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## LAW ENFORCEMENT OFFICERS AND AGENCIES Georgia Bureau of Investigation: Provide Certificate of Authenticity

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## LAW ENFORCEMENT OFFICERS AND AGENCIES

### *Georgia Bureau of Investigation: Provide Certificate of Authenticity*

CODE SECTION: O.C.G.A. § 35-3-16 (new)  
BILL NUMBER: HB 838  
ACT NUMBER: 1103  
SUMMARY: The Act adds a new Code section to the general provisions relating to the Georgia Bureau of Investigation. The new Code section provides that law enforcement agencies may submit substances, blood, or urine to the Division of Forensic Sciences for testing. It also requires that upon completion of the testing and at the request of a district attorney, the laboratory shall sign a certificate that will be admissible evidence of the laboratory results. Finally, it sets out procedures for making objections to the certificate at trial.  
EFFECTIVE DATE: July 1, 1994

### *History*

Representative Mike Snow of the Second District originally proposed the bill in response to complaints from district attorneys.<sup>1</sup> District attorneys complained that state crime lab personnel were required to travel hundreds of miles and waste tax dollars to authenticate evidence at various trials around the state.<sup>2</sup> In proposing this bill, Representative Snow intended to effect a “shortcut” to admissibility for certain types of evidence and promote judicial economy.<sup>3</sup>

However, the notice of objection provision<sup>4</sup> was included to address defense attorneys’ potential concerns that they would be unable to meet the stringent time constraints in the Act.<sup>5</sup>

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1. Telephone Interview with Rep. Mike Snow, House District No. 2 (July 6, 1994) [hereinafter Snow Interview]. Rep. Snow was the sponsor of HB 838. *Id.*

2. *Id.*

3. *Id.*

4. O.C.G.A. § 35-3-16(c) (Supp. 1994); see *infra* notes 15-18 and accompanying text.

5. Snow Interview, *supra* note 1.

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The Act adds a Code section to article 1 of chapter 3 of title 35.<sup>6</sup> The Act provides that any law enforcement agency may submit substances, blood, or urine to the Georgia Bureau of Investigation's Division of Forensic Sciences for laboratory analysis and testing.<sup>7</sup> However, the Act authorizes these submissions only when the defendant is charged with violating the Georgia Controlled Substance Act,<sup>8</sup> the Dangerous Drug Act,<sup>9</sup> or driving under the influence of alcohol or drugs.<sup>10</sup> Substances covered under this section may include substances the law enforcement agency believes to be controlled substances.<sup>11</sup>

The Act requires that "[u]pon the request of the appropriate district attorney's office" the laboratory employee "shall" prepare a certificate.<sup>12</sup> The certificate must contain information about the type of analysis, the results of the analysis, and the person who performed the analysis. If the employee signs the certificate under oath and attests to the results, the certificate shall be evidence of compliance with the law when presented to a court.<sup>13</sup> The certificate shall be sworn to before a notary public and shall then become "admissible evidence of the composition, quality, and quantity of the substance."<sup>14</sup>

The Act also provides guidelines for objections at trial to the certificate.<sup>15</sup> These guidelines provide that all parties be served with a copy of the certificate and notice of the opposing party's intent to use it at trial at least ten days before the proceeding begins.<sup>16</sup> The Act requires any party intending to object to the certificate to give notice of objection within ten days of receiving notice of the opposing party's intent to use the certificate.<sup>17</sup> The Act states specific grounds for objection to a certificate, including the "composition, quality, quantity,

6. O.C.G.A. § 35-3-16(a) (Supp. 1994).

7. *Id.*

8. *Id.* §§ 16-13-20 to -56 (1992 & Supp. 1994).

9. *Id.* §§ 16-13-70 to -79 (1992 & Supp. 1994).

10. *Id.* § 40-6-391 (Supp. 1994). The Act provides for the submission of "any substance believed to be a controlled substance or dangerous drug, or counterfeit thereof, or any poisons or any drugs" if in a proceeding for violation of the Georgia Controlled Substance Act and the Dangerous Drug Act. *Id.* § 35-3-16(a) (Supp. 1994). By contrast, the Act provides for the submission of blood and urine only in a proceeding for violation of Georgia's DUI statute. *Id.*

11. *Id.* § 35-3-16(a) (Supp. 1994).

12. *Id.* § 35-3-16(b) (Supp. 1994).

13. *Id.*

14. *Id.*

15. *Id.* § 35-3-16(c) (Supp. 1994).

16. *Id.*

17. *Id.*

or chain of custody of the substance.”<sup>18</sup> In addition, the Act requires a determination of admissibility at least two days before the trial.<sup>19</sup>

The original version of the bill differed in only one phrase from the Act as passed.<sup>20</sup> Instead of providing that the certificate be issued upon request of any law enforcement agency, the final version requires that the certificate be issued upon “request of the appropriate district attorney’s office.”<sup>21</sup>

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18. *Id.*

19. *Id.*

20. Compare HB 838, as introduced, 1994 Ga. Gen. Assem. with O.C.G.A. § 35-3-16 (Supp. 1994).

21. O.C.G.A. § 35-3-16 (Supp. 1994). The district attorneys requested this change in order to ensure they were informed as to whom the certificates were issued. Snow Interview, *supra* note 1.