

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1214*

Short Title: Controlled Substance Tax.

(Public)

Sponsors: Representatives Rhyne; Privette and Decker.

Referred to: Judiciary.

April 12, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPOSE AN EXCISE TAX ON CONTROLLED SUBSTANCES.
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 105 of the General Statutes is amended by adding a new
5 Article to read:

6 **“ARTICLE 2D.**

7 **“SCHEDULE B-D. CONTROLLED SUBSTANCE TAX.**

8 **“§ 105-113.90. Definitions.**

9 The following definitions apply in this Article:

10 (1) Controlled Substance. Defined in G.S. 90-87.

11 (2) Counterfeit Controlled Substance. Defined in G.S. 90-87.

12 (3) Dealer. A person who possesses, delivers, sells, or manufactures a
13 controlled substance or a counterfeit controlled substance in violation
14 of the North Carolina Controlled Substance Act, Article 5 of Chapter
15 90.

16 (4) Deliver. Defined in G.S. 90-87.

17 (5) Manufacture. Defined in G.S. 90-87.

18 (6) Marijuana. Defined in G.S. 90-87.

19 (7) Person. An individual or an entity that identifies itself as an entity and
20 exists for a purpose, including a corporation, firm, partnership,
21 institution, or other unit.

22 (8) Secretary. The Secretary of the Department of Revenue.

23 **“§ 105-113.91. Excise tax on controlled substances.**

1 An excise tax is levied on controlled substances and counterfeit controlled
2 substances possessed by dealers at the following rates:

- 3 (1) At the rate of three dollars and fifty cents (\$3.50) for each gram, or
4 fraction thereof, of marijuana or counterfeit marijuana.
5 (2) At the rate of two hundred dollars (\$200.00) for each gram, or fraction
6 thereof, of any other controlled substance or counterfeit controlled
7 substance that is sold by weight.
8 (3) At the rate of four hundred dollars (\$400.00) for each 10 dosage units,
9 or fraction thereof, of any other controlled substance or counterfeit
10 controlled substance that is not sold by weight.

11 **"§ 105-113.92. Reports; revenue stamps.**

12 The Secretary shall issue stamps to affix to controlled substances and counterfeit
13 controlled substances to indicate payment of the tax required by this Article. Dealers
14 shall report the taxes payable under this Article at the time and on the form prescribed
15 by the Secretary. Dealers are not required to give their name, address, social security
16 number, or other identifying information on the form. Upon payment of the tax, the
17 Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes
18 may be paid and stamps may be issued either by mail or in person.

19 **"§ 105-113.93. When tax payable.**

20 The tax imposed by this Article is payable by any dealer who possesses a controlled
21 substance or counterfeit controlled substance in this State upon which the tax has not
22 been paid, as evidenced by a stamp. Taxes are payable within 48 hours after the dealer
23 acquires a non-tax-paid controlled substance or counterfeit controlled substance. Upon
24 payment of the tax, the dealer shall permanently affix the appropriate stamps to the
25 controlled substance. Once the tax due on a controlled substance or counterfeit
26 controlled substance has been paid, no additional tax is due under this Article even
27 though the controlled substance or counterfeit controlled substance may be handled by
28 other dealers.

29 **"§ 105-113.94. Violations of Article a felony.**

30 A dealer who violates this Article is guilty of a Class I felony, and is subject to an
31 additional penalty of one hundred percent (100%) of any tax due from the dealer.
32 Notwithstanding any other provision of law, no prosecution for a violation of this
33 Article shall be barred before the expiration of six years after the date of the violation.

34 **"§ 105-113.95. Assessments.**

35 Notwithstanding any other provision of law, an assessment against a dealer who
36 possesses a controlled substance to which a stamp has not been affixed as required by
37 this Article shall be made as provided in this section. The Secretary shall assess a tax,
38 applicable penalties, and interest based on personal knowledge or information available
39 to the Secretary. The Secretary shall notify the dealer in writing of the amount of the
40 tax, penalty, and interest due, and demand its immediate payment. The notice and
41 demand shall be either mailed to the dealer at the dealer's last known address or served
42 on the dealer in person. If the dealer does not pay the tax, penalty, and interest
43 immediately upon receipt of the notice and demand, the Secretary shall collect the tax,
44 penalty, and interest pursuant to the procedure set forth in G.S. 105-241.2(e) for

1 jeopardy assessments or the procedure set forth in G.S. 105-242, including causing
2 execution to be issued immediately against the personal property of the dealer unless the
3 dealer files with the Secretary a bond in the amount of the asserted liability for the tax,
4 penalty, and interest. The Secretary shall use all means available to collect the tax,
5 penalty, and interest from any property in which the dealer has a legal, equitable, or
6 beneficial interest. The dealer may seek review of the assessment as provided in Article
7 9 of this Chapter.

8 **"§ 105-113.96. Confidentiality of information.**

9 Notwithstanding any other provision of law, information obtained pursuant to this
10 Article is confidential and may not be disclosed or, unless independently obtained, used
11 in a criminal prosecution other than a prosecution for a violation of this Article. Stamps
12 issued pursuant to this Article may not be used in a criminal prosecution other than a
13 prosecution for a violation of this Article. A person who discloses information obtained
14 pursuant to this Article is guilty of a misdemeanor. This section does not prohibit the
15 Secretary from publishing statistics that do not disclose the identity of dealers or the
16 contents of particular returns or reports."

17 Sec. 2. Article 4 of Chapter 114 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 114-18.1. Information on controlled substances.**

20 (a) Every local law enforcement agency and every State law enforcement agency
21 shall, within 48 hours after making an arrest of an individual in possession of a
22 controlled substance or a counterfeit controlled substance, report the arrest to the State
23 Bureau of Investigation. Every local law enforcement agency and every State law
24 enforcement agency shall, within 48 hours after seizing a controlled substance or a
25 counterfeit controlled substance, report the seizure to the State Bureau of Investigation.
26 The report shall include the time and place of the arrest or seizure, the amount and
27 location of the substance, and the identification of any individual in possession of the
28 substance.

29 (b) The following definitions apply in this section:

30 (1) Controlled Substance. Defined in G.S. 90-87.

31 (2) Counterfeit Controlled Substance. Defined in G.S. 90-87.

32 (3) Local Law Enforcement Agency. A municipal police department, a
33 county police department, or a sheriff's department.

34 (4) State Law Enforcement Agency. Any State agency, force, department,
35 or unit responsible for enforcing criminal laws."

36 Sec. 3. G.S. 114-19 reads as rewritten:

37 **"§ 114-19. Criminal statistics.**

38 (a) It shall be the duty of the State Bureau of Investigation to receive and collect
39 police information, to assist in locating, identifying, and keeping records of criminals in
40 this State, and from other states, and to compare, classify, compile, publish, make
41 available and disseminate any and all such information to the sheriffs, constables, police
42 authorities, courts or any other officials of the State requiring such criminal
43 identification, crime statistics and other information respecting crimes local and
44 national, and to conduct surveys and studies for the purpose of determining so far as is

1 possible the source of any criminal conspiracy, crime wave, movement or cooperative
2 action on the part of the criminals, reporting such conditions, and to cooperate with all
3 officials in detecting and preventing.

4 (b) The State Bureau of Investigation shall, on a daily basis, notify the
5 Department of Revenue of all reports it receives pursuant to G.S. 114-18.1 of arrests
6 and seizures involving controlled substances and counterfeit substances. The Bureau
7 shall also, as soon as practicable, provide the Department with any additional
8 information it receives regarding such arrests and seizures."

9 Sec. 4. There is appropriated from the General Fund to the Department of
10 Revenue the sum of _____ dollars (\$____) for the 1989-90 fiscal year and the sum of
11 _____ dollars (\$____) for the 1990-91 fiscal year to be used to administer, collect,
12 and enforce the tax levied by this act.

13 Sec. 5. This act shall become effective October 1, 1989.