

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1551
RATIFIED BILL

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

~~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. To serve as a revenue law enforcement officer, an employee must be certified as a criminal justice officer under Chapter 17C of the General Statutes.~~

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

(c) Qualifications. – To serve as a revenue law enforcement officer, an employee must be certified as a criminal justice officer under Chapter 17C of the General Statutes.

The Secretary may administer the oath of office to revenue law enforcement officers appointed pursuant to this section."

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

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

- a. It fails to provide sufficient information to permit a determination that the return is correct or contains information which positively indicates the return is incorrect, and
- b. It evidences an intention to delay, impede or negate the revenue laws of this State or purports to adopt a position that is lacking in seriousness."

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

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

"The following definitions apply in this Article:

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

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

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

"§ 105-113.108. Reports; revenue stamps.

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

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

- (1) More than 42.5 grams of marijuana.
- (2) Seven or more grams of any other controlled substance that is sold by weight.
- (3) Ten or more dosage units of any other controlled substance that is not sold by weight.
- (4) Any illicit mixed beverage.
- (5) Any illicit spirituous liquor.
- (6) Mash."

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

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

Section 8. Section 2 of this act becomes effective October 1, 2000, and applies to returns filed on or after that date. Sections 3 through 7 of this act become

effective December 1, 2000, and apply to arrests or seizures occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

Marc Basnight
President Pro Tempore of the Senate

Representatives

Joe Hackney Speaker Pro Tempore of the House of

James B. Hunt, Jr.

Governor

Approved _____ .m. this _____ day of _____ , 2000