

February 18, 1998

ENGROSSED SENATE BILL No. 432

DIGEST OF SB 432 (Updated February 17, 1998 8:14 pm - DI 51)

Citations Affected: IC 35-45; noncode.

Synopsis: Money laundering. Makes money laundering a Class D felony. Enhances the offense to a Class C felony if the value of the proceeds or funds is at least \$50,000. Includes money laundering in the definition of racketeering activity.

Effective: July 1, 1998.

Wyss, Wolf

(HOUSE SPONSORS — DVORAK, FOLEY)

January 13, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

January 22, 1998, amended, reported favorably — Do Pass.

January 27, 1998, read second time, amended, ordered engrossed.

January 28, 1998, engrossed.

January 29, 1998, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 4, 1998, read first time and referred to Committee on Courts and Criminal Code.

February 17, 1998, amended, reported — Do Pass.

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February 18, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

ENGROSSED SENATE BILL No. 432

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-45-6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this
3 chapter:
4 "Documentary material" means any document, drawing, photograph,
5 recording, or other tangible item containing compiled data from which
6 information can be either obtained or translated into a usable form.
7 "Enterprise" means:
8 (1) a sole proprietorship, corporation, limited liability company,
9 partnership, business trust, or governmental entity; or
10 (2) a union, an association, or a group, whether a legal entity or
11 merely associated in fact.
12 "Pattern of racketeering activity" means engaging in at least two (2)
13 incidents of racketeering activity that have the same or similar intent,
14 result, accomplice, victim, or method of commission, or that are
15 otherwise interrelated by distinguishing characteristics that are not
16 isolated incidents. However, the incidents are a pattern of racketeering
17 activity only if at least one (1) of the incidents occurred after August

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1 31, 1980, and if the last of the incidents occurred within five (5) years
 2 after a prior incident of racketeering activity.

3 "Racketeering activity" means to commit, to attempt to commit, to
 4 conspire to commit a violation of, or aiding and abetting in a violation
 5 of any of the following:

- 6 (1) A provision of IC 23-2-1, or of a rule or order issued under
 7 IC 23-2-1.
- 8 (2) A violation of IC 35-45-9.
- 9 (3) A violation of IC 35-47.
- 10 (4) A violation of IC 35-49-3.
- 11 (5) Murder (IC 35-42-1-1).
- 12 (6) Battery as a Class C felony (IC 35-42-2-1).
- 13 (7) Kidnapping (IC 35-42-3-2).
- 14 (8) Child exploitation (IC 35-42-4-4).
- 15 (9) Robbery (IC 35-42-5-1).
- 16 (10) Carjacking (IC 35-42-5-2).
- 17 (11) Arson (IC 35-43-1-1).
- 18 (12) Burglary (IC 35-43-2-1).
- 19 (13) Theft (IC 35-43-4-2).
- 20 (14) Receiving stolen property (IC 35-43-4-2).
- 21 (15) Forgery (IC 35-43-5-2).
- 22 (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- 23 (17) Bribery (IC 35-44-1-1).
- 24 (18) Official misconduct (IC 35-44-1-2).
- 25 (19) Conflict of interest (IC 35-44-1-3).
- 26 (20) Perjury (IC 35-44-2-1).
- 27 (21) Obstruction of justice (IC 35-44-3-4).
- 28 (22) Intimidation (IC 35-45-2-1).
- 29 (23) Promoting prostitution (IC 35-45-4-4).
- 30 (24) Promoting professional gambling (IC 35-45-5-4).
- 31 (25) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 32 (26) Dealing in a schedule I, II, or III controlled substance
 33 (IC 35-48-4-2).
- 34 (27) Dealing in a schedule IV controlled substance
 35 (IC 35-48-4-3).
- 36 (28) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 37 (29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 38 **(30) Money laundering (IC 35-45-15-5).**

39 SECTION 2. IC 35-45-15 IS ADDED TO THE INDIANA CODE
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 1998]:

42 **Chapter 15. Money Laundering**

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1 **Sec. 1.** As used in this chapter, "criminal activity" means any
2 offense that:

- 3 (1) is classified as a felony under Indiana or United States law;
4 or
5 (2) occurs in another state and is punishable by confinement
6 for more than one (1) year under the laws of that state.

7 **Sec. 2.** As used in this chapter, "funds" includes the following:

- 8 (1) Coin or paper money of the United States or any other
9 country that is designated as legal tender and that circulates
10 and is customarily used and accepted as a medium of
11 exchange in the country of issue.
12 (2) United States silver certificates, United States Treasury
13 notes, and Federal Reserve System notes.
14 (3) Official foreign bank notes that are customarily used and
15 accepted as a medium of exchange in a foreign country.
16 (4) Foreign bank drafts.

17 **Sec. 3.** As used in this chapter, "law enforcement officer"
18 includes a federal enforcement officer.

19 **Sec. 4.** As used in this chapter, "proceeds" means funds
20 acquired or derived directly or indirectly from, produced through,
21 or realized through an act.

22 **Sec. 5.** (a) A person that knowingly or intentionally:

- 23 (1) acquires or maintains an interest in, receives, conceals,
24 possesses, transfers, or transports the proceeds of criminal
25 activity;
26 (2) conducts, supervises, or facilitates a transaction involving
27 the proceeds of criminal activity; or
28 (3) invests, expends, receives, or offers to invest, expend, or
29 receive, the proceeds of criminal activity or funds that are the
30 proceeds of criminal activity, and the person knows that the
31 proceeds or funds are the result of criminal activity;

32 commits money laundering, a Class D felony. However, the offense
33 is a Class C felony if the value of the proceeds or funds is at least
34 fifty thousand dollars (\$50,000).

35 (b) It is a defense to prosecution under this section that the
36 person acted with intent to facilitate the lawful seizure, forfeiture,
37 or disposition of funds or other legitimate law enforcement
38 purpose under Indiana or United States law.

39 (c) It is a defense to prosecution under this section that:

- 40 (1) the transaction was necessary to preserve a person's right
41 to representation as guaranteed by the Sixth Amendment of
42 the United States Constitution or Article 1, Section 13, of the



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1 **Constitution of the State of Indiana; or**
2 **(2) the funds were received as bona fide legal fees by a**
3 **licensed attorney and, at the time of the receipt of the funds,**
4 **the attorney did not have actual knowledge that the funds**
5 **were derived from criminal activity.**
6 SECTION 3. [EFFECTIVE JULY 1, 1998] IC 35-45-6-1, as
7 amended by this act, and IC 35-45-15, as added by this act, apply
8 only to offenses committed after June 30, 1998.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill 432, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 30, after "activity" insert " , **and the person knows that the proceeds are the result of criminal activity**".

Page 3, line 31, delete "Class D" and insert "**Class C**".

Page 3, line 32, delete "Class C" and insert "**Class B**".

Page 3, delete line 33 and insert "**fifty thousand dollars (\$50,000)**".

Page 3, line 36, delete "or a person acting at the direction of a law".

Page 3, line 37, delete "enforcement officer".

Page 3, line 39, delete "or person acting at the law enforcement".

Page 3, line 40, delete "officer's direction".

Page 3, line 41, after "officer" insert ".".

Page 3, line 41, delete "or that the person is acting at the direction of".

Page 3, delete line 42.

and when so amended that said bill do pass.

(Reference is to Senate Bill 432 as introduced.)

MEEKS, Chairperson

Committee Vote: Yeas 7, Nays 2.

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SENATE MOTION

Mr. President: I move that Senate Bill 432 be amended to read as follows:

Page 3, line 29, after "that" delete "the".

Page 3, line 30, delete "person believes".

Page 3, line 31, after "proceeds" insert "**or funds**".

Page 3, delete lines 36 through 41.

Page 3, line 42, delete "(c)" and insert "**(b)**".

Page 4, line 4, delete "(d)" and insert "**(c)**".

(Reference is to Senate Bill 432 as printed January 23, 1998.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 432, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 2, delete "is:" and insert ":".

Page 3, line 3, after "(1)" insert "is".

Page 3, line 5, after "(2)" insert "**occurs in another state and is**".

Page 3, line 6, delete "another" and insert "**that**".

Page 3, line 32, delete "Class C" and insert "**Class D**".

Page 3, line 33, delete "Class B" and insert "**Class C**".

and when so amended that said bill do pass.

(Reference is to Senate Bill 432 as reprinted January 28, 1998.)

DVORAK, Chair

Committee Vote: yeas 14, nays 0.

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