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# RICO: Legislative Activity in the 106th Congress

January 11, 2001

**Congressional Research Service**
https://crsreports.congress.gov
RS20377

**CRS REPORT**
Prepared for Members and
Committees of Congress

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## Summary

The federal Racketeer Influenced and Corrupt Organization (RICO) provisions outlaw the use of various state and federal crimes (predicate offenses) to acquire, maintain, or conduct the activities of a formal or informal enterprise whose activities affect interstate or foreign commerce, 18 U.S.C. 1961-1965. Violations subject offenders to criminal penalties and civil liability.

The RICO legislative proposals introduced in the 106th Congress addressed offenses that their sponsors believe should be added to the list of predicate offenses. None of these proposals were enacted before the 106th Congress adjourned.

RICO figured in the appropriations process as well, since the Department of Justice regularly but unsuccessfully sought specific funds for its RICO litigation against the major tobacco companies, *see e.g., Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for 2000: Hearings Before a Subcomm. on the House Comm. on Appropriations, Pt.2*, 106th Cong., 1st Sess. 429 (1999). Although originally filed under RICO, the Medical Care Recovery Act, 42 U.S.C. 2651 et seq., and the Medicare Secondary Payer provisions of the Social Security Act, 42 U.S.C. 1395y, all but the RICO portions of the case have been dismissed, *United States v. Philip Morris*, 116 F.Supp. 2d 131 (D.D.C. 2000).

Related CRS Reports include: Doyle, *RICO: A Brief Sketch*, CRS Report 96-950 (Oct. 1999); Doyle, *RICO: An Abridged Sketch*, CRS Report RS20376 (Oct. 1999); and Cohen, *The Federal Lawsuit Against Tobacco Companies to Recover Health Care Costs*, CRS Report RS20091 (Oct. 6, 2000).

## Summary of Proposed Legislation

**H.R. 1768** (Rep. Conyers, et al.)/**S.995** (Sen. Schumer, et al.): Section 501 of The Youth Gun Crime Enforcement Act of 1999 would have enlarged the list of RICO predicate offenses to include violations of:

- 18 U.S.C. 924(a)(penalties for violation of 18 U.S.C. 922)[1] with respect to—
  + 18 U.S.C. 922(a)(1)(unregistered firearms or ammunition dealing)
  + 18 U.S.C. 922(a)(6)(false statements to acquire firearms or ammunition)
  + 18 U.S.C. 922(i)(interstate transportation of stolen firearms or ammunition)
  + 18 U.S.C. 922(j)(possession of stolen firearms or ammunition transported in interstate commerce)
  + 18 U.S.C. 922(k)(interstate transportation of firearms with altered serial numbers (or possession))
  + 18 U.S.C. 922(o)(unlawful possession of a machinegun)
  + 18 U.S.C. 922(q)(possession of a firearm in a school zone)
  + 18 U.S.C. 922(u)(theft from a dealer of a firearm previously shipped in interstate commerce)
  + 18 U.S.C. 922(v)(possession of a semiautomatic assault weapon)
  + 18 U.S.C. 922(x)(1)(transfer of a handgun or its ammunition to a juvenile)
- 18 U.S.C. 924(b)(shipment or receipt of firearm for use in a crime)
- 18 U.S.C. 924(g)(interstate travel to buy or sell a firearm with intent to commit a RICO predicate offense, engage in drug trafficking, or commit a crime of violence)
- 18 U.S.C. 924(h)(transfer of a firearm knowing it will be used in drug trafficking or a crime of violence)
- 18 U.S.C. 924(k)(smuggling a firearm into the U.S. to facilitate drug trafficking or a crime of violence)
- 18 U.S.C. 924(l)(theft of a firearm from interstate or foreign commerce)
- 18 U.S.C. 924(m)(theft of a firearm from a dealer)
- 18 U.S.C. 924(n)(interstate or foreign travel to unlawfully acquire a firearm)

**S.9** (Sen. Daschle, et al.): Section 2101 of the Safe Schools, Safe Streets, and Secure Borders Act of 1999 would have made interstate franchising of criminal street gangs a federal crime; section 2103 makes it a RICO predicate.

**S. 254** (Sen. Hatch, et al.)(as passed by the Senate): Section 1626 of the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 would have added crimes of violence committed under the exclusive special maritime or territorial jurisdiction of the United States or in Indian country under the major crimes act (18 U.S.C. 1151) to the list of RICO predicate offenses.

**S.538** (Sen. Ashcroft): Section 107 of the Protect Children From Violence Act would have made it a crime to use a juvenile to commit a federal crime of violence (18 U.S.C. 25), adding the new crime to the RICO predicate offense list.

**S. 899** (Sen. Hatch, et al.): Section 7301 of the 21st Century Justice Act of 1999 would have added crimes of violence committed under the exclusive special maritime or territorial jurisdiction of the United States or in Indian country under the major crimes act (18 U.S.C. 1151) to the list of RICO predicate offenses.

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[1] Throughout this report the caption supplied for various sections of the United States Code are intended as a rough reference as to the content of the section. They are not intended to serve as a full inventory of the content of the section or of the possible exceptions, defenses, or supplements to which the sections may be subject.

**S. 1080** (Sen. Torricelli, et al.)/**H.R. 3057** (Rep. Blagojevich et al.): Section 2(c) of the Gun Kingpin Penalty Act would have made RICO predicate offenses of:

- 18 U.S.C. 922(a)(1)(A)(unlicensed importation, manufacture or dealing in firearms)
- 18 U.S.C. 922(a)(3)(interstate transportation or receipt of firearm)
- 18 U.S.C. 922(a)(5)(transfer of firearm to person from another state)
- 18 U.S.C. 922(a)(6)(false statements made in acquisition of firearm or ammunition from a licensee)
- 18 U.S.C. 922(d)(disposition of firearm or ammunition to a prohibited person)
- 18 U.S.C. 922(g)(receipt of firearm or ammunition by a prohibited person)
- 18 U.S.C. 922(h)(receipt of firearm or ammunition on behalf of a prohibited person)
- 18 U.S.C. 922(i)(transportation of stolen firearm or ammunition)
- 18 U.S.C. 922(j)(receipt of stolen firearm or ammunition)
- 18 U.S.C. 922(k)(transportation or receipt of firearm with altered serial number)
- 18 U.S.C. 922(z)(gunrunning)
- 18 U.S.C. 924(b)(shipment or receipt of firearm for use in a crime).

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