

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1384*
Finance Committee Substitute Adopted 6/17/04
House Committee Substitute Favorable 7/1/04

Short Title: Amend Barbering Laws.

(Public)

Sponsors:

Referred to:

May 27, 2004

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE LAWS REGULATING THE PRACTICE OF
3 BARBERING AND AUTHORIZING THE STATE BOARD OF BARBER
4 EXAMINERS TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE
5 LAWS OR RULES REGULATING THE PRACTICE OF BARBERING.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 86A-4 reads as rewritten:

8 "**§ 86A-4. State Board of Barber Examiners; appointment and qualifications; term**
9 **of office; removal.**

10 (a) The State Board of Barber Examiners is established to consist of five
11 members appointed by the Governor. Four shall be licensed barbers; the other shall be a
12 person who is not licensed under this Chapter and who shall represent the interest of the
13 public at large.

14 (b) No member appointed to the Board on or after July 1, 1981, shall serve more
15 than three complete consecutive three-year terms, except that each member shall serve
16 until the member's successor is appointed and qualifies.

17 No person who has been employed by the North Carolina State Board of Barber
18 Examiners and has been removed for just cause shall be appointed within five years of
19 the removal to serve as a Board member.

20 (c) The Governor may remove any member for good cause shown and may
21 appoint members to fill unexpired terms.

22 (d) Notwithstanding subsections (a) and (b) of this section, a licensed barber who
23 holds an officer position on the National Association of Barber Boards of America may
24 be appointed by the Governor to serve on the Board as the 'public at large' member for
25 the three-year term beginning July 1, 2004, if the Governor determines that there is not
26 a public member willing to serve on the Board for this three-year term."

27 **SECTION 1.(b)** This section expires July 1, 2007.

28 **SECTION 2.** G.S. 86A-5(a) reads as rewritten:

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

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

16 **SECTION 3.** G.S. 86A-6 reads as rewritten:

17 "**§ 86A-6. Office; seal; officers and executive ~~secretary~~; director; funds.**

18 The Board shall maintain a suitable office in Raleigh, and shall adopt and use a
19 common seal for the authentication of its orders and records. The Board shall annually
20 elect its own officers, and in addition, may elect or appoint a full-time executive
21 ~~secretary~~ director who shall not be a member of the Board, and whose salary shall be
22 fixed by the Board. The executive ~~secretary~~ director shall turn over to the State
23 Treasurer to be credited to the State Board of Barber Examiners all funds collected or
24 received under this Chapter, the funds to be held and expended under the supervision of
25 the Director of the Budget, exclusively for the enforcement and administration of the
26 provisions of this Chapter. Nothing herein shall be construed to authorize any
27 expenditure in excess of the amount available from time to time in the hands of the State
28 Treasurer derived from fees collected under the provisions of this Chapter and received
29 by the State Treasurer pursuant to the provisions of this section."

30 **SECTION 4.** G.S. 86A-9 reads as rewritten:

31 "**§ 86A-9. Board to conduct examinations not less than four times each year.**

32 The Board shall conduct examinations of applicants for certificates of registration to
33 practice as registered barbers and registered apprentices, not less than four times each
34 year, at such times and places as will prove most convenient and as the Board may
35 determine. The Board may adopt rules establishing procedures for the administration of
36 examinations."

37 **SECTION 5.** G.S. 86A-17(b) reads as rewritten:

38 "(b) A registered barber whose certificate of registration has expired may have the
39 certificate restored immediately upon paying all lapsed renewal fees and the required
40 late fee and furnishing a health certificate if required by the ~~Board~~; ~~provided, however, a~~
41 Board. Where a registered barber's certificate of registration has expired for a period
42 greater than six months, the Board may impose civil penalties pursuant to G.S. 86A-27.
43 A registered barber whose certificate has expired for a period of five years shall be
44 required to take the clinical examination prescribed by the State Board of Barber

1 Examiners and otherwise comply with the provisions of this Chapter before engaging in
2 the practice of barbering. No registered barber who is reissued a certificate under this
3 subsection shall be required to serve an apprenticeship as a prerequisite to reissuance of
4 the certificate."

5 **SECTION 6.** Chapter 86A of the General Statutes is amended by adding a
6 new section to read:

7 **"§ 86A-20.1. Enjoining illegal practices.**

8 The Board, the Department of Health and Human Services, or any county or district
9 health director may apply to the superior court for an injunction to restrain any person
10 from violating the provisions of this Chapter or the Board's rules. Actions under this
11 section shall be brought in the county where the defendant resides or maintains his or
12 her principal place of business or where the alleged acts occurred."

13 **SECTION 7.** G.S. 86A-22 reads as rewritten:

14 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

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

- 20 (1) Each school shall provide a course of instruction of at least 1528
21 hours.
- 22 (2) Each school shall ~~have at least two instructors, except that nonprofit~~
23 ~~schools shall have at least one instructor for every 20 enrolled~~
24 ~~students. Each instructor must hold a valid instructor's certificate~~
25 ~~issued by the Board. At least one instructor must be on the premises of~~
26 ~~a barber school during regular instruction hours.~~ employ at least two
27 instructors for the first 40 enrolled students and employ at least one
28 additional instructor for every additional 20 enrolled students. Schools
29 that are organized as nonprofits and have obtained a ruling from the
30 Internal Revenue Service recognizing their tax-exempt status shall
31 have at least one instructor for every 20 enrolled students. No school,
32 whether for profit or nonprofit, shall provide practical training and
33 theoretical training simultaneously unless at least two instructors are
34 present.
- 35 (3) An application for a student's permit, on a form prescribed by the
36 Board, must be filed with the Board before the student enters school.
37 No student may enroll without having obtained a student's permit.
- 38 (4) Each student enrolled shall be given a complete course of instruction
39 on the following subjects: hair cutting; shaving; shampooing, and the
40 application of creams and lotions; care and preparation of tools and
41 implements; scientific massaging and manipulating the muscles of the
42 scalp, face, and neck; sanitation and hygiene; shedding and regrowth
43 of hair; elementary chemistry relating to sterilization and antiseptics;
44 instruction on common skin and scalp diseases to the extent that they

1 may be recognized; pharmacology as it relates to preparations
2 commonly used in barbershops; instruction in the use of electrical
3 appliances and the effects of the use of these on the human skin;
4 structure of the skin and hair; nerve points of the face; the application
5 of hair dyes and bleaches; permanent waving; marcelling or hair
6 pressing; frosting and streaking; and the statutes and regulations
7 relating to the practice of barbering in North Carolina. The Board shall
8 specify the minimum number of hours of instruction for each subject
9 required by this subsection.

10 (5) Each school shall file an up-to-date list of its students with the Board
11 at least once a month. If a student withdraws or transfers, the school
12 shall file a report with the Board stating the courses and hours
13 completed by the withdrawing or transferring student. The school shall
14 also file with the Board a list of students who have completed the
15 amount of work necessary to meet the licensing requirements.

16 (6) Each school shall comply with the sanitary requirements of
17 G.S. 86A-15.

18 (7) a. Each school shall provide a guaranty bond unless the school has
19 already provided a bond or an alternative to a bond under
20 G.S. 115D-95.

21 The North Carolina State Board of Barber Examiners may
22 revoke the approval of a school that fails to maintain a bond or
23 an alternative to a bond pursuant to this subdivision or
24 G.S. 115D-95.

25 b. When application is made for approval or renewal of approval,
26 the applicant shall file a guaranty bond with the clerk of the
27 superior court of the county in which the school will be located.
28 The bond shall be in favor of the students. The bond shall be
29 executed by the applicant as principal and by a bonding
30 company authorized to do business in this State. The bond shall
31 be conditioned to provide indemnification to any student, or his
32 parent or guardian, who has suffered a loss of tuition or any fees
33 by reason of the failure of the school to offer or complete
34 student instruction, academic services, or other goods and
35 services related to course enrollment for any reason, including
36 the suspension, revocation, or nonrenewal of a school's
37 approval, bankruptcy, foreclosure, or the school ceasing to
38 operate.

39 The bond shall be in an amount determined by the Board to
40 be adequate to provide indemnification to any student, or his
41 parent or guardian, under the terms of the bond. The bond
42 amount for a school shall be at least equal to the maximum
43 amount of prepaid tuition held at any time during the last fiscal

1 year by the school. The bond amount shall also be at least ten
2 thousand dollars (\$10,000).

3 Each application for approval shall include a letter signed by
4 an authorized representative of the school showing in detail the
5 calculations made and the method of computing the amount of
6 the bond pursuant to this subpart and the rules of the Board. If
7 the Board finds that the calculations made and the method of
8 computing the amount of the bond are inaccurate or that the
9 amount of the bond is otherwise inadequate to provide
10 indemnification under the terms of the bond, the Board may
11 require the applicant to provide an additional bond.

12 The bond shall remain in force and effect until cancelled by
13 the guarantor. The guarantor may cancel the bond upon 30 days
14 notice to the Board. Cancellation of the bond shall not affect
15 any liability incurred or accrued prior to the termination of the
16 notice period.

17 c. An applicant that is unable to secure a bond may seek a waiver
18 of the guaranty bond from the Board and approval of one of the
19 guaranty bond alternatives set forth in this subpart. With the
20 approval of the Board, an applicant may file with the clerk of
21 the superior court of the county in which the school will be
22 located, in lieu of a bond:

23 1. An assignment of a savings account in an amount equal
24 to the bond required (i) which is in a form acceptable to
25 the Board; (ii) which is executed by the applicant; and
26 (iii) which is executed by a state or federal savings and
27 loan association, state bank, or national bank, that is
28 doing business in North Carolina and whose accounts are
29 insured by a federal depositors corporation; and (iv) for
30 which access to the account in favor of the State of North
31 Carolina is subject to the same conditions as for a bond
32 in subpart b. above.

33 2. A certificate of deposit (i) which is executed by a state or
34 federal savings and loan association, state bank, or
35 national bank, which is doing business in North Carolina
36 and whose accounts are insured by a federal depositors
37 corporation; and (ii) which is either payable to the State
38 of North Carolina, unrestrictively endorsed to the Board;
39 in the case of a negotiable certificate of deposit, is
40 unrestrictively endorsed to the Board; or in the case of a
41 nonnegotiable certificate of deposit, is assigned to the
42 Board in a form satisfactory to the Board; and (iii) for
43 which access to the certificate of deposit in favor of the

1 State of North Carolina is subject to the same conditions
2 as for a bond in subpart b. above."

3 **SECTION 8.** G.S. 86A-24(b) reads as rewritten:

4 "(b) An apprentice license expires on May 31 of each year. Every holder of an
5 apprentice license shall annually renew the apprentice license by the expiration date and
6 pay the required renewal fee. An apprentice license issued under this Chapter is
7 automatically suspended by operation of law after failure to renew the apprentice
8 license by the expiration date. An apprentice whose apprentice license has expired may
9 have the certificate restored immediately upon paying all lapsed renewal fees and the
10 required late fee. The certificate of registration of an apprentice is valid only so long as
11 the apprentice works under the supervision of a registered barber. The registered barber
12 shall remain present on the premises of the barbershop at all times while the apprentice
13 is working. No apprentice shall operate a barbershop."

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

15 "**§ 86A-26. Barbering among members of same family.**

16 This Chapter shall not prohibit a member of a family from practicing barbering on a
17 member of his or her family. For purposes of this section, 'a member of his or her
18 family' means a spouse, brother, sister, parent, grandparent, child, grandchild,
19 mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild."

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

22 "**§ 86A-27. Civil penalties; disciplinary costs.**

23 (a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty
24 not in excess of five hundred dollars (\$500.00) per offense for the violation of any
25 section of this Chapter or the violation of any rules adopted by the Board. The clear
26 proceeds of any civil penalty assessed under this section shall be remitted to the Civil
27 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

28 (b) Consideration Factors. – Before imposing and assessing a civil penalty, the
29 Board shall consider the following factors:

30 (1) The nature, gravity, and persistence of the particular violation.

31 (2) The appropriateness of the imposition of a civil penalty when
32 considered alone or in combination with other punishment.

33 (3) Whether the violation was willful and malicious.

34 (4) Any other factors that would tend to mitigate or aggravate the
35 violations found to exist.

36 (c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil
37 penalties for violations of this Chapter and rules adopted by the Board.

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

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