

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 853
Appropriations Committee Substitute Adopted 7/3/97

Short Title: Revenue Officers' Police Powers.

(Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING THE SECRETARY OF THE DEPARTMENT OF
2 REVENUE TO APPOINT EMPLOYEES OF THE DEPARTMENT AS REVENUE
3 LAW ENFORCEMENT AGENTS TO ENFORCE THE EXCISE TAX ON
4 CONTROLLED SUBSTANCES AND THE CRIMINAL PROVISIONS OF THE
5 REVENUE LAWS AND DIRECTING THE SECRETARY OF REVENUE TO
6 NOTIFY AFFECTED INTANGIBLES TAXPAYERS BY MAIL AS SOON AS
7 POSSIBLE OF THE COURT NOTICE IN THE CLASS ACTION LAWSUIT
8 REGARDING REFUNDS.
9

10 The General Assembly of North Carolina enacts:

11 Section 1. Article 9 of Chapter 105 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 105-236.1. Enforcement of revenue laws by revenue law enforcement agents.**

14 (a) General. – The Secretary may appoint employees of the Criminal
15 Investigations Division to serve as revenue law enforcement officers having the
16 responsibility and subject-matter jurisdiction to enforce the felony tax violations in G.S.
17 105-236 and to enforce any of the following criminal offenses when they involve a tax
18 imposed under Chapter 105 of the General Statutes: G.S. 14-91 (Embezzlement of State

1 Property), G.S. 14-92 (Embezzlement of Funds), G.S. 14-100 (Obtaining Property By
2 False Pretenses), G.S. 14-119 (Forgery), and G.S. 14-120 (Uttering Forged Paper).

3 The Secretary may appoint employees of the Controlled Substances Tax Division to
4 serve as revenue law enforcement officers having the responsibility and subject-matter
5 jurisdiction to enforce the excise tax on controlled substances imposed by Article 2D of
6 this Chapter. To serve as a revenue law enforcement officer, an employee must be
7 certified as a criminal justice officer under Chapter 17C of the General Statutes.

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

15 Section 2. G.S. 17C-2 reads as rewritten:

16 **"§ 17C-2. Definitions.**

17 Unless the context clearly otherwise requires, the following definitions apply in this
18 Chapter:

19 (a) ~~" Commission" means the~~ (1) Commission. – The North Carolina
20 Criminal Justice Education and Training Standards Commission;
21 Commission.

22 (b) ~~" Criminal justice agencies" means the~~ (2) Criminal justice agencies. –
23 The State and local law-enforcement agencies, the State correctional
24 agencies, other correctional agencies maintained by local governments,
25 and the juvenile justice agencies, but shall not include deputy sheriffs,
26 special deputy sheriffs, sheriffs' jailers, or other sheriffs' department
27 personnel governed by the provisions of Chapter 17E of these General
28 Statutes; Statutes.

29 (c) ~~" Criminal justice officer(s)" means and incorporates the~~ (3) Criminal
30 justice officers. – The administrative and subordinate personnel of all
31 the departments, agencies, units or entities comprising the "criminal
32 justice agencies," as defined in subsection (b), criminal justice agencies
33 who are sworn law-enforcement officers, both State and local, with the
34 power of arrest; revenue law enforcement officers; State correctional
35 officers; State probation/parole officers; officers, supervisory and
36 administrative personnel of local confinement facilities; State youth
37 services officers; State probation/parole intake officers; State
38 probation/parole officers-surveillance; State probation/parole intensive
39 officers; and State parole case analysts.

40 (d) ~~" Entry level" means the~~ (4) Entry level. – The initial appointment or
41 employment of any person by a criminal justice agency, or any
42 appointment or employment of a person previously employed by a
43 criminal justice agency who has not been employed by a criminal justice

1 agency for the 12-month period preceding this appointment or
2 employment, or any appointment or employment of a previously
3 certified criminal justice officer to a position which requires a different
4 type of certification."

5 Section 3. G.S. 135-1(11b) reads as rewritten:

6 "(11b) 'Law-Enforcement Officer' means a full-time paid employee of an
7 employer who is actively serving in a position with assigned primary
8 duties and responsibilities for prevention and detection of crime or the
9 general enforcement of the criminal laws of the State of North Carolina
10 or serving civil processes, and who possesses the power of arrest by
11 virtue of an oath administered under the authority of the State. The term
12 does not include a revenue law-enforcement officer."

13 Section 4. G.S. 143-166.30(a)(4) reads as rewritten:

14 "(4) 'Law-enforcement officer' means a full-time paid employee of an
15 employer who is actively serving in a position with assigned primary
16 duties and responsibilities for prevention and detection of crime or the
17 general enforcement of the criminal laws of the State or serving civil
18 processes, and who possesses the power of arrest by virtue of an oath
19 administered under the authority of the State. The term does not include
20 a revenue law-enforcement officer."

21 Section 5. G.S. 143-166.13(a) is amended by adding a new subdivision to
22 read:

23 "(18) Sworn State Law-Enforcement Officers with the power of arrest,
24 Department of Revenue."

25 Section 6. Of the funds appropriated from the General Fund to the Department
26 of Revenue for operating expenses, the sum of sixty-seven thousand five hundred three
27 dollars (\$67,503) shall be used in the 1997-98 fiscal year to implement Sections 1
28 through 5 of this act.

29 Section 7. (a) The Secretary of Revenue shall, as soon as possible, mail a copy of
30 the Wake County Superior Court's notice in the class action lawsuit Smith v. State to all
31 intangibles taxpayers that she has identified as possibly being affected and for whom she
32 has identified a last known mailing address. The Secretary of Revenue shall draw the
33 costs of implementing this subsection, up to a maximum of two hundred thousand dollars
34 (\$200,000), from collections under Division II of Article 4 of Chapter 105 of the General
35 Statutes. The court's notice requires immediate action by affected taxpayers. The
36 Secretary of Revenue shall, therefore, make an extraordinary effort to assure that the
37 notices are sent as quickly as possible.

38 (b) It is the intent of the General Assembly that as many affected taxpayers as
39 possible receive actual, complete information before the deadline set by the court for
40 taxpayers to make a decision regarding the class action lawsuit. The Secretary of
41 Revenue shall supplement the mailing required by this section with circulation of the
42 court's notice to tax professionals and media outlets throughout the State and to any other
43 person she considers appropriate to implement the intent of this section.

1 Section 8. This act is effective when it becomes law.