

AMENDED IN SENATE JUNE 21, 2016
AMENDED IN ASSEMBLY JANUARY 4, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1395

Introduced by Assembly Member Salas

February 27, 2015

An act to amend Section 186.9 of the Penal Code, relating to money laundering.

LEGISLATIVE COUNSEL'S DIGEST

AB 1395, as amended, Salas. Money laundering: criminal activity: lotteries and gaming.

Existing law makes it a felony or a misdemeanor to engage in money laundering, defined as conducting a transaction involving a monetary instrument of specified value through a financial institution with the specific intent to promote or facilitate criminal activity. Existing law defines criminal activity for these purposes as any criminal offense punishable as a felony.

This bill would expand the definition of criminal activity for purposes of money laundering to include various offenses punishable as ~~infractions and~~ misdemeanors *that are* related to illegal lotteries and gaming. By expanding the definition of a crime, ~~this~~ *the* bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 186.9 of the Penal Code is amended to
 2 read:
 3 186.9. As used in this chapter:
 4 (a) “Conducts” includes, but is not limited to, initiating,
 5 concluding, or participating in conducting, initiating, or concluding
 6 a transaction.
 7 (b) “Financial institution” means, when located or doing
 8 business in this state, any national bank or banking association,
 9 state bank or banking association, commercial bank or trust
 10 company organized under the laws of the United States or any
 11 state, any private bank, industrial savings bank, savings bank or
 12 thrift institution, savings and loan association, or building and loan
 13 association organized under the laws of the United States or any
 14 state, any insured institution as defined in Section 401 of the
 15 National Housing Act (former 12 U.S.C. Sec. 1724(a)), any credit
 16 union organized under the laws of the United States or any state,
 17 any national banking association or corporation acting under
 18 Chapter 6 (commencing with Section 601) of Title 12 of the United
 19 States Code, any agency, agent or branch of a foreign bank, any
 20 currency dealer or exchange, any person or business engaged
 21 primarily in the cashing of checks, any person or business who
 22 regularly engages in the issuing, selling, or redeeming of traveler’s
 23 checks, money orders, or similar instruments, any broker or dealer
 24 in securities registered or required to be registered with the
 25 Securities and Exchange Commission under the Securities
 26 Exchange Act of 1934 or with the Commissioner of Corporations
 27 under Part 3 (commencing with Section 25200) of Division 1 of
 28 Title 4 of the Corporations Code, any licensed transmitter of funds
 29 or other person or business regularly engaged in transmitting funds
 30 to a foreign nation for others, any investment banker or investment
 31 company, any insurer, any dealer in gold, silver, or platinum bullion
 32 or coins, diamonds, emeralds, rubies, or sapphires, any pawnbroker,
 33 any telegraph company, any person or business regularly engaged
 34 in the delivery, transmittal, or holding of mail or packages, any
 35 person or business that conducts a transaction involving the transfer

1 of title to any real property, vehicle, vessel, or aircraft, any personal
2 property broker, any person or business acting as a real property
3 securities dealer within the meaning of Section 10237 of the
4 Business and Professions Code, whether licensed to do so or not,
5 any person or business acting within the meaning and scope of
6 subdivisions (d) and (e) of Section 10131 and Section 10131.1 of
7 the Business and Professions Code, whether licensed to do so or
8 not, any person or business regularly engaged in gaming within
9 the meaning and scope of Section 330, any person or business
10 regularly engaged in pool selling or bookmaking within the
11 meaning and scope of Section 337a, any person or business
12 regularly engaged in horse racing whether licensed to do so or not
13 under the Business and Professions Code, any person or business
14 engaged in the operation of a gambling ship within the meaning
15 and scope of Section 11317, any person or business engaged in
16 controlled gambling within the meaning and scope of subdivision
17 (f) of Section 19805 of the Business and Professions Code, whether
18 registered to do so or not, and any person or business defined as
19 a “bank,” “financial agency,” or “financial institution” by Section
20 5312 of Title 31 of the United States Code or Section 1010.100 of
21 Title 31 of the Code of Federal Regulations and any successor
22 provisions thereto.

23 (c) “Transaction” includes the deposit, withdrawal, transfer,
24 bailment, loan, pledge, payment, or exchange of currency, or a
25 monetary instrument, as defined by subdivision (d), or the
26 electronic, wire, magnetic, or manual transfer of funds between
27 accounts by, through, or to, a financial institution as defined by
28 subdivision (b).

29 (d) “Monetary instrument” means United States currency and
30 coin; the currency, coin, and foreign bank drafts of any foreign
31 country; payment warrants issued by the United States, this state,
32 or any city, county, or city and county of this state or any other
33 political subdivision thereof; any bank check, cashier’s check,
34 traveler’s check, or money order; any personal check, stock,
35 investment security, or negotiable instrument in bearer form or
36 otherwise in a form in which title thereto passes upon delivery;
37 gold, silver, or platinum bullion or coins; and diamonds, emeralds,
38 rubies, or sapphires. Except for foreign bank drafts and federal,
39 state, county, or city warrants, “monetary instrument” does not
40 include personal checks made payable to the order of a named

1 party which have not been endorsed or which bear restrictive
2 endorsements, and also does not include personal checks which
3 have been endorsed by the named party and deposited by the named
4 party into the named party’s account with a financial institution.

5 (e) “Criminal activity” means a criminal offense punishable
6 under the laws of this state by death, imprisonment in the state
7 prison, or imprisonment pursuant to subdivision (h) of Section
8 1170 or a criminal offense committed in another jurisdiction
9 punishable under the laws of that jurisdiction by death or
10 imprisonment for a term exceeding one year. “Criminal activity”
11 also means a criminal offense specified in ~~Chapter 9 (commencing~~
12 ~~with Section 319) or Chapter 10 (commencing with Section 330)~~
13 ~~of Title 9. Section 321, 322, 323, 326, 330a, 330b, 330c, or 330.1.~~

14 (f) “Foreign bank draft” means a bank draft or check issued or
15 made out by a foreign bank, savings and loan, casa de cambio,
16 credit union, currency dealer or exchanger, check cashing business,
17 money transmitter, insurance company, investment or private bank,
18 or any other foreign financial institution that provides similar
19 financial services, on an account in the name of the foreign bank
20 or foreign financial institution held at a bank or other financial
21 institution located in the United States or a territory of the United
22 States.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.