report of the transaction or series or
32 pattern of transactions if the licensee, authorized delegate or money
33 transmitter knows, suspects or has reason to suspect that the activity
34 either:

35 1. Involves funds that are derived from illegal activities, is
36 intended or conducted in order to hide or disguise funds or other assets that
37 are derived from illegal activities, including, without limitation, the
38 ownership, nature, source, location or control of the funds or other assets,
39 as part of a plan to violate or evade any law or regulation or to avoid any
40 transaction reporting requirement under this chapter or may constitute a
41 possible money laundering violation under section 13-2317 or another
42 racketeering violation as defined in section 13-2301.

43 2. Has no business or apparent lawful purpose or is not the sort of
44 activity in which the particular customer would normally be expected to
45 engage and the licensee, authorized delegate or money transmitter knows of no

1 reasonable explanation for the activity after examining the available facts,
2 including the background and possible purpose of the activity.

3 B. A licensee, authorized delegate or money transmitter that is
4 required to file a report regarding business conducted in this state pursuant
5 to the currency and foreign transactions reporting act (31 United States Code
6 sections 5311 through 5326, including any special measures that are
7 established under 31 United States Code section 5318A, and 31 Code of Federal
8 Regulations ~~part-103~~ CHAPTER X or 12 Code of Federal Regulations section
9 21.11) shall file a duplicate of that report with the attorney general.

10 C. All persons who are engaged in a trade or business and who receive
11 more than ten thousand dollars in money in one transaction or who receive
12 more than ten thousand dollars in money through two or more related
13 transactions shall complete and file with the attorney general the
14 information required by 31 United States Code section 5331 and the federal
15 regulations relating to this section concerning reports relating to cash
16 received in trade or business.

17 D. A licensee, authorized delegate or money transmitter that is
18 regulated under the currency and foreign transactions reporting act (31
19 United States Code section 5325 and 31 Code of Federal Regulations ~~part-103~~
20 CHAPTER X) and that is required to make available prescribed records to the
21 secretary of the United States department of treasury on request at any time
22 shall follow the same prescribed procedures and create and maintain the same
23 prescribed records relating to each transaction.

24 E. In addition to the requirements under subsection D of this section
25 and in connection with each transaction that involves transmitting money in
26 an amount of one thousand dollars or more, whether sending or receiving, a
27 licensee or, for transactions conducted through an authorized delegate, an
28 authorized delegate shall retain a record of each of the following:

29 1. The name and social security or taxpayer identification number, if
30 any, of the individual presenting the transaction and the person and the
31 entity on whose behalf the transaction is to be effected.

32 2. The type and number of the customer's verified photographic
33 identification, as described in 31 Code of Federal Regulations section ~~103-28~~
34 1010.312.

35 3. The customer's current occupation.

36 4. The customer's current residential address.

37 5. The customer's signature.

38 F. Subsection E of this section does not apply to transactions by
39 which the licensee's customer is making a bill payment either to a commercial
40 creditor pursuant to a contract between the licensee and the commercial
41 creditor or to a utility company.

42 G. Each licensee shall create records that reflect the provision of
43 updated operating policies and procedures pursuant to section 6-1208,
44 subsection B and of instruction that promotes compliance with this chapter,
45 title 13, chapter 23 and 31 United States Code section 5318, including the

1 identification of the provider and the material and instruction that were
2 provided.

3 H. On request of the attorney general, a county attorney or the
4 superintendent, a licensee, authorized delegate or money transmitter shall
5 make any records that are created pursuant to this section available to the
6 attorney general, a county attorney or the superintendent at any time.

7 I. A licensee or, for transactions conducted through an authorized
8 delegate, an authorized delegate shall maintain any customer identification
9 records that are created pursuant to subsection E of this section for three
10 years. After three years, the licensee or, for transactions conducted
11 through an authorized delegate, the authorized delegate shall deliver the
12 customer identification records to the attorney general. The attorney
13 general shall make the records available on request to the superintendent or
14 a county attorney but shall not otherwise distribute the customer
15 identification records without a court order. The customer identification
16 records shall not be used for any purpose other than for criminal and civil
17 prosecution and the prevention and detection of fraud and other criminal
18 conduct.

19 J. If the superintendent or the attorney general finds that reasonable
20 grounds exist for requiring additional record keeping and reporting in order
21 to carry out the purposes of this chapter and to prevent the evasion of this
22 chapter, the superintendent or the attorney general may:

23 1. Issue an order requiring any group of licensees, authorized
24 delegates or money transmitters in a geographic area to do any of the
25 following:

26 (a) Obtain information regarding transactions that involve total
27 dollar amounts or denominations of five hundred dollars or more, including
28 the names of any persons participating in those transactions and any persons
29 or entities on whose behalf they are to be effected.

30 (b) Maintain records of that information for at least five years and
31 make those records available to the attorney general and the superintendent.

32 (c) File a report with the attorney general and the superintendent
33 regarding any transaction in the manner prescribed in the order.

34 2. Issue an order exempting any group of licensees or authorized
35 delegates from the requirements of subsection E of this section based on the
36 geographic area, the volume of business conducted, the record of compliance
37 with the reporting requirements of this chapter and other objective criteria.

38 K. An order issued pursuant to subsection J of this section is not
39 effective for more than one hundred eighty days unless renewed after finding
40 that reasonable grounds exist for continuation of the order.

41 L. The timely filing of a report required by this section with the
42 appropriate federal agency shall be deemed compliance with the reporting
43 requirements of this section, unless the attorney general has notified the
44 superintendent that reports of that type are not regularly and
45 comprehensively transmitted by that federal agency to the attorney general.

1 M. This chapter does not preclude a licensee, authorized delegate,
2 money transmitter, financial institution or person engaged in a trade or
3 business from instituting contact with and disclosing customer financial
4 records to appropriate state or local law enforcement agencies if the
5 licensee, authorized delegate, money transmitter, financial institution or
6 person has information that may be relevant to a possible violation of any
7 criminal statute or to the evasion or attempted evasion of any reporting
8 requirement of this chapter.

9 N. A licensee, authorized delegate, money transmitter, financial
10 institution, person engaged in a trade or business or director, officer,
11 employee, agent or authorized delegate of any of them that keeps or files a
12 record as prescribed by this section, that communicates or discloses
13 information or records under subsection M of this section or that requires
14 another to make any such disclosure is not liable to any person under any law
15 or rule of this state or any political subdivision of this state or under any
16 contract or other legally enforceable agreement, including any arbitration
17 agreement, for the disclosure or for the failure to provide notice of the
18 disclosure to the person who is the subject of the disclosure or to any other
19 person who is identified in the disclosure. This subsection shall be
20 construed to be consistent with 31 United States Code section 5318(g)(3).

21 O. The attorney general may report any possible violations indicated
22 by analysis of the reports required by this chapter to any appropriate law
23 enforcement agency for use in the proper discharge of its official
24 duties. If an officer or employee of this state or any political subdivision
25 of this state receives a report pursuant to 31 United States Code section
26 5318(g), the report shall be disclosed only as provided in 31 United States
27 Code section 5318(g). A person who releases information received pursuant to
28 this subsection except in the proper discharge of official duties is guilty
29 of a class 2 misdemeanor.

30 P. The requirements of this section shall be construed to be
31 consistent with the requirements of the currency and foreign transactions
32 reporting act (31 United States Code sections 5311 through 5326 and federal
33 regulations prescribed under those sections) unless the context otherwise
34 requires.

35 Q. A person who refuses to permit any lawful investigation by the
36 superintendent, a county attorney or the attorney general or who refuses to
37 make records available to the superintendent, a county attorney or the
38 attorney general pursuant to subsection H of this section is guilty of a
39 class 6 felony.

40 Sec. 3. Section 13-2301, Arizona Revised Statutes, is amended to read:

41 13-2301. Definitions

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

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

1 2. "Creditor" means any person making an extension of credit or any
2 person claiming by, under or through any person making an extension of
3 credit.

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

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

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

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

20 7. "Repayment of any extension of credit" means the repayment,
21 satisfaction or discharge in whole or in part of any debt or claim,
22 acknowledged or disputed, valid or invalid, resulting from or in connection
23 with that extension of credit.

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

25 1. "Dealer in property" means a person who buys and sells property as
26 a business.

27 2. "Stolen property" means property of another as defined in section
28 13-1801 that has been the subject of any unlawful taking.

29 3. "Traffic" means to sell, transfer, distribute, dispense or
30 otherwise dispose of stolen property to another person, or to buy, receive,
31 possess or obtain control of stolen property, with the intent to sell,
32 transfer, distribute, dispense or otherwise dispose of the property to
33 another person.

34 C. For the purposes of this chapter:

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

37 2. "Animal facility" means a building or premises where a commercial
38 activity in which the use of animals is essential takes place, ~~which may~~
39 ~~include~~ INCLUDING a zoo, rodeo, circus, amusement park, hunting preserve and
40 horse and dog event.

41 3. "Animal or ecological terrorism" means any felony in violation of
42 section 13-2312, subsection B that involves at least three persons acting in
43 concert, that involves the intentional or knowing infliction of property
44 damage in an amount of more than ten thousand dollars to the property that is
45 used by a person for the operation of a lawfully conducted animal activity or

1 to a commercial enterprise that is engaged in a lawfully operated animal
2 facility or research facility and that involves either:

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

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

7 4. "Biological agent" means any microorganism, virus, infectious
8 substance or biological product that may be engineered through biotechnology
9 or any naturally occurring or bioengineered component of any microorganism,
10 virus, infectious substance or biological product and that is capable of
11 causing any of the following:

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

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

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

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

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

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

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

32 (b) Firearms.

33 (c) A propellant actuated device or propellant actuated industrial
34 tool.

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

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

38 9. "Material support or resources" includes money or other financial
39 securities, financial services, lodging, sustenance, training, safehouses,
40 false documentation or identification, communications equipment, facilities,
41 weapons, lethal substances, explosives, personnel, transportation, disguises
42 and other physical assets but does not include medical assistance, legal
43 assistance or religious materials.

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

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

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

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

14 (b) Cause substantial damage to or substantial interruption of public
15 communications, communication service providers, public transportation,
16 common carriers, public utilities, public establishments or other public
17 services.

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

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

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

25 14. "Vector" means a living organism or molecule, including a
26 recombinant molecule or biological product that may be engineered through
27 biotechnology, that is capable of carrying a biological agent or toxin to a
28 host.

29 15. "Weapon of mass destruction" means:

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

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

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

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

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

4 3. "Financial institution" means any business under the jurisdiction
5 of the department of financial institutions or a banking or securities
6 regulatory agency of the United States, a business coming within the
7 definition of a bank, financial agency or financial institution as prescribed
8 by 31 United States Code section 5312 or 31 Code of Federal Regulations
9 section ~~103.11~~ 1010.100 or a business under the jurisdiction of the
10 securities division of the corporation commission, the state real estate
11 department or the department of insurance.

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

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

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

25 (i) Homicide.

26 (ii) Robbery.

27 (iii) Kidnapping.

28 (iv) Forgery.

29 (v) Theft.

30 (vi) Bribery.

31 (vii) Gambling.

32 (viii) Usury.

33 (ix) Extortion.

34 (x) Extortionate extensions of credit.

35 (xi) Prohibited drugs, marijuana or other prohibited chemicals or
36 substances.

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

38 (xiii) Participating in a criminal syndicate.

39 (xiv) Obstructing or hindering criminal investigations or
40 prosecutions.

41 (xv) Asserting false claims including, but not limited to, false
42 claims asserted through fraud or arson.

43 (xvi) Intentional or reckless false statements or publications
44 concerning land for sale or lease or sale of subdivided lands or sale and
45 mortgaging of unsubdivided lands.

- 1 (xvii) Resale of realty with intent to defraud.
2 (xviii) Intentional or reckless fraud in the purchase or sale of
3 securities.
4 (xix) Intentional or reckless sale of unregistered securities or real
5 property securities.
6 (xx) A scheme or artifice to defraud.
7 (xxi) Obscenity.
8 (xxii) Sexual exploitation of a minor.
9 (xxiii) Prostitution.
10 (xxiv) Restraint of trade or commerce in violation of section 34-252.
11 (xxv) Terrorism.
12 (xxvi) Money laundering.
13 (xxvii) Obscene or indecent telephone communications to minors for
14 commercial purposes.
15 (xxviii) Counterfeiting marks as proscribed in section 44-1453.
16 (xxix) Animal terrorism or ecological terrorism.
17 (xxx) Smuggling of human beings.
18 5. "Records" means any book, paper, writing, computer program, data,
19 image or information that is collected, recorded, preserved or maintained in
20 any form of storage medium.
21 6. "Remedy racketeering" means to enter a civil judgment pursuant to
22 this chapter or chapter 39 of this title against property or a person who is
23 subject to liability, including liability for injury to the state that is
24 caused by racketeering or by actions in concert with racketeering.
25 E. For the purposes of sections 13-2316, 13-2316.01 and 13-2316.02:
26 1. "Access" means to instruct, communicate with, store data in,
27 retrieve data from or otherwise make use of any resources of a computer,
28 computer system or network.
29 2. "Access device" means any card, token, code, account number,
30 electronic serial number, mobile or personal identification number, password,
31 encryption key, biometric identifier or other means of account access,
32 including a canceled or revoked access device, that can be used alone or in
33 conjunction with another access device to obtain money, goods, services,
34 computer or network access or any other thing of value or that can be used to
35 initiate a transfer of any thing of value.
36 3. "Computer" means an electronic device that performs logic,
37 arithmetic or memory functions by the manipulations of electronic or magnetic
38 impulses and includes all input, output, processing, storage, software or
39 communication facilities that are connected or related to such a device in a
40 system or network.
41 4. "Computer contaminant" means any set of computer instructions that
42 is designed to modify, damage, destroy, record or transmit information within
43 a computer, computer system or network without the intent or permission of
44 the owner of the information, computer system or network. Computer
45 contaminant includes a group of computer instructions, such as viruses or

1 worms, that is self-replicating or self-propagating and that is designed to
2 contaminate other computer programs or computer data, to consume computer
3 resources, to modify, destroy, record or transmit data or in some other
4 fashion to usurp the normal operation of the computer, computer system or
5 network.

6 5. "Computer program" means a series of instructions or statements, in
7 a form acceptable to a computer, that permits the functioning of a computer
8 system in a manner designed to provide appropriate products from the computer
9 system.

10 6. "Computer software" means a set of computer programs, procedures
11 and associated documentation concerned with the operation of a computer
12 system.

13 7. "Computer system" means a set of related, connected or unconnected
14 computer equipment, devices and software, including storage, media and
15 peripheral devices.

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

- 20 (a) Medical personnel and institutions.
- 21 (b) Emergency services agencies.
- 22 (c) Public and private utilities, including water, power,
23 communications and transportation services.
- 24 (d) Fire departments, districts or volunteer organizations.
- 25 (e) Law enforcement agencies.
- 26 (f) Financial institutions.
- 27 (g) Public educational institutions.
- 28 (h) Government agencies.

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

31 10. "Financial instrument" means any check, draft, money order,
32 certificate of deposit, letter of credit, bill of exchange, credit card or
33 marketable security or any other written instrument as defined in section
34 13-2001 that is transferable for value.

35 11. "Network" includes a complex of interconnected computer or
36 communication systems of any type.

37 12. "Property" means financial instruments, information, including
38 electronically produced data, computer software and programs in either
39 machine or human readable form, and anything of value, tangible or
40 intangible.

41 13. "Proprietary or confidential computer security information" means
42 information about a particular computer, computer system or network that
43 relates to its access devices, security practices, methods and systems,
44 architecture, communications facilities, encryption methods and system

1 vulnerabilities and that is not made available to the public by its owner or
2 operator.

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

5 Sec. 4. Section 13-2317, Arizona Revised Statutes, is amended to read:
6 13-2317. Money laundering; classification; definitions

7 A. A person is guilty of money laundering in the first degree if the
8 person does any of the following:

9 1. Knowingly initiates, organizes, plans, finances, directs, manages,
10 supervises or is in the business of money laundering in violation of
11 subsection B of this section.

12 2. Violates subsection B of this section in the course of or for the
13 purpose of facilitating terrorism or murder.

14 B. A person is guilty of money laundering in the second degree if the
15 person does any of the following:

16 1. Acquires or maintains an interest in, transacts, transfers,
17 transports, receives or conceals the existence or nature of racketeering
18 proceeds knowing or having reason to know that they are the proceeds of an
19 offense.

20 2. Makes property available to another by transaction, transportation
21 or otherwise knowing that it is intended to be used to facilitate
22 racketeering.

23 3. Conducts a transaction knowing or having reason to know that the
24 property involved is the proceeds of an offense and with the intent to
25 conceal or disguise the nature, location, source, ownership or control of the
26 property or the intent to facilitate racketeering.

27 4. Intentionally or knowingly makes a false statement,
28 misrepresentation or false certification or makes a false entry or omits a
29 material entry in any application, financial statement, account record,
30 customer receipt, report or other document that is filed or required to be
31 maintained or filed under title 6, chapter 12.

32 5. Intentionally or knowingly evades or attempts to evade any
33 reporting requirement under section 6-1241, whether by structuring
34 transactions as described in 31 Code of Federal Regulations ~~part 103~~ CHAPTER
35 X, by causing any financial institution, money transmitter, trade or business
36 to fail to file the report, by failing to file a required report or record or
37 by any other means.

38 6. Intentionally or knowingly provides any false information or fails
39 to disclose information that causes any licensee, authorized delegate, money
40 transmitter, trade or business to either:

41 (a) Fail to file any report or record that is required under section
42 6-1241.

43 (b) File such a report or record that contains a material omission or
44 misstatement of fact.

1 7. Intentionally or knowingly falsifies, conceals, covers up or
2 misrepresents or attempts to falsify, conceal, cover up or misrepresent the
3 identity of any person in connection with any transaction with a financial
4 institution or money transmitter.

5 8. In connection with a transaction with a financial institution or
6 money transmitter, intentionally or knowingly makes, uses, offers or presents
7 or attempts to make, use, offer or present, whether accepted or not, a forged
8 instrument, a falsely altered or completed written instrument or a written
9 instrument that contains any materially false personal identifying
10 information.

11 9. If the person is a money transmitter, a person engaged in a trade
12 or business or any employee of a money transmitter or a person engaged in a
13 trade or business, intentionally or knowingly accepts false personal
14 identifying information from any person or otherwise knowingly incorporates
15 false personal identifying information into any report or record that is
16 required by section 6-1241.

17 10. Intentionally conducts, controls, manages, supervises, directs or
18 owns all or part of a money transmitting business for which a license is
19 required by title 6, chapter 12 unless the business is licensed pursuant to
20 title 6, chapter 12 and complies with the money transmitting business
21 registration requirements under 31 United States Code section 5330.

22 C. A person is guilty of money laundering in the third degree if the
23 person intentionally or knowingly does any of the following:

24 1. In the course of any transaction transmitting money, confers or
25 agrees to confer anything of value on a money transmitter or any employee of
26 a money transmitter that is intended to influence or reward any person for
27 failing to comply with any requirement under title 6, chapter 12.

28 2. Engages in the business of receiving money for transmission or
29 transmitting money, as an employee or otherwise, and receives anything of
30 value upon an agreement or understanding that it is intended to influence or
31 benefit the person for failing to comply with any requirement under title 6,
32 chapter 12.

33 D. In addition to any other criminal or civil remedy, if a person
34 violates subsection A or B of this section as part of a pattern of violations
35 that involve a total of one hundred thousand dollars or more in any twelve
36 month period, the person is subject to forfeiture of substitute assets in an
37 amount that is three times the amount that was involved in the pattern,
38 including conduct that occurred before and after the twelve month period.

39 E. Money laundering in the third degree is a class 6 felony. Money
40 laundering in the second degree is a class 3 felony. Money laundering in the
41 first degree is a class 2 felony.

42 F. For the purposes of this section:

43 1. The following terms have the same meaning prescribed in section
44 6-1201:

45 (a) "Authorized delegate".

1 (b) "Licensee".

2 (c) "Money accumulation business".

3 (d) "Money transmitter".

4 (e) "Trade or business".

5 (f) "Transmitting money".

6 2. The following terms have the same meaning prescribed in section
7 13-2001:

8 (a) "Falsely alters a written instrument".

9 (b) "Falsely completes a written instrument".

10 (c) "Falsely makes a written instrument".

11 (d) "Forged instrument".

12 (e) "Personal identifying information".

13 (f) "Written instrument".

14 3. The following terms have the same meaning prescribed in section
15 13-2301:

16 (a) "Financial institution".

17 (b) "Financial instrument".

18 (c) "Racketeering", except that for the purposes of civil remedies
19 sought by the attorney general, racketeering includes any act, regardless of
20 whether the act would be chargeable or indictable under the laws of this
21 state or whether the act is charged or indicted, that is committed for
22 financial gain, punishable by imprisonment for more than one year under the
23 laws of the United States and described in section 274(a)(1)(A)(i), (ii) or
24 (iii) or (a)(2) of the immigration and nationality act (8 United States Code
25 section 1324(a)(1)(A)(i), (ii) or (iii) or (a)(2)) if persons acting in
26 concert in the conduct acquire a total of more than five thousand dollars
27 through the conduct in a one month period. For the purpose of forfeiture of
28 property other than real property, the conduct must involve more than three
29 aliens in a one month period. For the purpose of forfeiture of real
30 property, the conduct must involve more than fifteen aliens in a one month
31 period.

32 4. The following terms have the same meaning prescribed in section
33 13-2314:

34 (a) "Acquire".

35 (b) "Proceeds".

36 G. For the purposes of this section:

37 1. "Offense" has the same meaning prescribed in section 13-105 and
38 includes conduct for which a sentence to a term of incarceration is provided
39 by any law of the United States.

40 2. "Superintendent" has the same meaning prescribed in section 6-101.

41 3. "Transaction" means a purchase, sale, trade, loan, pledge,
42 investment, gift, transfer, transmission, delivery, deposit, withdrawal,
43 payment, transfer between accounts, exchange of currency, extension of
44 credit, purchase or sale of any financial instrument or any other acquisition
45 or disposition of property by whatever means.