

AMENDED IN SENATE AUGUST 1, 2016

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1395**

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**Introduced by Assembly Member Salas**

February 27, 2015

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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 misdemeanors that are related to illegal lotteries and gaming. By expanding the definition of a crime, 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

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

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

31 (d) “Monetary instrument” means United States currency and  
32 coin; the currency, coin, and foreign bank drafts of any foreign  
33 country; payment warrants issued by the United States, this state,  
34 or any city, county, or city and county of this state or any other  
35 political subdivision thereof; any bank check, cashier’s check,  
36 traveler’s check, or money order; any personal check, stock,  
37 investment security, or negotiable instrument in bearer form or  
38 otherwise in a form in which title thereto passes upon delivery;  
39 gold, silver, or platinum bullion or coins; and diamonds, emeralds,  
40 rubies, or sapphires. Except for foreign bank drafts and federal,

1 state, county, or city warrants, “monetary instrument” does not  
2 include personal checks made payable to the order of a named  
3 party which have not been endorsed or which bear restrictive  
4 endorsements, and also does not include personal checks which  
5 have been endorsed by the named party and deposited by the named  
6 party into the named party’s account with a financial institution.

7 (e) “Criminal activity” means a criminal offense punishable  
8 under the laws of this state by death, imprisonment in the state  
9 prison, or imprisonment pursuant to subdivision (h) of Section  
10 1170 or a criminal offense committed in another jurisdiction  
11 punishable under the laws of that jurisdiction by death or  
12 imprisonment for a term exceeding one year. “Criminal activity”  
13 also means a criminal offense specified in Section 320, 321, 322,  
14 323, 326, 330a, 330b, 330c, ~~or 330.1~~, 330.1, or 330.4. *This*  
15 *subdivision does not apply to any controlled game within the scope*  
16 *of Section 19943.5 of the Business and Professions Code that is*  
17 *approved by the Department of Justice.*

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

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

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