

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1551
Committee Substitute Favorable 5/31/00

Short Title: Tax Enforcement.

(Public)

Sponsors:

Referred to:

May 17, 2000

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE AUTHORITY OF DEPARTMENT OF REVENUE LAW ENFORCEMENT AGENTS, TO ALLOW THE SECRETARY OF REVENUE TO ADMINISTER THE OATH OF OFFICE TO DEPARTMENT OF REVENUE LAW ENFORCEMENT AGENTS, TO PROVIDE A CIVIL PENALTY FOR FILING A FRIVOLOUS INCOME TAX RETURN, AND TO CHANGE THE PROCEDURES FOR LAW ENFORCEMENT REPORTING ON NON-TAX-PAID UNAUTHORIZED SUBSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-236.1 reads as rewritten:

"§ 105-236.1. Enforcement of revenue laws by revenue law enforcement agents.

(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter. The

The Secretary may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

- (1) ~~the~~ The felony and misdemeanor tax violations in G.S. 105-236-105-236.

- 1 (2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-
2 449.120. and to enforce any of the
- 3 (3) The following criminal offenses when they involve a tax imposed under
4 Chapter 105 of the General Statutes: ~~G.S. 14-91~~
- 5 a. G.S. 14-91 (Embezzlement of State ~~Property~~), ~~Property~~.
6 b. G.S. 14-92 (Embezzlement of ~~Funds~~), ~~Funds~~.
7 c. G.S. 14-100 (Obtaining Property By False ~~Pretenses~~), ~~Pretenses~~.
8 d. G.S. 14-119 (~~Forgery~~), and (~~Forgery~~).
9 e. G.S. 14-120 (Uttering Forged ~~Paper~~), ~~Paper~~.
10 f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes).

11 The Secretary may appoint employees of the Unauthorized Substances Tax Division
12 to serve as revenue law enforcement officers having the responsibility and subject-matter
13 jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D
14 of this Chapter. To serve as a revenue law enforcement officer, an employee must be
15 certified as a criminal justice officer under Chapter 17C of the General Statutes.

16 (b) Authority. – A revenue law enforcement officer is a State officer with
17 jurisdiction throughout the State within the officer's subject-matter jurisdiction. A
18 revenue law enforcement officer may serve and execute notices, orders, warrants, or
19 demands issued by the Secretary or the General Court of Justice in connection with the
20 enforcement of the officer's subject-matter jurisdiction. A revenue law enforcement
21 officer has the full powers of arrest as provided by G.S. 15A-401 while executing the
22 notices, orders, warrants, or demands.

23 (c) Qualifications. – To serve as a revenue law enforcement officer, an employee
24 must be certified as a criminal justice officer under Chapter 17C of the General Statutes.
25 The Secretary may administer the oath of office to revenue law enforcement officers
26 appointed pursuant to this section."

27 Section 2. G.S. 105-236 is amended by adding a new subdivision to read:

28 "(10a) Filing a Frivolous Return. – If a taxpayer files a frivolous return under
29 Part 2 of Article 4 of this Chapter, the Secretary shall assess a penalty in
30 the amount of five hundred dollars (\$500.00). A frivolous return is a
31 return that meets both of the following requirements:

- 32 a. Fails to include information on which the substantial correctness
33 of the return may be judged or contains information that indicates
34 the return is substantially incorrect.
- 35 b. Evidences a desire to delay or impede the revenue laws of this
36 State or a reliance upon a position that is frivolous."

37 Section 3. G.S. 105-113.106(4c) is recodified as G.S. 105-113.106(4d).

38 Section 4. G.S. 105-113.106 is amended by adding the following two new
39 subdivisions to read:

40 "The following definitions apply in this Article:

- 41 ...
- 42 (4c) Local law enforcement agency. – A municipal police department, a
43 county police department, or a sheriff's office.

1 ...

2 (8a) State law enforcement agency. – Any State agency, force, department,
3 or unit responsible for enforcing criminal laws."

4 Section 5. G.S. 105-113.108 reads as rewritten:

5 "**§ 105-113.108. Reports; revenue stamps.**

6 (a) Revenue Stamps. – The Secretary shall issue stamps to affix to unauthorized
7 substances to indicate payment of the tax required by this Article. Dealers shall report the
8 taxes payable under this Article at the time and on the form prescribed by the Secretary.
9 Dealers are not required to give their name, address, social security number, or other
10 identifying information on the form. Upon payment of the tax, the Secretary shall issue
11 stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps
12 may be issued either by mail or in person.

13 (b) Reports. – Every local law enforcement agency and every State law
14 enforcement agency must report to the Department within 48 hours after seizing an
15 unauthorized substance, or making an arrest of an individual in possession of an
16 unauthorized substance, listed in this subsection upon which a stamp has not been
17 affixed. The report must be in the form prescribed by the Secretary and it must include
18 the time and place of the arrest or seizure, the amount, location, and kind of substance,
19 the identification of an individual in possession of the substance and that individual's
20 social security number, and any other information prescribed by the Secretary. The
21 report must be made when the arrest or seizure involves any of the following
22 unauthorized substances upon which a stamp has not been affixed as required by this
23 Article:

24 (1) More than 42.5 grams of marijuana.

25 (2) Seven or more grams of any other controlled substance that is sold by
26 weight.

27 (3) Ten or more dosage units of any other controlled substance that is not
28 sold by weight.

29 (4) Any illicit mixed beverage.

30 (5) Any illicit spirituous liquor.

31 (6) Mash."

32 Section 6. G.S. 114-18.1 is repealed.

33 Section 7. G.S. 114-19(b) is repealed.

34 Section 8. Section 2 of this act becomes effective October 1, 2000, and applies
35 to returns filed on or after that date. Sections 3 through 7 of this act become effective
36 December 1, 2000, and apply to arrests or seizures occurring on or after that date. The
37 remainder of this act is effective when it becomes law.