

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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HOUSE BILL 144

Short Title: Money Laundering Offense. (Public)

Sponsors: Representatives B. Miller and Moore.

Referred to: Judiciary III.

February 14, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT A MONEY LAUNDERING STATUTE THAT SPECIFIES
3 CRIMINAL PENALTIES FOR VIOLATIONS AND PROVIDES FOR
4 FORFEITURE OF PROPERTY USED TO FACILITATE, RECEIVED AS
5 PROCEEDS FROM, OR TRACEABLE TO FELONIOUS CRIMINAL ACTIVITY.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 14 of the General Statutes is amended by adding a new
8 Article to read:

9 **"ARTICLE 19C.**

10 **"MONEY LAUNDERING AND RELATED OFFENSES.**

11 **"§ 14-113.18. Definitions.**

12 The following definitions apply in this Article:

13 (1) Conduct. – Includes initiating, concluding, or participating in
14 initiating, or concluding a transaction.

15 (2) Criminally derived property. – Property constituting, or derived from,
16 proceeds obtained from a criminal offense.

17 (3) Financial institution. – When located or doing business in this State:

18 a. A national bank or banking association or a State or local bank
19 or banking association.

20 b. A commercial bank or trust company organized under the laws
21 of the United States or any state.

22 c. A private bank or industrial bank.

- 1 d. A savings bank, thrift association, savings and loan association,
2 or building and loan association organized under the laws of the
3 United States or any state.
- 4 e. An agency or a branch of a foreign bank in the United States.
- 5 f. An insured institution as defined in section 401(a) of the
6 National Housing Act (12 U.S.C. § 1724(a)).
- 7 g. A broker or dealer in securities or commodities registered with
8 the Securities and Exchange Commission under the Securities
9 Exchange Act of 1934 (15 U.S.C. § 78a et seq.).
- 10 h. An investment banker or investment company.
- 11 i. A currency exchange.
- 12 j. An issuer, a redeemer, or a cashier of traveler's checks, checks,
13 money orders, or similar instruments.
- 14 k. An operator of a credit card system.
- 15 l. An insurance company.
- 16 m. A dealer in precious metals, stones, or jewels.
- 17 n. A pawnbroker.
- 18 o. A travel agency.
- 19 p. A licensed sender of money.
- 20 q. A telegraph company.
- 21 r. An agency of the State or of the United States carrying out a
22 duty or power of a business.
- 23 s. A business or agency carrying out a similar, related substitute
24 duty or power the Secretary of the Treasury prescribes.
- 25 (4) Financial transaction. – A transaction that affects interstate or foreign
26 commerce, and involves the movement of funds by wire or another
27 means involving one or more monetary instruments, or a transaction
28 involving the use of a financial institution that is engaged in, or the
29 activities of which affect interstate or foreign commerce.
- 30 (5) Knowing or knowledge. – A person knew or had knowledge the
31 property involved in the transaction represented proceeds of some
32 form, though not necessarily which form, of activity that constitutes a
33 felony under state or federal law, or that the person knew that the
34 property involved was used to conduct to facilitate, or was traceable to
35 some form, though not necessarily which form, of activity which
36 constituted a felony under state or federal law.
- 37 (6) Monetary instruments. – Coin or currency of the United States or any
38 other country, traveler's checks, personal checks, bank checks, money
39 orders, and investment securities or negotiable instruments in bearer
40 form or another form by which title thereto passes upon delivery.
- 41 (7) Represented. – Any representation made by a law enforcement officer
42 or by another person at the direction of, or with the approval of, a State
43 official authorized to investigate or prosecute violations of this Article.

- 1 (8) Transaction. – Includes a purchase, a sale, a loan, a pledge, a gift, a
2 transfer, a delivery, or another disposition and, with respect to a
3 financial institution, includes a deposit, a withdrawal, a transfer
4 between accounts, an exchange of currency, a loan, an extension of
5 credit, a purchase or sale of a stock, bond, or another monetary
6 instrument, or any other payment, transfer, or delivery, by, through, or
7 to a financial institution, by whatever means effected.
8 (9) Unlawful activity. – A criminal offense punished under the laws of this
9 State or the United States by death or imprisonment, or a criminal
10 offense punished under the laws of another jurisdiction or foreign
11 country by death or imprisonment for a term exceeding one year.

12 "**§ 14-113.19. Making unlawful financial transactions.**"

13 A person who conducts or attempts to conduct a financial transaction involving one
14 or more monetary instruments whose value exceeds ten thousand dollars (\$10,000) and
15 who has any of the following intentions or knowledge makes an unlawful financial
16 transaction through a financial institution:

- 17 (1) The intent to promote the carrying on of an unlawful activity;
18 (2) The intent to engage in acts subject to penalty under G.S. 105-229,
19 G.S. 105-236, or 26 U.S.C. §§ 7201 or 7206; or
20 (3) Knowledge that the transaction is designed in whole or in part:
21 a. To conceal or disguise the nature, location, source, ownership,
22 or control of the proceeds of specified unlawful activity or the
23 nature of the unlawful activity; or
24 b. To avoid a transaction-reporting requirement under State or
25 federal law.

26 Making an unlawful financial transaction is a Class G felony. A fine imposed may
27 not exceed the greater of five hundred thousand dollars (\$500,000) or twice the value of
28 the property involved in the transaction.

29 "**§ 14-113.20. Unlawful transportation of property.**"

30 A person who transports, transmits, transfers, or attempts to transport, transmit, or
31 transfer one or more monetary instruments whose value exceeds ten thousand dollars
32 (\$10,000) from a place in North Carolina to or through a place outside the State or the
33 United States, or to a place in North Carolina from or through a place outside the State
34 or the United States and who has any of the following intentions or knowledge commits
35 an unlawful transportation of property.

- 36 (1) The intent to promote the carrying on of unlawful activity;
37 (2) Knowledge that the transportation represents the proceeds of some
38 form of unlawful activity;
39 (3) Knowledge that the monetary instrument or funds were used to
40 conduct or facilitate some form of unlawful activity;
41 (4) Knowledge that the monetary instrument or funds are traceable to
42 some form of unlawful activity; or
43 (5) Knowledge that the transportation is designed in whole or in part:

- 1 a. To conceal or disguise the nature, location, source, ownership,
2 or control of the property involved; or
3 b. To avoid a transaction-reporting requirement under State or
4 federal law.

5 Committing an unlawful transportation of property is a Class G felony. A fine
6 imposed may not exceed the greater of five hundred thousand dollars (\$500,000) or
7 twice the value of the property involved in the transportation. For the purpose of an
8 offense under this section, the defendant's knowledge may be established by proof that a
9 law enforcement officer represented the matter specified in this section as true and that
10 the defendant's subsequent statements or actions indicated that the defendant believed
11 the representations to be true.

12 **"§ 14-113.21. Monetary transactions in criminally derived property.**

13 Any person who knowingly engages or attempts to engage in a monetary transaction
14 in criminally derived property that is of a value greater than ten thousand dollars
15 (\$10,000) and is derived from unlawful activity is guilty of money laundering or
16 commits a Class H felony. In a prosecution for an offense under this section, the State
17 is not required to prove that the defendant had knowledge that the activity from which
18 the criminally derived property was derived was an unlawful activity.

19 **"§ 14-113.22. Conspiracy to transact or transport.**

20 A person who conspires to commit an offense set out in G.S. 14-113.20 or G.S. 14-
21 173.21 in this Article is subject to the same penalties as those prescribed for the offense
22 the commission of which was the object of the conspiracy.

23 **"§ 14-113.23. Criminal penalty; forfeiture.**

24 (a) Penalty. – A person who conducts or attempts to conduct a transaction
25 described in G.S. 14-113.20 is subject to a penalty not to exceed the greater of:

- 26 (1) The value of the property, funds, or monetary instruments involved in
27 the transaction; or
28 (2) Ten thousand dollars (\$10,000).

29 (b) Forfeiture. – Except as provided in this subsection, any property, real or
30 personal, involved in an offense under this Article, or any property traceable to that
31 property is subject to forfeiture to the State. The court in imposing sentence on a person
32 convicted of an offense in this Article shall order that the person forfeit to the State of
33 North Carolina any property traceable to that property. No property shall be forfeited
34 under this subsection in the following circumstances:

- 35 (1) To the extent the property used without the knowledge of the interest
36 of an owner or lienholder by reason of any act or omission established
37 by that owner or lienholder to have been committed without the
38 knowledge of that owner or lienholder; or
39 (2) In the case of a violation by a domestic financial institution examined
40 by a federal bank supervisory agency of a financial institution
41 regulated by the Securities and Exchange Commission or a partner,
42 director, or employee of the institution.

43 (c) Seizure. – Any property subject to forfeiture to the State under subsection (b)
44 may be seized by the Attorney General or any law enforcement officer, upon process

1 issued by an district or superior court having jurisdiction over the property, except that
2 seizure without process may be made when:

- 3 (1) The seizure is pursuant to a lawful arrest or search under a search
4 warrant; or
- 5 (2) The property subject to seizure has been the subject to criminal
6 forfeiture under this Article.

7 (d) Disposition of property. – Property taken or detained under this section is not
8 repleviable, and is considered to be in the custody of the Attorney General or the law
9 enforcement agency seizing it which may:

- 10 (1) Place the property under seal;
- 11 (2) Remove the property to a place designated by it; or
- 12 (3) Request the North Carolina Department of Justice take custody of the
13 property and remove it to an appropriate location for disposition in
14 accordance with law.

15 (e) Effect of section. – Nothing in this section supersedes any provision of
16 federal, state, or other law imposing criminal penalties or affording civil remedies in
17 addition to those provided for in this Article.

18 "**§ 14-113.24. Investigations under this Article; jurisdiction.**

19 (a) Investigations. – Violations of this Article may be investigated by the
20 Attorney General and the Secretary of Revenue.

21 (b) Jurisdiction. – There is extraterritorial jurisdiction of conduct prohibited by
22 this Article if:

- 23 (1) The conduct is by a citizen of North Carolina or, in the case of a non-
24 North Carolina citizen, the conduct occurs in whole or in part within
25 North Carolina; and
- 26 (2) The transaction or a series of related transactions involve funds or
27 monetary instruments of a value in excess of ten thousand dollars
28 (\$10,000).

29 "**§ 14-113.25. Report of convicted financial institutions.**

30 If a financial institution or any officer, director, or employee of a financial institution
31 has been found guilty of an offense under this Article, the Attorney General shall
32 provide written notice of such fact to the Secretary of State and to the appropriate
33 regulatory agency for the financial institution."

34 Sec. 2. This act becomes effective January 1, 1995, and applies to offenses
35 committed on or after that date.