

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**HOUSE BILL 860
RATIFIED BILL**

**AN ACT TO AMEND THE REGISTRATION REQUIREMENTS AND FEES TO
ENGAGE IN CERTAIN ACTIVITIES WITH CONTROLLED SUBSTANCES.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-101(a) reads as rewritten:

"(a) Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities shall annually register with the North Carolina Department of Health and Human Services, in accordance with rules adopted by the Commission, and shall pay the registration fee set by the Commission for the category to which the applicant belongs. An applicant for registration shall file an application for registration with the Department of Health and Human Services and submit the required fee with the application. The categories of applicants and the maximum fee for each category are as follows:

| <u>CATEGORY</u> | <u>MAXIMUM FEE</u> |
|-----------------------------|--------------------|
| Clinic | \$150.00 |
| Hospital | 350.00 |
| Nursing Home | 150.00 |
| Teaching Institution | 150.00 |
| Researcher | 150.00 |
| Analytical Laboratory | 150.00 |
| <u>Dog Handler</u> | <u>150.00</u> |
| Distributor | 600.00 |
| Manufacturer | 700.00." |

SECTION 2. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-102.1. Registration of persons requiring limited use of controlled substances for training purposes in certain businesses.

(a) Definitions. – As used in this Article:

- (1) 'Commercial detection service' means any person, firm, association, or corporation contracting with another person, firm, association, or corporation for a fee or other valuable consideration to place, lease, or rent a trained drug detection dog with a dog handler.
- (2) 'Dog handler' means a person trained in the handling of drug detection dogs, including the care, feeding, and maintenance of drug detection dogs and the procedures necessary to train and control the behavior of drug detection dogs.
- (3) 'Drug detection dog' means a dog trained to locate controlled substances by scent.

(b) Registration. – A dog handler who is not exempt from registration under G.S. 90-101 who intends to use any controlled substance included in Schedules I through VI for the limited purpose of the initial training and maintenance training of drug detection dogs shall file an application for registration with the Department of Health and Human Services and pay the applicable fee as provided in G.S. 90-101.

(c) Prerequisites for Registration. – Upon receipt of an application, the Department of Health and Human Services shall conduct a background investigation, during the course of which the applicant shall be required to show that the applicant meets all the following requirements and qualifications:

- (1) That the applicant is at least 21 years of age.
- (2) That the applicant is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits:
 - a. Conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage;
 - b. Conviction of a felony or a crime involving an act of violence;
 - c. Conviction of a crime involving unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude; or
 - d. A history of addiction to alcohol or a narcotic drug;

provided that, for purposes of this subsection, conviction means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury.

- (3) That the applicant has not been convicted of any felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.
- (4) That the applicant has the necessary training, qualifications, and experience to demonstrate competency and fitness as a dog handler as the Department of Health and Human Services may determine by rule for all registrations to be approved by the Department.
- (5) That the applicant affirms in writing that if the application for registration is approved, the applicant shall report all dog alerts to, or finds of, any controlled substance to a law enforcement agency having jurisdiction in the area where the dog alert occurs or where the controlled substance is found.

(d) Criminal Record Check. – The Department of Justice may provide a criminal record check to the Department of Health and Human Services for a person who has applied for a new or renewal registration. The Department of Health and Human Services shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Health and Human Services shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(e) Acquisition of Controlled Substances. – If the application for registration is approved, the registrant may lawfully obtain and possess controlled substances in the manner and to the extent authorized by the registration, in conformity with G.S. 90-105, other provisions of this Article, and rules promulgated by the Commission pursuant to G.S. 90-100.

(f) Record Keeping; Physical Security. – Each registrant shall keep records and maintain inventories in the manner specified in G.S. 90-104. Registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. Controlled substances shall be stored in a securely locked, substantially

constructed cabinet, and the storage area shall be protected by an alarm system that is continuously monitored by an alarm company central station.

(g) Disclosure of Discovery of Controlled Substances. – A dog handler shall, upon a dog alert or finding of a controlled substance, notify the State or local law enforcement agency having jurisdiction over the area where the dog alert occurs or the controlled substance is found. Before leaving the premises where the dog alert occurs or where the controlled substance is found, the dog handler shall inform law enforcement of the dog alert or the finding of a controlled substance and shall provide all relevant information concerning the dog alert or the discovery of the controlled substance.

(h) Commercial Detection Services; Dog Certification and Client Confidentiality. – Any drug detection dog utilized in a commercial detection service in this State shall first be certified by a canine certification association approved by the Department of Health and Human Services. Any person, including a nonresident, engaged in providing a commercial detection service in this State shall comply with the requirements of subsection (g) of this section regarding disclosure of the discovery of controlled substances. Client records of a dog handler who provides a commercial detection service for controlled substances shall be confidential unless the dog handler is required to report a dog alert or finding of a controlled substance in the course of a search, the records are lawfully subpoenaed, or the records are obtained by a law enforcement officer pursuant to a court order, a search warrant, or an exception to the search warrant requirement.

(i) Notice of Disclosure Requirement. – A dog handler shall provide conspicuous written notice to clients at the dog handler's place of business and in the contract for services stating that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance.

Any person who contracts with a dog handler to provide commercial drug detection services shall provide conspicuous written notice to any person whose person or property may be subject to search stating that the premises is subject to search and that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance.

(j) The Department of Health and Human Services shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this section involving individuals registered or applying to be registered under this section. The Department or the Commission may deny, suspend, or revoke a registration issued under this section if it is determined that the applicant or registrant has:

- (1) Made any false statement or given any false information in connection with any application for a registration or for the renewal or reinstatement of a registration.
- (2) Violated any provision of this Article.
- (3) Violated any rule promulgated by the Department of Health and Human Services or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services pursuant to the authority contained in this Article.

(k) This section does not apply to law enforcement agencies, to dog handlers and drug detection dogs that are employed or under contract to law enforcement agencies, or to other persons who are exempt from registration under G.S. 90-101(c)(5)."

SECTION 3. Pursuant to G.S. 90-100, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services may adopt temporary and permanent rules relating to the acquisition, possession, and security of controlled substances by persons registered under the provisions of G.S. 90-102.1, as enacted by this act. The Department of Health and Human Services may adopt temporary and permanent rules relating to the training and qualifications for dog handlers and the certification of drug detection dogs subject to the provisions of G.S. 90-102.1, as enacted by this act.

SECTION 4. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 19th day of
July, 2003.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2003