GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2003

SENATE DRS15259-LUf-102* (5/12)

Short Title: Amend Barbering Laws/Increase Fees.

(Public) Sponsors: Senator Albertson. Referred to:

1		A BILL TO BE ENTITLED			
2	AN AC	AMENDING THE LAWS REGULATING THE PRACTICE OF			
3	BARI	ERING, AUTHORIZING THE STATE BOARD OF BARBER			
4	EXAN	INERS TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE			
5	LAW	OR RULES REGULATING THE PRACTICE OF BARBERING, AND			
6	INCREASING FEES.				
7	The General Assembly of North Carolina enacts:				
8		SECTION 1. G.S. 86A-5(a) reads as rewritten:			
9	"(a)	The Board has the following powers and duties:			
10		1) To see that inspections of barbershops and schools are conducted to			
11		determine compliance with sanitary regulations. The Board may			
12		appoint inspectors as necessary; necessary.			
13		2) To adopt sanitary regulations concerning barber schools and shops and			
14		procedural rules in accordance with the guidelines established in			
15		G.S. 86A-15; <u>G.S. 86A-15.</u>			
16		3) To review the barber licensing laws of other states and to determine			
17		which are the substantive equivalent of the laws of North Carolina for			
18		purposes of G.S. 86A-12;G.S. 86A-12.			
19		4) To conduct examinations of applicants for certificate of registration as			
20		registered barber, registered apprentice and barber school instructor.			
21		5) To employ and fix the compensation of personnel that the Board			
22		deems necessary to carry out the provisions of this Chapter.			
23		6) <u>To assess civil penalties pursuant to G.S. 86A-27.</u> "			
24		SECTION 2. G.S. 86A-6 reads as rewritten:			
25	"§ 86A-6	Office; seal; officers and executive secretary;<u>director;</u> funds.			
26	The H	ard shall maintain a suitable office in Raleigh, and shall adopt and use a			
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common seal for the authentication of its orders and records. The Board shall annually 27

elect its own officers, and in addition, may elect or appoint a full-time executive 1 2 secretary-director who shall not be a member of the Board, and whose salary shall be 3 fixed by the Board. The executive secretary director shall turn over to the State Treasurer to be credited to the State Board of Barber Examiners all funds collected or 4 received under this Chapter, the funds to be held and expended under the supervision of 5 6 the Director of the Budget, exclusively for the enforcement and administration of the 7 provisions of this Chapter. Nothing herein shall be construed to authorize any 8 expenditure in excess of the amount available from time to time in the hands of the State 9 Treasurer derived from fees collected under the provisions of this Chapter and received 10 by the State Treasurer pursuant to the provisions of this section." SECTION 3. G.S. 86A-9 reads as rewritten: 11 12 "§ 86A-9. Board to conduct examinations not less than four times each year. The Board shall conduct examinations of applicants for certificates of registration to 13 14 practice as registered barbers and registered apprentices, not less than four times each 15 year, at such times and places as will prove most convenient and as the Board may determine. The Board may adopt rules establishing procedures for the administration of 16 17 examinations." 18 **SECTION 4.** G.S. 86A-17(b) reads as rewritten: A registered barber whose certificate of registration has expired may have the 19 "(b) 20 certificate restored immediately upon paying all lapsed renewal fees and the required 21 late fee and furnishing a health certificate if required by the Board; provided, however, a Board. Where a registered barber's certificate of registration has expired for a period 22 23 greater than six months, the Board may impose civil penalties pursuant to G.S. 86A-27. 24 A registered barber whose certificate has expired for a period of five years shall be required to take the clinical examination prescribed by the State Board of Barber 25 Examiners and otherwise comply with the provisions of this Chapter before engaging in 26 27 the practice of barbering. No registered barber who is reissued a certificate under this subsection shall be required to serve an apprenticeship as a prerequisite to reissuance of 28 29 the certificate." 30 **SECTION 5.** Chapter 86A of the General Statutes is amended by adding a new section to read: 31 "§ 86A-20.1. Enjoining illegal practices. 32 33 The Board, the Department of Health and Human Services, or any county or district health director may apply to the superior court for an injunction to restrain any person 34 35 from violating the provisions of this Chapter or the Board's rules. Actions under this section shall be brought in the county where the defendant resides or maintains his or 36 37 her principal place of business or where the alleged acts occurred." 38 SECTION 6. G.S. 86A-22 reads as rewritten: 39 "§ 86A-22. Licensing and regulating barber schools and colleges. The North Carolina State Board of Barber Examiners may approve barber schools or 40 colleges in the State, and may prescribe rules and regulations for their operation. The 41 42 Board shall adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber school or college shall be approved by the Board unless 43 the school or college meets all of the following requirements: 44

1	(1)	Each school shall provide a course of instruction of at least 1528
2		hours.
3	(2)	Each school shall have at least two instructors, except that nonprofit
4		schools shall have at least one instructor for every 20 enrolled
5		students. Each instructor must hold a valid instructor's certificate
6		issued by the Board. At least one instructor must be on the premises of
7		a barber school during regular instruction hours. employ at least two
8		instructors for the first 40 enrolled students and employ at least one
9		additional instructor for every additional 20 enrolled students. Schools
10		that are organized as nonprofits and have obtained a ruling from the
11		Internal Revenue Service recognizing their tax exempt status shall
12		have at least one instructor for every 20 enrolled students. No school,
13		whether for profit or nonprofit, shall provide practical training or
14		theoretical training simultaneously unless at least two instructors are
15		present.
16	(3)	An application for a student's permit, on a form prescribed by the
17		Board, must be filed with the Board before the student enters school.
18		No student may enroll without having obtained a student's permit.
19	(4)	Each student enrolled shall be given a complete course of instruction
20		on the following subjects: hair cutting; shaving; shampooing, and the
21		application of creams and lotions; care and preparation of tools and
22		implements; scientific massaging and manipulating the muscles of the
23		scalp, face, and neck; sanitation and hygiene; shedding and regrowth
24		of hair; elementary chemistry relating to sterilization and antiseptics;
25		instruction on common skin and scalp diseases to the extent that they
26		may be recognized; pharmacology as it relates to preparations
27		commonly used in barbershops; instruction in the use of electrical
28		appliances and the effects of the use of these on the human skin;
29		structure of the skin and hair; nerve points of the face; the application
30		of hair dyes and bleaches; permanent waving; marcelling or hair
31		pressing; frosting and streaking; and the statutes and regulations
32		relating to the practice of barbering in North Carolina. The Board shall
33		specify the minimum number of hours of instruction for each subject
34		required by this subsection.
35	(5)	Each school shall file an up-to-date list of its students with the Board
36		at least once a month. If a student withdraws or transfers, the school
37		shall file a report with the Board stating the courses and hours
38		completed by the withdrawing or transferring student. The school shall
39		also file with the Board a list of students who have completed the
40		amount of work necessary to meet the licensing requirements.
41	(6)	Each school shall comply with the sanitary requirements of
42		G.S. 86A-15.

1	(7)	a.	Each school shall provide a guaranty bond unless the school has
2 3			already provided a bond or an alternative to a bond under
			G.S. 115D-95. The North Coroline State Deerd of Derber Everyiners may
4			The North Carolina State Board of Barber Examiners may
5			revoke the approval of a school that fails to maintain a bond or
6			an alternative to a bond pursuant to this subdivision or
7			G.S. 115D-95.
8		b.	When application is made for approval or renewal of approval,
9			the applicant shall file a guaranty bond with the clerk of the
10			superior court of the county in which the school will be located.
11			The bond shall be in favor of the students. The bond shall be
12			executed by the applicant as principal and by a bonding
13			company authorized to do business in this State. The bond shall
14			be conditioned to provide indemnification to any student, or his
15			parent or guardian, who has suffered a loss of tuition or any fees
16			by reason of the failure of the school to offer or complete
17			student instruction, academic services, or other goods and
18			services related to course enrollment for any reason, including
19			the suspension, revocation, or nonrenewal of a school's
20			approval, bankruptcy, foreclosure, or the school ceasing to
21			operate.
22			The bond shall be in an amount determined by the Board to
23			be adequate to provide indemnification to any student, or his
24			parent or guardian, under the terms of the bond. The bond
25			amount for a school shall be at least equal to the maximum
26			amount of prepaid tuition held at any time during the last fiscal
27			year by the school. The bond amount shall also be at least ten
28			thousand dollars (\$10,000).
29			Each application for approval shall include a letter signed by
30			an authorized representative of the school showing in detail the
30			calculations made and the method of computing the amount of
31			the bond pursuant to this subpart and the rules of the Board. If
33			the Board finds that the calculations made and the method of
33			computing the amount of the bond are inaccurate or that the
34 35			
			amount of the bond is otherwise inadequate to provide
36			indemnification under the terms of the bond, the Board may
37			require the applicant to provide an additional bond.
38			The bond shall remain in force and effect until cancelled by
39			the guarantor. The guarantor may cancel the bond upon 30 days
40			notice to the Board. Cancellation of the bond shall not affect
41			any liability incurred or accrued prior to the termination of the
42			notice period.
43		c.	An applicant that is unable to secure a bond may seek a waiver
44			of the guaranty bond from the Board and approval of one of the

guaranty bond alternatives set forth in this subpart. With the
approval of the Board, an applicant may file with the clerk of
the superior court of the county in which the school will be
located, in lieu of a bond:

- 5 1. An assignment of a savings account in an amount equal 6 to the bond required (i) which is in a form acceptable to 7 the Board; (ii) which is executed by the applicant; and 8 (iii) which is executed by a state or federal savings and 9 loan association, state bank, or national bank, that is 10 doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for 11 12 which access to the account in favor of the State of North 13 Carolina is subject to the same conditions as for a bond 14 in subpart b. above.
- 15 2. A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or 16 17 national bank, which is doing business in North Carolina 18 and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State 19 20 of North Carolina, unrestrictively endorsed to the Board; 21 in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a 22 23 nonnegotiable certificate of deposit, is assigned to the 24 Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the 25 State of North Carolina is subject to the same conditions 26 27 as for a bond in subpart b. above."
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SECTION 7. G.S. 86A-24(b) reads as rewritten:

29 An apprentice license expires on May 31 of each year. Every holder of an "(b) apprentice license shall annually renew the apprentice license by the expiration date and 30 pay the required renewal fee. An apprentice license issued under this Chapter is 31 32 automatically suspended by operation of law after failure to renew the apprentice 33 license by the expiration date. An apprentice whose apprentice license has expired may have the certificate restored immediately upon paying all lapsed renewal fees and the 34 35 required late fee. The certificate of registration of an apprentice is valid only so long as the apprentice works under the supervision of a registered barber. The registered barber 36 shall remain present on the premises of the barbershop at all times while the apprentice 37 38 is working. No apprentice shall operate a barbershop." 39 **SECTION 8.** G.S. 86A-25 reads as rewritten:

40 "§ 86A-25. Fees collectible by Board.

41	The State Board of Barber Examiners shall charge fees not to exceed the following:
42	Certificate of registration or renewal as a barber\$ 30.0060.00
43	Certificate of registration or renewal as an apprentice barber
44	Barbershop permit or renewal

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1 Examination to become a registered barber \$50.00100.00 2 Examination to become a registered apprentice barber \$50.00100.00 3 Late fee for restoration of an expired barber certificate 4 within first year after expiration but within 7 five years after expiration but within 8 Late fee for restoration of an expired barber certificate 9 within first year after expiration 9 within first year after expiration 10 Late fee for restoration of an expired apprentice certificate 9 within first year after expiration 11 after first year after expiration but within three years 12 of first issuance of the certificate 13 Late fee for restoration of an expired barbershop certificate 14 after first year after expiration but within three years 15 Student permit 16 Issuance of the certificate 17 Barber school permit or renewal 18 Exonologicate copy of a license, certificate, or permit 17 Barber school permit or renewal 18 Barber school instructor certificate or renewal 17 Barber school instructo
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34 This Chapter shall not prohibit a member of a family from practicing barbering on a
35 member of his or her family. For purposes of this section, 'a member of his or her
36 <u>family' means a spouse or lineal descendant.</u> "
37 SECTION 10. Chapter 86A of the General Statutes is amended by adding a
38 new section to read:
39 " <u>§ 86A-27. Civil penalties; disciplinary costs.</u>
40 (a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty
41 not in excess of one thousand five hundred dollars (\$1,500) for the violation of any
42 section of this Chapter or the violation of any rules adopted by the Board. The clear
43 proceeds of any civil penalty assessed under this section shall be remitted to the Civil
44 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

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1	<u>(b)</u>	Consideration Factors. – Before imposing and assessing a civil penalty, the	
2	Board shall consider the following factors:		
3		(1) The nature, gravity, and persistence of the particular violation.	
4		(2) The appropriateness of the imposition of a civil penalty when	
5		considered alone or in combination with other punishment.	
6		(3) Whether the violation was willful and malicious.	
7		(4) Any other factors that would tend to mitigate or aggravate the	
8		violations found to exist.	
9	<u>(c)</u>	Schedule of Civil Penalties The Board shall establish a schedule of civil	
10	penalties	for violations of this Chapter and rules adopted by the Board.	
11	<u>(d)</u>	Costs. – The Board may in a disciplinary proceeding charge costs, including	
12	<u>reasonab</u>	le attorneys' fees, to the licensee against whom the proceedings were brought."	
13		SECTION 11. This act is effective when it becomes law.	