

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.

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

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

6 **Drug currency forfeiture.**

- 7 1. There is a presumption of forfeiture for money, coin, currency and everything of
8 value, furnished or intended to be furnished, in exchange for a controlled
9 substance in violation of chapter 19-03.1 or imitation controlled substance in
10 violation of chapter 19-03.2, if the state offers a reasonable basis to believe, based
11 on the following circumstances, that there is a substantial connection between the
12 property and an offense listed in chapter 19-03.1 or 19-03.2:
- 13 a. The property at issue is currency in excess of ten thousand dollars which, at
14 the time of seizure, was being transported through an airport, on a highway,
15 or at a port-of-entry, and the property was packaged or concealed in a highly
16 unusual manner, the person transporting the property provided false
17 information to any law enforcement officer who lawfully stopped the person
18 for investigative purposes, the property was found in close proximity to a
19 measurable quantity of any controlled substance, or the property was the
20 subject of a positive alert by a properly trained dog;
- 21 b. The property at issue was acquired during a period of time when the person
22 who acquired the property was engaged in an offense under chapter 19-03.1
23 or 19-03.2 or within a reasonable time after the period, and there is no likely
24 source for the property other than that offense;

- 1 c. The property at issue was, or was intended to be, transported, transmitted, or
2 transferred to or from a major drug-transit country, a major illicit drug
3 producing country, or a major money laundering country, and the transaction
4 giving rise to the forfeiture:
- 5 (1) Occurred in part in a state or foreign country whose bank secrecy laws
6 render this state unable to obtain records relating to the transaction; or
7 (2) Was conducted by, to, or through a corporation that does not conduct
8 any ongoing and significant commercial or manufacturing business or
9 any other form of commercial operation which was not engaged in any
10 legitimate business activity; or
- 11 d. A person involved in the transaction giving rise to the forfeiture action has
12 been convicted in a federal, state, or foreign jurisdiction of an offense
13 equivalent to an offense under chapter 19-03.1 or 19-03.2 or a felony
14 involving money laundering, or is a fugitive from prosecution for any of these
15 offenses.
- 16 2. The presumption in this section does not preclude the use of other presumptions
17 or the establishment of probable cause based on criteria other than those set forth
18 in this section.