

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH10287-LUF-102A* (5/12)

Short Title: Amend Barbering Laws/Increase Fees. (Public)

Sponsors: Representative Holliman.

Referred to:

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS REGULATING THE PRACTICE OF BARBERING, AUTHORIZING THE STATE BOARD OF BARBER EXAMINERS TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE LAWS OR RULES REGULATING THE PRACTICE OF BARBERING, AND INCREASING FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 86A-5(a) reads as rewritten:

"(a) The Board has the following powers and duties:

- (1) To see that inspections of barbershops and schools are conducted to determine compliance with sanitary regulations. The Board may appoint inspectors as ~~necessary~~; necessary.
- (2) To adopt sanitary regulations concerning barber schools and shops and procedural rules in accordance with the guidelines established in ~~G.S. 86A-15~~; G.S. 86A-15.
- (3) To review the barber licensing laws of other states and to determine which are the substantive equivalent of the laws of North Carolina for purposes of ~~G.S. 86A-12~~; G.S. 86A-12.
- (4) To conduct examinations of applicants for certificate of registration as registered barber, registered apprentice and barber school instructor.
- (5) To employ and fix the compensation of personnel that the Board deems necessary to carry out the provisions of this Chapter.
- (6) To assess civil penalties pursuant to G.S. 86A-27."

SECTION 2. G.S. 86A-6 reads as rewritten:

"§ 86A-6. **Office; seal; officers and executive ~~secretary~~; director; funds.**

The Board shall maintain a suitable office in Raleigh, and shall adopt and use a common seal for the authentication of its orders and records. The Board shall annually

1 elect its own officers, and in addition, may elect or appoint a full-time executive
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
4 Treasurer to be credited to the State Board of Barber Examiners all funds collected or
5 received under this Chapter, the funds to be held and expended under the supervision of
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."

11 **SECTION 3.** G.S. 86A-9 reads as rewritten:

12 "**§ 86A-9. Board to conduct examinations not less than four times each year.**

13 The Board shall conduct examinations of applicants for certificates of registration to
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
16 determine. The Board may adopt rules establishing procedures for the administration of
17 examinations."

18 **SECTION 4.** G.S. 86A-17(b) reads as rewritten:

19 "(b) A registered barber whose certificate of registration has expired may have the
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~~
22 Board. Where a registered barber's certificate of registration has expired for a period
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
25 required to take the clinical examination prescribed by the State Board of Barber
26 Examiners and otherwise comply with the provisions of this Chapter before engaging in
27 the practice of barbering. No registered barber who is reissued a certificate under this
28 subsection shall be required to serve an apprenticeship as a prerequisite to reissuance of
29 the certificate."

30 **SECTION 5.** Chapter 86A of the General Statutes is amended by adding a
31 new section to read:

32 "**§ 86A-20.1. Enjoining illegal practices.**

33 The Board, the Department of Health and Human Services, or any county or district
34 health director may apply to the superior court for an injunction to restrain any person
35 from violating the provisions of this Chapter or the Board's rules. Actions under this
36 section shall be brought in the county where the defendant resides or maintains his or
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.**

40 The North Carolina State Board of Barber Examiners may approve barber schools or
41 colleges in the State, and may prescribe rules and regulations for their operation. The
42 Board shall adopt rules establishing criteria for barber schools and colleges to maintain
43 their accreditation. No barber school or college shall be approved by the Board unless
44 the school or college meets all of the following requirements:

- 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 already provided a bond or an alternative to a bond under
3 G.S. 115D-95.

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
31 calculations made and the method of computing the amount of
32 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
34 computing the amount of the bond are inaccurate or that the
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:

1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.
2. A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 7. G.S. 86A-24(b) reads as rewritten:

"(b) An apprentice license expires on May 31 of each year. Every holder of an apprentice license shall annually renew the apprentice license by the expiration date and pay the required renewal fee. An apprentice license issued under this Chapter is automatically suspended by operation of law after failure to renew the apprentice 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 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 shall remain present on the premises of the barbershop at all times while the apprentice is working. No apprentice shall operate a barbershop."

SECTION 8. G.S. 86A-25 reads as rewritten:

"§ 86A-25. Fees collectible by Board.

The State Board of Barber Examiners shall charge fees not to exceed the following:

Certificate of registration or renewal as a barber.....	\$ 30.00 60.00
Certificate of registration or renewal as an apprentice barber	30.00 60.00
Barbershop permit or renewal.....	30.00 60.00

1	Examination to become a registered barber.....	50.00	100.00
2	Examination to become a registered apprentice barber.....	50.00	100.00
3	Late fee for restoration of an expired barber certificate		
4	within first year after expiration.....	20.00	40.00
5	Late fee for restoration of an expired barber certificate		
6	after first year after expiration but within		
7	five years after expiration.....	40.00	80.00
8	Late fee for restoration of an expired apprentice certificate		
9	within first year after expiration.....	20.00	40.00
10	Late fee for restoration of an expired apprentice certificate		
11	after first year after expiration but within three years		
12	of first issuance of the certificate.....	25.00	50.00
13	Late fee for restoration of an expired barbershop certificate.....	25.00	50.00
14	Examination to become a barber school instructor.....	95.00	190.00
15	Student permit.....	15.00	30.00
16	Issuance of any duplicate copy of a license, certificate, or permit.....	7.50	15.00
17	Barber school permit or renewal.....	75.00	150.00
18	Late fee for restoration of an expired barber school certificate.....	50.00	100.00
19	Barber school instructor certificate or renewal.....	50.00	100.00
20	Late fee for restoration of an expired barber school		
21	instructor certificate within first year after expiration.....	25.00	50.00
22	Late fee for restoration of an expired barber school instructor		
23	certificate after first year after expiration		
24	but within three years after expiration.....	50.00	100.00
25	Inspection of newly established barbershop.....	70.00	140.00
26	Inspection of newly established barber school.....	125.00	250.00
27	Issuance of a registered barber or		
28	apprentice certificate by certification.....	70.00	140.00
29	Barbers 70 years and older certificate or renewal.....	No charge	charge
30	<u>Reasonable charges for certified copies of public documents</u>		
31	<u>Reasonable charges for duplication services and material."</u>		

SECTION 9. G.S. 86A-26 reads as rewritten:

"§ 86A-26. Barbering among members of same family.

This Chapter shall not prohibit a member of a family from practicing barbering on a member of his or her family. For purposes of this section, 'a member of his or her family' means a spouse or lineal descendant."

SECTION 10. Chapter 86A of the General Statutes is amended by adding a new section to read:

"§ 86A-27. Civil penalties; disciplinary costs.

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of one thousand five hundred dollars (\$1,500) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

1 (b) 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 (c) 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 (d) Costs. – The Board may in a disciplinary proceeding charge costs, including
12 reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

13 **SECTION 11.** This act is effective when it becomes law.