



CHAPTER 78D

ARTICLE 2 - ADMINISTRATION AND ENFORCEMENT

N.C.G.S. § 78D-33.

Affirmative Defense.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	c. 634, s. 1 — first act in the lineage	21 September 2026, 02:04 UTC	6ea7374a114c96d4cd4fe867 - e53cf3d2033e91abd1f6f26c - f88de156e77d1917

It shall be a defense in any complaint, information, indictment, any writ or proceeding brought under this Chapter alleging a violation of G.S. 78D-2 based solely on the failure in an individual case to make physical delivery within the applicable time period under G.S. 78D-1(5) or G.S. 78D-4(a)(2) if the party asserting the defense sustains the burden of proof that:

Failure to make physical delivery was due solely to factors beyond the control of the seller, the seller's officers, directors, partners, agents, servants or employees, every person occupying a similar status or performing similar functions, every person who directly or indirectly controls or is controlled by the seller, or any of them, the seller's affiliates, subsidiaries or successors; and

Physical delivery was completed within a reasonable time under the applicable circumstances.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I

1 ACT

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

1989		1990	
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT	
Nº	YEAR	ACT	CHARACTER
01	1989	c. 634, s. 1	ENACTED

APPARATUS II

3 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 78D-2		<i>"this Chapter alleging a violation of"</i>
G.S. 78D-1(5)		<i>"within the applicable time period under"</i>
G.S. 78D-4(a)(2)		<i>"time period under G.S. 78D-1(5) or"</i>

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 78D-33 (1989).

Pinpoint keys are set in the left margin of the text rather than line numbers; subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1989, c. 634, s. 1.)

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