

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 711

Short Title: Chemical Analysis Certificate.

(Public)

Sponsors: Senators Daniel, Basnight, Rauch, Barker, Kaplan, Plyler, Conder, Soles, Winner, Goldston, Taft, Staton, Murphy, Marvin, Block, Guy, Harris, Speed, Royall, Sherron, Parnell, Ward, Martin of Guilford, Walker, Martin of Pitt; Ezzell, Hunt of Durham, Hunt of Moore, Johnson of Wake, Raynor, Richardson, Sands, and Tally.

Referred to: Judiciary I.

March 30, 1989

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A CERTIFIED CHEMICAL ANALYSIS REPORT
2 MAY BE ADMITTED IN EVIDENCE IN SUPERIOR COURT WITHOUT
3 FURTHER AUTHENTICATION OR SUPPORTING TESTIMONY.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 90-95 is amended by adding a new section to read:

6 "(g1) The Attorney General of North Carolina may designate State Forensic
7 Laboratories. These laboratories shall be staffed by employees of the State or its
8 political subdivisions. In a proceeding for a violation of Article 5 of this Chapter, a law
9 enforcement agency may submit to one of these laboratories any substance believed to
10 be a controlled substance. The laboratory shall analyze this substance.

11 (1) Upon the request of a law enforcement agency, the laboratory
12 employee performing the analysis shall prepare a certificate. This
13 employee shall sign the certificate under oath and shall include in the
14 certificate an attestation concerning the results of the analysis. The
15 presentation of this certificate to a superior court in the General Court
16 of Justice by any party to a proceeding shall be evidence of
17 compliance with all of the requirements and provisions of this
18 subsection. This certificate shall be sworn to before a notary public or
19 other person empowered by law to take oaths and shall contain a
20 statement establishing the following: The type of analysis performed;
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1 the result achieved; any conclusions reached based on that result; that
2 the subscriber is the person who performed the analysis and made the
3 conclusions; the subscriber's training or experience to perform the
4 analysis; and the nature and condition of the equipment used. When
5 properly executed, the certificate shall be, subject to subdivision (2)
6 and notwithstanding any other provision of law, admissible evidence
7 of the composition, quality, and quantity of the substance submitted to
8 the laboratory for analysis, and the court shall take judicial notice of
9 the signature of the person performing the analysis and of the fact that
10 he is that person.

11 (2) Whenever a party intends to offer into evidence a certificate executed
12 pursuant to this subsection, notice of an intent to offer that certificate
13 and all reports concerning the analysis in question, including a copy of
14 the certificate, shall be conveyed to the opposing party or parties at
15 least 20 days before the proceeding begins. An opposing party who
16 intends to object to the admission in evidence of a certificate shall give
17 notice of objection and the grounds for the objection within ten days of
18 receiving the adversary's notice of intent to offer the certificate.
19 Whenever a notice of objection is filed, admissibility of the certificate
20 shall be determined before the beginning of the proceeding. A
21 certificate offered by a party shall be admitted in evidence unless it
22 appears from the notice of objection and specific grounds for that
23 objection that the composition, quality, or quantity of the substance
24 submitted to the laboratory for analysis will be contested at the
25 proceeding. A failure to comply with the time limitations concerning
26 the notice of objection required by this subdivision shall constitute a
27 waiver of any objections to the admission of the certificate, except on a
28 showing of good cause.”

29 Sec. 2. This act shall become effective October 1, 1989, and shall apply to
30 offenses occurring on or after that date.