

FIRST ENGROSSMENT
with House Amendments

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2371

Introduced by

Senator Watne

1 A BILL for an Act to create and enact a new section to chapter 19-03.1 of the North Dakota
2 Century Code, relating to a presumption in drug forfeiture cases; and to amend and reenact
3 section 54-12-14 of the North Dakota Century Code, relating to the asset forfeiture fund.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new section to chapter 19-03.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Drug currency forfeiture.**

8 1. There is a presumption of forfeiture for money, coin, currency and everything of
9 value, furnished or intended to be furnished, in exchange for a controlled
10 substance in violation of chapter 19-03.1 or imitation controlled substance in
11 violation of chapter 19-03.2, if the state offers a reasonable basis to believe, based
12 on the following circumstances, that there is a substantial connection between the
13 property and an offense listed in chapter 19-03.1 or 19-03.2:

14 a. The property at issue is currency in excess of ten thousand dollars which, at
15 the time of seizure, was being transported through an airport, on a highway,
16 or at a port-of-entry, and the property was packaged or concealed in a highly
17 unusual manner, the person transporting the property provided false
18 information to any law enforcement officer who lawfully stopped the person
19 for investigative purposes, the property was found in close proximity to a
20 measurable quantity of any controlled substance, or the property was the
21 subject of a positive alert by a properly trained dog;

22 b. The property at issue was acquired during a period of time when the person
23 who acquired the property was engaged in an offense under chapter 19-03.1

1 or 19-03.2 or within a reasonable time after the period, and there is no likely
2 source for the property other than that offense;

3 c. The property at issue was, or was intended to be, transported, transmitted, or
4 transferred to or from a major drug-transit country, a major illicit drug
5 producing country, or a major money laundering country, and the transaction
6 giving rise to the forfeiture:

7 (1) Occurred in part in a state or foreign country whose bank secrecy laws
8 render this state unable to obtain records relating to the transaction; or

9 (2) Was conducted by, to, or through a corporation that does not conduct
10 any ongoing and significant commercial or manufacturing business or
11 any other form of commercial operation which was not engaged in any
12 legitimate business activity; or

13 d. A person involved in the transaction giving rise to the forfeiture action has
14 been convicted in a federal, state, or foreign jurisdiction of an offense
15 equivalent to an offense under chapter 19-03.1 or 19-03.2 or a felony
16 involving money laundering, or is a fugitive from prosecution for any of these
17 offenses.

18 2. The presumption in this section does not preclude the use of other presumptions
19 or the establishment of probable cause based on criteria other than those set forth
20 in this section.

21 **SECTION 2. AMENDMENT.** Section 54-12-14 of the 1997 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **54-12-14. Assets forfeiture fund - Created - Purpose - Continuing appropriation.**

24 ~~There is hereby created a fund to be known as the~~ The attorney general assets forfeiture fund-
25 ~~The fund~~ consists of funds appropriated by the legislative assembly and additional funds
26 obtained from moneys, assets, and proceeds seized and forfeited pursuant to section
27 19-03.1-36, amounts received through court proceedings as restitution, and amounts remaining
28 from the forfeiture of property after the payment of expenses for forfeiture and sale authorized
29 by law. The ~~total aggregate amount in~~ of deposits into the fund which do not come from
30 legislative appropriation and are not payable to another governmental entity may not exceed
31 ~~five~~ two hundred thousand dollars within a biennium ~~and at the end of each fiscal year any~~

1 moneys in excess of that amount must be deposited in the general fund. The funds are
2 appropriated, as a standing and continuing appropriation, to the attorney general for the
3 following purposes:

- 4 1. For obtaining evidence for enforcement of any state criminal law or law relating to
5 the control of drug abuse.
- 6 2. For repayment of rewards to qualified local programs approved under section
7 12.1-32-02.2, if the information that was reported to the qualified local program
8 substantially contributed to forfeiture of the asset, and for paying, at the discretion
9 of the attorney general, rewards for other information or assistance leading to a
10 forfeiture under section 19-03.1-36.
- 11 3. For paying, at the discretion of the attorney general, any expenses necessary to
12 seize, detain, inventory, safeguard, maintain, advertise, or sell property seized,
13 detained, or forfeited pursuant to section 19-03.1-36, or of any other necessary
14 expenses incident to the seizure, detention, or forfeiture of such property.
- 15 4. For equipping, for law enforcement functions, forfeited vessels, vehicles, and
16 aircraft retained as provided by law for official use by the state board of pharmacy
17 or a law enforcement agency.
- 18 5. For paying, at the discretion of the attorney general, overtime compensation to
19 agents of the bureau of criminal investigation and drug enforcement unit incurred
20 as a result of investigations of violations of any state criminal law or law relating to
21 the control of drug abuse.
- 22 6. For paying matching funds required to be paid as a condition for receipt of funds
23 from a federal government program awarding monetary grants or assistance for
24 the investigation, apprehension, or prosecution of persons violating the provisions
25 of chapter 19-03.1.

26 The attorney general shall, with the concurrence of the director of the office of management
27 and budget, establish the necessary accounting procedures for the use of the fund, and shall
28 personally approve, in writing, all requests from the chief of the bureau of criminal investigation
29 or the director of the drug enforcement unit for the use of the fund.