

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 699\*  
Judiciary I Committee Substitute Adopted 5/5/89  
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Short Title: Controlled Substance Tax.

(Public)

Sponsors:

Referred to:

March 30, 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. Purpose.**

9 The purpose of this Article is to levy an excise tax on persons who possess  
10 controlled substances and counterfeit controlled substances in violation of North  
11 Carolina law and to provide that a person who possesses such substances in violation of  
12 this Article is guilty of a felony. Nothing in this Article may in any manner provide  
13 immunity from criminal prosecution for a person who possesses an illegal substance.

14 **“§ 105-113.91. Definitions.**

15 The following definitions apply in this Article:

- 16 (1) Controlled Substance. Defined in G.S. 90-87.
- 17 (2) Counterfeit Controlled Substance. Defined in G.S. 90-87.
- 18 (3) Dealer. A person who in violation of G.S. 90-95 possesses, delivers,  
19 sells, or manufactures more than 42.5 grams of marijuana, or seven or  
20 more grams of any other controlled substance or counterfeit controlled  
21 substance that is sold by weight, or 10 or more dosage units of any

1           other controlled substance or counterfeit controlled substance that is  
2           not sold by weight.

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

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

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

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

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

10 **"§ 105-113.92. Excise tax on controlled substances.**

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

13           (1) At the rate of three dollars and fifty cents (\$3.50) for each gram, or  
14 fraction thereof, of marijuana or counterfeit marijuana.

15           (2) At the rate of two hundred dollars (\$200.00) for each gram, or fraction  
16 thereof, of any other controlled substance or counterfeit controlled  
17 substance that is sold by weight.

18           (3) At the rate of four hundred dollars (\$400.00) for each 10 dosage units,  
19 or fraction thereof, of any other controlled substance or counterfeit  
20 controlled substance that is not sold by weight.

21           A quantity of marijuana or other controlled substance is measured by the weight of  
22 the substance whether pure or impure or dilute, or by dosage units when the substance is  
23 not sold by weight, in the dealer's possession. A quantity of a controlled substance is  
24 dilute if it consists of a detectable quantity of pure controlled substance and any  
25 excipients or fillers.

26 **"§ 105-113.93. Reports; revenue stamps.**

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

34 **"§ 105-113.94. When tax payable.**

35           The tax imposed by this Article is payable by any dealer who possesses a controlled  
36 substance or counterfeit controlled substance in this State upon which the tax has not  
37 been paid, as evidenced by a stamp. The tax is payable within 48 hours after the dealer  
38 acquires a non-tax-paid controlled substance or counterfeit controlled substance,  
39 exclusive of Saturdays, Sundays, and legal holidays of this State, in which case the tax  
40 is payable on the next working day. Upon payment of the tax, the dealer shall  
41 permanently affix the appropriate stamps to the controlled substance. Once the tax due  
42 on a controlled substance or counterfeit controlled substance has been paid, no  
43 additional tax is due under this Article even though the controlled substance or  
44 counterfeit controlled substance may be handled by other dealers.

1 **"§ 105-113.95. Violations of Article a felony.**

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

6 **"§ 105-113.96. Assessments.**

7 Notwithstanding any other provision of law, an assessment against a dealer who  
8 possesses a controlled substance to which a stamp has not been affixed as required by  
9 this Article shall be made as provided in this section. The Secretary shall assess a tax,  
10 applicable penalties, and interest based on personal knowledge or information available  
11 to the Secretary. The Secretary shall notify the dealer in writing of the amount of the  
12 tax, penalty, and interest due, and demand its immediate payment. The notice and  
13 demand shall be either mailed to the dealer at the dealer's last known address or served  
14 on the dealer in person. If the dealer does not pay the tax, penalty, and interest  
15 immediately upon receipt of the notice and demand, the Secretary shall collect the tax,  
16 penalty, and interest pursuant to the procedure set forth in G.S. 105-241.2(e) for  
17 jeopardy assessments or the procedure set forth in G.S. 105-242, including causing  
18 execution to be issued immediately against the personal property of the dealer unless the  
19 dealer files with the Secretary a bond in the amount of the asserted liability for the tax,  
20 penalty, and interest. The Secretary shall use all means available to collect the tax,  
21 penalty, and interest from any property in which the dealer has a legal, equitable, or  
22 beneficial interest. The dealer may seek review of the assessment as provided in Article  
23 9 of this Chapter.

24 **"§ 105-113.97. Confidentiality of information.**

25 Notwithstanding any other provision of law, information obtained pursuant to this  
26 Article is confidential and may not be disclosed or, unless independently obtained, used  
27 in a criminal prosecution other than a prosecution for a violation of this Article. Stamps  
28 issued pursuant to this Article may not be used in a criminal prosecution other than a  
29 prosecution for a violation of this Article. A person who discloses information obtained  
30 pursuant to this Article is guilty of a misdemeanor. This section does not prohibit the  
31 Secretary from publishing statistics that do not disclose the identity of dealers or the  
32 contents of particular returns or reports."

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

35 **"§ 114-18.1. Information on controlled substances.**

36 (a) Every local law enforcement agency and every State law enforcement agency  
37 shall, within 48 hours after making an arrest of an individual in possession of a  
38 controlled substance or a counterfeit controlled substance, report the arrest to the State  
39 Bureau of Investigation. Every local law enforcement agency and every State law  
40 enforcement agency shall, within 48 hours after seizing a controlled substance or a  
41 counterfeit controlled substance, report the seizure to the State Bureau of Investigation.  
42 The report shall include the time and place of the arrest or seizure, the amount and  
43 location of the substance, and the identification of any individual in possession of the  
44 substance.

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

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

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

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

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

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

9 **"§ 114-19. Criminal statistics.**

10 (a) It shall be the duty of the State Bureau of Investigation to receive and collect  
11 police information, to assist in locating, identifying, and keeping records of criminals in  
12 this State, and from other states, and to compare, classify, compile, publish, make  
13 available and disseminate any and all such information to the sheriffs, constables, police  
14 authorities, courts or any other officials of the State requiring such criminal  
15 identification, crime statistics and other information respecting crimes local and  
16 national, and to conduct surveys and studies for the purpose of determining so far as is  
17 possible the source of any criminal conspiracy, crime wave, movement or cooperative  
18 action on the part of the criminals, reporting such conditions, and to cooperate with all  
19 officials in detecting and preventing.

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

25 Sec. 4. G.S. 90-112(c) reads as rewritten:

26 "(c) Property taken or detained under this section shall not be repleviable, but shall be  
27 deemed to be in custody of the law-enforcement agency seizing it, which may:

28 (1) Place the property under seal; or,

29 (2) Remove the property to a place designated by it; or,

30 (3) Request that the North Carolina Department of Justice take custody of  
31 the property and remove it to an appropriate location for disposition in  
32 accordance with law.

33 Any property seized by a State, local, or county law enforcement officer shall be held in  
34 safekeeping as provided in this subsection until an order of disposition is properly  
35 entered by the judge."

36 Sec. 5. There is appropriated from the General Fund to the Department of  
37 Revenue the sum of \_\_\_\_\_ dollars (\$\_\_\_\_) for the 1989-90 fiscal year and the sum of  
38 \_\_\_\_\_ dollars (\$\_\_\_\_) for the 1990-91 fiscal year to be used to administer, collect,  
39 and enforce the tax levied by this act.

40 Sec. 6. Because at this time it is impossible to estimate the amount of  
41 additional revenue that may be generated by this act, sound budgetary practices dictate  
42 that the taxes collected pursuant to this act should not be expended before the 1990-91  
43 fiscal year. Therefore, notwithstanding any other provision of law, the Secretary of  
44 Revenue shall deposit the taxes collected pursuant to this act in a special fund to the

1 credit of the State Treasurer, to be called the State Controlled Substances Tax Fund. It  
2 is the intent of the General Assembly that these tax proceeds shall remain in the Special  
3 Fund until the General Assembly provides that they shall be deposited in the General  
4 Fund.

5           Sec. 7. This act shall become effective October 1, 1989.