

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 253

Short Title: Exclusionary Rule/Const. Amendment.

(Public)

Sponsors: Senators Allran, Hartsell, Simpson, Cochrane, Forrester, Little, Hoyle, Perdue, and Carpenter.

Referred to: Judiciary I/Constitution.

February 23, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT THE CONSTITUTION OF NORTH CAROLINA
2 SHALL NOT BE CONSTRUED TO REQUIRE THAT RELEVANT MATERIAL
3 EVIDENCE BE EXCLUDED IN A CRIMINAL TRIAL UNLESS ITS EXCLUSION
4 IS REQUIRED UNDER THE CONSTITUTION OF THE UNITED STATES.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. Section 13(2) of Article IV of the Constitution of North Carolina
8 reads as rewritten:

9 "(2) **Rules of procedure.** The Supreme Court shall have exclusive authority to
10 make rules of procedure and practice for the Appellate Division. The General Assembly
11 may make rules of procedure and practice for the Superior Court and District Court
12 Divisions, and the General Assembly may delegate this authority to the Supreme Court.
13 No rule of procedure or practice shall abridge substantive rights or abrogate or limit the
14 right of trial by jury. If the General Assembly should delegate to the Supreme Court the
15 rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any
16 rule of procedure or practice adopted by the Supreme Court for the Superior Court or
17 District Court Divisions.

18 Neither this Constitution nor the power granted by this Article to the Supreme Court
19 to make rules of procedure and practice for the Appellate Division shall be construed to

1 require that relevant material evidence be excluded from evidence in a criminal trial
2 unless its exclusion is required under the Constitution of the United States."

3 Sec. 2. The amendment set out in Section 1 of this act shall be submitted to the
4 qualified voters of the State at the general election in November 1996, which election
5 shall be conducted under the laws then governing elections in the State. Ballots, voting
6 systems, or both may be used in accordance with Chapter 163 of the General Statutes.
7 The question to be used in the voting systems and ballots shall be:

8 **"[] FOR [] AGAINST**

9 Constitutional amendment to provide that relevant material evidence shall not
10 be excluded from evidence in a criminal trial unless its exclusion is required under the
11 Constitution of the United States."

12 Sec. 3. If a majority of the votes cast on the question are in favor of the
13 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
14 amendment to the Secretary of State. The amendment becomes effective upon this
15 certification. The Secretary of State shall enroll the amendment so certified among the
16 permanent records of that office.

17 Sec. 4. This act is effective upon ratification.