

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.