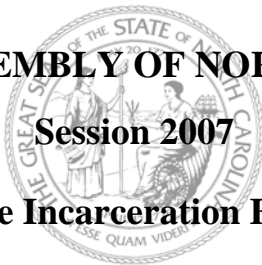


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2007

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1577 (Second Edition)
SHORT TITLE: Amend Hearing Aid Dealers/Fitters Laws/Fees.
SPONSOR(S): Representative England

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
REVENUES					
N.C. Hearing Aid Licensing Board	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800
EXPENDITURES					
General Fund					
Correction					
Judicial					
Local Govt.					
TOTAL EXPENDITURES:					
ADDITIONAL PRISON BEDS: (cumulative)*			None.		
POSITIONS: (cumulative)			Amount cannot be determined.		
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	N.C. Hearing Aid Dealers and Fitters Board; Department of Correction; Judicial Branch; Local Government.				
EFFECTIVE DATE:	October 1, 2007.				
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY: Amends G.S. 93D-1 to change the name of the board charged with enforcing the provisions of Chapter 93D to the *North Carolina State Hearing Aid Licensing Board*, and makes conforming changes throughout the Chapter.

- Enacts new G.S. 93D-2.1 establishing guidelines for the sale, lease, or rental of hearing aids when there is no fitting, selection, or adaptation of the hearing aid instrument by the person offering the hearing aid for sale or lease.
- Amends G.S. 93D-9 to increase the minimum age for registration as an apprentice to 18 years (from 17 years), and to require that an applicant pass a pre-qualifying examination within 30 days of application, in order for the registration to entitle the applicant to fit and sell hearing aids under the supervision of a holder of a regular license. Specifies the content of the pre-qualifying exam.
- Makes technical and conforming changes to Chapter 93D regarding testing requirements for an apprentice working under the supervision of a Board licensee.
- Amends G.S. 93D-3, 93D-5, and 93D-11 to increase certain maximum fees regarding registration, licensing, and exams. Makes additional changes regarding annual reports, Board member expenses, and the deadline for certain refunds (G.S. 93D-3); requirements for licensure (G.S. 93D-5); discipline, suspension, and revocation of licenses, and confidentiality of records (G.S. 93D-13).

The second edition (House committee substitute) makes the following changes the first edition: Modifies G.S. 93D-2 to eliminate the proposed requirement that an apprentice must have passed an entry-level competency exam in order to lawfully fit or sell hearing aids.

- Substantially rewrites proposed new G.S. 93D-2.1 to clarify that it applies to *mail order* hearing sales. Requires that a person selling, leasing, or renting hearing aids by mail order to persons in N.C. must meet all of the listed criteria, including:
 1. Licensure as a hearing aid dispenser under Chapter 93D;
 2. Consultation to a consumer, either in person or via telephone, by a person *licensed as a hearing aid dispenser* or *registered as an apprentice* by the Board, with respect to fitting, selection, or adaptation of the hearing aid instrument (was, prohibited mail order seller from offering advice with respect to fitting, selection, or adaptation), and with respect to the taking of ear impressions for the ear mold by the seller (was, prohibited mail order seller from providing advice regarding the ear mold); and,
 3. Complying with all medical evaluations requirements under 21 CFR §801.421 (federal law regarding labeling and conditions for sale for hearing aid devices). Deletes requirement regarding receipt and retention of a signed statement by a licensed physician verifying the medical clearance of the person seeking to purchase a hearing aid.
- Makes technical changes to punctuation in G.S. 93D-3(c). Modifies G.S. 93D-3(d) by deleting proposed amendments regarding per diem allocations, the bond for the secretary-treasurer, and the Board's annual report.
- Modifies G.S. 93D-5 by:
 1. Deleting proposed amendments that would have required an apprentice to pass a pre-qualifying exam, and which would have increased the applicant's licensing fee from \$150.00 to \$250.00;
 2. Restoring the requirement that an applicant for a license be free of contagious or infectious disease; and,
 3. Providing that the exception that allows a person who has not served a one-year apprenticeship to receive a license applies to persons holding a license in Audiology

issued by the NC Board of Examiners for Speech and Language Pathologist and Audiologist (was, persons holding licenses in Audiology).

- Modifies proposed amendments to G.S. 93D-9 to require that an applicant for registration as an apprentice must meet all of the listed requirements. Specifies that the requirements include being sponsored by a hearing aid dispenser (was, hearing aid dealer and fitter).
- Effective October 1, 2007 (was, when it becomes law), and applies to applications on or after that date.

Source: *Bill Digest H.B. 1577 (04/17/0200)*.

ASSUMPTIONS AND METHODOLOGY: H.B. 1577 imposes additional registration requirements and restrictions on apprentices (including an additional \$25 fee; see “Revenues” section), to be administered and overseen by the newly-titled Board, and authorizes hearing aid sales via mass media sources under certain conditions. These proposed changes alter the scope the criminal offense for general violation of Chapter 93D. Per G.S. 93D-15, it is Class 2 misdemeanor offense to violate any provision of Chapter 93D, or to falsely represent oneself as a licensed fitter and seller of hearing aids, or registered apprentice.

REVENUES: PRE-QUALIFYING EXAMINATION FEE

North Carolina State Hearing Aid Licensing Board

To offset the cost of administering the pre-qualifying examination to apprentice applicants, the Board is authorized to assess a fee up to \$25, per application.

The NC State Hearing Aid Licensing Board has advised that it receives approximately 5-7 applications per month which translates to between 60 and 84 applications a year. The average of 72 is used for this analysis. Since the number of applications has been steady there is no basis to assume a particular growth rate in the number of applications.

	2007-08	2008-09	2009-10	2010-11	2011-12
Number of Applicants	72	72	72	72	72
Pre-qualifying Exam (\$25)	\$ 1,800	\$ 1,800	\$ 1,800	\$ 1,800	\$ 1,800
Total	\$ 1,800	\$ 1,800	\$ 1,800	\$ 1,800	\$ 1,800

EXPENDITURES: NORTH CAROLINA STATE HEARING AID LICENSING BOARD

The North Carolina State Hearing Aid Licensing Board estimates a minimal fiscal impact as a result of this bill. Because the Board lacks the necessary data upon which an accurate estimate of the expansion of duties and responsibilities might be made, the Board will need to reevaluate its fee structure at a future date and may need to revisit the General Assembly with a request for a fee increase.

EXPENDITURES: CRIMINAL OFFENSE

The proposed registration requirements, restrictions, and sale authorizations broaden the scope of the existing criminal offense for violation of Chapter 93D – a Class 2 misdemeanor. However, due to the nature of the offense, penalty level, and limited offender pool, few additional criminal charges and convictions are expected. While the exact amount of resultant charges and/or convictions is

indeterminate,¹ no significant fiscal impact is anticipated for the justice system – Corrections, Courts, and Local Governments (administration of jails).

Department of Correction

Most Class 2 misdemeanor convictions result in non-active, intermediate or community punishments (83% in FY 2005-06) - predominantly special, intensive, or general supervision probation.² Accordingly, *if future convictions result from the proposed changes, the Division of Community Corrections (DCC) could incur some additional costs for offenders placed under its supervision.* It is not known how many offenders would be sentenced to intermediate or community punishments, to which type, or for how long. However, based on the limited offender pool, no additional supervisory resources are anticipated.

Included below is a brief overview of DCC sanction costs, per offender:

- General supervision of intermediate and community offenders by a probation officer costs DCC \$1.96 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution.
- A daily cost of \$0.69 is incurred per offender sentenced to the Community Service Work Program.
- The daily cost per offender on intermediate sanction is much higher, ranging from \$7.71 to \$14.97 depending on the type of sanction. Intensive supervision probation is the most frequently used intermediate sanction, and costs an estimated \$14.97 per offender, per day. On average, intensive supervision lasts six-months, with general supervision assumed for a designated period thereafter.

The remaining 17% of Class 2 misdemeanor convictions in FY 2005-06 resulted in active sentences, with an average estimated time served of 13 days. Because Class 2 misdemeanants serve their designated terms of incarceration within local jails, there is no anticipated impact on the State prison population; however, the potential impact on local jail populations is unknown.³

However, under Structured Sentencing, Class 2 misdemeanor active sentences may range from 1 to 60 days. Accordingly, to the extent that future convictions for the proposed offense were to result in active sentences longer than 30 days, the Department of Correction could incur some additional costs for county reimbursement. But given the typical length for Class 2 active sentences, Fiscal Research does not anticipate a significant increase in reimbursements due to this proposal.

Judicial Branch

Though the number of resultant charges is indeterminate, the Administrative Office of the Courts expects that any additional caseload will increase court-time requirements and the associated costs of case disposal. Specifically, the AOC anticipates increased workload for district attorneys, district court judges, clerks, court reporters, and indigent defense counsel. Presently, the estimated court-time costs

¹ The Administrative Office of the Courts does not currently maintain an offense code for violation of Chapter 93D, indicating that offenses are infrequently charged and/or result in conviction. This lack of offense code prevents a reliable estimate of future violations.

² Of the community punishments imposed on Class 2 misdemeanants in FY 2005-06, most were unsupervised probation; conversely, the majority of intermediate punishments were special and intensive supervision probation.

³ Active sentences between 1-90 days are served in local jails. The Department of Correction reimburses counties \$18 per day for offenders housed longer than 30 days (between 30 and 90). Sentences longer than 90 days are to be served in state prison; however, when bed shortages demand it, the State may lease needed beds from counties.

per Class 2 misdemeanor trial and plea are \$2,770 and \$230, respectively. These cost estimates account for indigent defense.⁴ Actual costs may vary with time requirements and disposition.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and Office of State Construction; North Carolina State Hearing Aid Licensing Board

TECHNICAL CONSIDERATIONS: None

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