

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH70370-LH-200 (3/25)

Short Title: Spectral Fluorescence Signature Drug Analysis.

(Public)

Sponsors: Representative R. Warren.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE RESULTS OF A SPECTRAL FLORESCENCE SIGNATURE ANALYSIS WITH REGARD AS TO WHETHER A SUBSTANCE IS A DRUG ARE ADMISSIBLE IN EVIDENCE IN COURT, TO REQUIRE A PERMIT TO CONDUCT A SPECTRAL FLORESCENCE SIGNATURE ANALYSIS, AND TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH AND ADMINISTER A PERMIT PROGRAM FOR THE PRACTICE OF SPECTRAL FLORESCENCE SIGNATURE ANALYSIS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 90 is amended by adding a new section to read:

"§ 90-95.8. Spectral Florescence Signature Analysis.

(a) Spectral Florescence Signature Analysis. – In any prosecution under Article 5 of Chapter 90 of the General Statutes, the results of a spectral florescence signature analysis that meets the criteria set out in this section are admissible in evidence in court for the prosecution of any violation under Article 5 of this Chapter to identify a disputed substance as one of the following controlled substances: heroin as defined at G.S. 90-89(2)(j); MDMA as defined at G.S. 90-89(3)(c); cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, or any salt, isomer, salts of isomers, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, as defined at G.S. 90-90(1)(d); methamphetamine as defined at G.S. 90-90(3)(c); marijuana as defined at G.S. 90-94(1).

(b) Criteria for Admissibility. – The results of a Spectral Florescence Signature Analysis are admissible in evidence in court under this Article only if the analysis meets both of the following requirements:

(1) It is performed in accordance with the rules of the Department of Health and Human Services.

(2) The person performing the analysis had, at the time of the analysis, a current permit issued by the Department of Health and Human Services authorizing the person to perform a Spectral Fluorescence Signature Analysis using the type of instrument employed.

(c) Inadmissibility of Analysis Results. – The results of a Spectral Florescence Signature Analysis of a disputed substance alleged to be a controlled substance performed in accordance with this section are not admissible in evidence if:



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1 (c) Public List of Permittees. – The Department of Health and Human Services shall
2 post on a Web page a list of all persons who have a permit authorizing them to perform
3 Spectral Florescence Signature Analyses, the instruments that each person is authorized to
4 operate, the effective dates of the permits, and the records of preventive maintenance."

5 **SECTION 3.** This act becomes effective October 1, 2009.