

Amendment No. 577

Senate Amendment to Assembly Bill No. 322

(BDR 15-1000)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold dashed underlining*** is newly added transitory language.

NMB/BAW



Date: 4/28/2009

A.B. No. 322—Makes various changes concerning conduct related to racketeering.
(BDR 15-1000)



ASSEMBLY BILL NO. 322—ASSEMBLYMEN HOGAN, MANENDO, MCCLAIN; AIZLEY, ARBERRY, BOBZIEN, COBB, DENIS, GOEDHART, GOICOECHEA, HAMBRICK AND MASTROLUCA (BY REQUEST)

MARCH 13, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning conduct related to racketeering. (BDR 15-1000)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.

Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; revising provisions relating to the crime of racketeering; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) **Section 1** of this bill, which is patterned in part after existing securities laws, provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact necessary in light of the circumstances which: (1) the person knows to be false or omitted; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact. (NRS 90.570)

Section 2 of this bill revises the definition of a crime related to racketeering to include the new crime established by **section 1** of this bill. (NRS 207.360)

Existing law establishes various crimes relating to racketeering activity. (NRS 207.400) **Section 3** of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further racketeering activity. In addition, **section 3** prohibits a person who knows that property represents proceeds of any unlawful activity from conducting or attempting to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction conceals the location, source, ownership or control of the property. (NRS 207.400)

Section 4 of this bill generally provides that a prosecution of the new crime established by **section 1** of this bill must be commenced within 4 years after the crime is committed. (NRS 171.085)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:

(a) The person knows to be false or omitted;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

↪ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than \$250.

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. A violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 2. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;

2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;

3. Mayhem;

4. Battery which is punished as a felony;

5. Kidnapping;

6. Sexual assault;

7. Arson;

8. Robbery;

9. Taking property from another under circumstances not amounting to robbery;

10. Extortion;

11. Statutory sexual seduction;

12. Extortionate collection of debt in violation of NRS 205.322;

13. Forgery;

14. Any violation of NRS 199.280 which is punished as a felony;

15. Burglary;

16. Grand larceny;

17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;

18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or
453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as
a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of
NRS;
24. Receiving, possessing or withholding stolen goods valued at \$250 or
more;
25. Embezzlement of money or property valued at \$250 or more;
26. Obtaining possession of money or property valued at \$250 or more, or
obtaining a signature by means of false pretenses;
27. Perjury or subornation of perjury;
28. Offering false evidence;
29. Any violation of NRS 201.300 or 201.360;
30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud
pursuant to NRS 686A.291;
31. Any violation of NRS 205.506, 205.920 or 205.930; ~~for~~
32. Any violation of NRS 202.445 or 202.446 ~~for~~; *or*
33. *Any violation of section 1 of this act.*

Sec. 3. NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) *To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.*

(i) *Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:*

(1) With the intent to further racketeering activity; or

1 (2) *With the knowledge that the transaction conceals the location,*
2 *source, ownership or control of the property.*

3 (j) To conspire to violate any of the provisions of this section.

4 2. A person who violates this section is guilty of a category B felony and shall
5 be punished by imprisonment in the state prison for a minimum term of not less
6 than 5 years and a maximum term of not more than 20 years, and may be further
7 punished by a fine of not more than \$25,000.

8 3. *As used in this section, "unlawful activity" has the meaning ascribed to it*
9 *in NRS 207.195.*

10 **Sec. 4.** NRS 171.085 is hereby amended to read as follows:

11 171.085 Except as otherwise provided in NRS 171.080, 171.083, 171.084 and
12 171.095, an indictment for:

13 1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS
14 90.570 ~~for~~, a violation punishable pursuant to paragraph (c) of subsection 3 of
15 NRS 598.0999 *or a violation of section 1 of this act* must be found, or an
16 information or complaint filed, within 4 years after the commission of the offense.

17 2. Any felony other than ~~murder, theft, robbery, burglary, forgery, arson,~~
18 ~~sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to~~
19 ~~paragraph (c) of subsection 3 of NRS 598.0999~~ *the felonies listed in subsection 1*
20 must be found, or an information or complaint filed, within 3 years after the
21 commission of the offense.