

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS75329-LH-199 (03/13)

Short Title: Trial Exhibits.

(Public)

Sponsors: Senator Hagan.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE PRESIDING TRIAL JUDGE IN BOTH CIVIL AND CRIMINAL CASES HAS THE SOLE DISCRETION TO DETERMINE WHETHER JURORS MAY TAKE EXHIBITS INTRODUCED INTO EVIDENCE IN THE JURY ROOM AND THAT THE CONSENT OF ALL PARTIES IS NOT NECESSARY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1233 reads as rewritten:

"§ 15A-1233. Review of testimony; use of evidence by the jury.

(a) If the jury after retiring for deliberation requests a review of certain testimony or other evidence, the jurors must be conducted to the courtroom. ~~The judge~~the court in ~~his~~its discretion, after notice to the prosecutor and defendant, may direct that requested parts of the testimony be read to the jury and may permit the jury to reexamine in open court the requested materials admitted into evidence. ~~In his discretion the judge~~The court in its discretion may also have the jury review other evidence relating to the same factual issue so as not to give undue prominence to the evidence requested.

(b) ~~Upon request by the jury and with consent of all parties, the judge may in his discretion permit the jury to take to the jury room exhibits and writings which have been received in evidence. If the judge permits the jury to take to the jury room requested exhibits and writings, he may have the jury take additional material or first review other evidence relating to the same issue so as not to give undue prominence to the exhibits or writings taken to the jury room. If the judge permits an exhibit to be taken to the jury room, he must, upon request, instruct the jury not to conduct any experiments with the exhibit.~~ Upon request by the jury, the court may in its discretion permit the jury to take exhibits that have been received in evidence into the jury room.

(c) The court may refrain from sending certain material to the jury room if the court determines either of the following:

1 (1) That the material may be subjected to improper use by the jury or
2 unduly prejudicial to any party.

3 (2) That the material might be dangerous to jurors or to others.

4 (d) In sending any exhibits to the jury, the court should ensure that the
5 evidentiary integrity of the exhibit is preserved."

6 **SECTION 2.** Article 19 of Chapter 1 of the General Statutes is amended by
7 adding a new section to read:

8 **"§ 1-181.2. Use of evidence by the jury.**

9 (a) If the jury after retiring for deliberation requests a review of certain testimony
10 or other evidence, the jurors must be conducted to the courtroom. The court in its
11 discretion, after notice to the plaintiff and defendant, may direct that requested parts of
12 the testimony be read to the jury and may permit the jury to reexamine in open court the
13 requested materials admitted into evidence. The court in its discretion may also have the
14 jury review other evidence relating to the same factual issue so as not to give undue
15 prominence to the evidence requested.

16 (b) Upon request by the jury, the court may in its discretion permit the jury to
17 take exhibits that have been received in evidence into the jury room. Depositions may
18 be taken into the jury room upon request of the jury only with consent of the parties.

19 (c) The court may refrain from sending certain material to the jury room if the
20 court determines either of the following:

21 (1) That the material may be subjected to improper use by the jury or
22 unduly prejudicial to any party.

23 (2) That the material might be dangerous to jurors or to others.

24 (d) In sending any exhibits to the jury, the court should ensure that the
25 evidentiary integrity of the exhibit is preserved."

26 **SECTION 3.** This act becomes effective October 1, 2007.