



# HOUSE BILL 357: Chemical Analysis Reports/District Court.

2016-2017 General Assembly

<b>Committee:</b>	Senate Judiciary II	<b>Date:</b>	May 18, 2016
<b>Introduced by:</b>	Reps. Stam, Faircloth, Glazier, Hurley	<b>Prepared by:</b>	Janice Paul
<b>Analysis of:</b>	PCS to Second Edition H357-CSTJ-63		Committee Co-Counsel

**SUMMARY:** *The Proposed Committee Substitute (PCS) for House Bill 357 would amend procedures governing the admissibility into evidence of chemical analysis test results.*

**BILL ANALYSIS:** G.S. 20-139.1, "Procedures governing chemical analyses; admissibility; evidentiary provisions; controlled-drinking programs," sets out procedures governing the admissibility and use of chemical analysis test results in implied-consent offenses. The PCS would make the following changes to G.S. 20-139.1:

- Currently, the notice-and-demand provisions of G.S. 20-139.1 require the State to notify the defendant *at least 15 business days before the proceeding* at which a chemical analysis document (report, statement, or affidavit) would be used of its intention to introduce the document into evidence and to provide a copy of it to the defendant. The PCS would impose an additional requirement that the State provide notice of intent and a copy of the document to the defendant *no later than 15 business days after receiving* the document.
- In subsections (c1) "Admissibility," (c3) "Procedure for Establishing Chain of Custody Without Calling Unnecessary Witnesses," and (e2) that limits the State's use of the chemical analyst's affidavit in district court, the PCS would provide that if the proceeding at which the chemical analysis document would be introduced into evidence is continued, the defendant's written objection or failure to file a written objection remains in effect at any subsequent calendaring of that proceeding.
- Make clarifying changes relating to the terms, "report," "affidavit," and "statement."
- Current law provides that the defendant's failure to file a timely objection to the introduction of a chemical analyst's affidavit in district court shall be deemed a waiver of the right to object to the affidavit's admissibility. The PCS would add a provision requiring that if such a waiver occurs, the affidavit be admitted into evidence without the analyst's testimony.

**EFFECTIVE DATE:** This act would become effective on October 1, 2016, and apply to trials commencing on or after that date.

**BACKGROUND:** Driving while impaired and several related criminal offenses involving the consumption of alcohol or other impairing substances are classified under State law as "implied consent offenses." An individual charged with or arrested for an implied consent offense may be required to under chemical testing to detect the presence of alcohol or other impairing substances and measuring their concentration. An individual who refuses to submit to such testing is subject to having his or her license administratively revoked, and the refusal may be considered as substantive evidence of his or her guilt of the offense(s) charged.

*Susan Sitze and Tawanda Foster, staff attorneys, contributed to this summary.*

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578