

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 946**

Short Title: Practice of Barbering.

(Public)

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Sponsors: Senator Rand.

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Referred to: Judiciary I.

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April 5, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT AMENDING THE LAWS REGULATING THE PRACTICE OF  
3 BARBERING, AUTHORIZING THE STATE BOARD OF BARBER  
4 EXAMINERS TO REQUIRE CRIMINAL RECORD CHECKS OF PERSONS  
5 APPLYING TO PRACTICE BARBERING IN THIS STATE, TO FIX SALARIES  
6 FOR BOARD EMPLOYEES, AND TO INCREASE FEES, AND ALLOWING  
7 THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL RECORD  
8 CHECKS OF APPLICANTS DESIRING TO PRACTICE BARBERING IN THIS  
9 STATE UPON THE BOARD'S REQUEST.

10 The General Assembly of North Carolina enacts:

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

12 "(b) No member appointed to the Board on or after July 1, 1981, shall serve more  
13 than two complete consecutive three-year terms, except that each member shall serve  
14 until the member's successor is appointed and qualifies. However, if a Board member  
15 holds an office in a national organization related to the barbering profession that  
16 requires the office holder to be a current member of a board during the time he or she  
17 holds the national office, that Board member shall be eligible for reappointment for a  
18 third three-year term.

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

22 **SECTION 2.** G.S. 86A-5(a) is amended by adding a new subdivision to  
23 read:

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

- 25 (1) To see that inspections of barbershops and schools are conducted to  
26 determine compliance with sanitary regulations. The Board ~~may~~ shall  
27 fix the salaries of inspectors and appoint inspectors as  
28 necessary;necessary.

- 1 (2) To adopt sanitary regulations concerning barber schools and shops and  
2 procedural rules in accordance with the guidelines established in G.S.  
3 ~~86A-15;86A-15.~~
- 4 (3) To review the barber licensing laws of other states and to determine  
5 which are the substantive equivalent of the laws of North Carolina for  
6 purposes of G.S. ~~86A-12;86A-12.~~
- 7 (4) To conduct examinations of applicants for certificate of registration as  
8 registered barber, registered apprentice and barber school instructor.
- 9 (5) To adopt rules of conduct for persons taking the examination for  
10 registration pursuant to G.S. 86A-9."

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

12 **"§ 86A-6. Office; seal; officers and executive ~~secretary;director;~~ funds.**

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

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

26 "(b) The Board shall fix salaries and employ such agents, assistants and attorneys  
27 as it deems necessary."

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

30 **"§ 86A-7.1. Criminal history record checks of applicants for licensure.**

31 (a) Definitions. - The following definitions shall apply in this section:

- 32 (1) Applicant. - A person applying for registration as a barber either by  
33 examination pursuant to G.S. 86A-8 and G.S. 86A-9 or without  
34 examination pursuant to G.S. 86A-12.
- 35 (2) Criminal history. - A history of conviction of a State crime, whether a  
36 misdemeanor or felony, that bears on an applicant's fitness for  
37 registration to practice barbering.

38 (b) The Board may, as a condition of license registration or renewal, require that  
39 the State criminal history of an applicant is checked. National criminal history checks  
40 are authorized for an applicant who has not resided in the State of North Carolina during  
41 the past five years. The Board shall provide to the North Carolina Department of Justice  
42 the fingerprints of the applicant to be checked, a form signed by the applicant to be  
43 checked consenting to the check of the criminal history, and to the use of fingerprints

1 and other identifying information required by the State or National Repositories, and  
2 any additional information required by the Department of Justice.

3 (c) All releases of criminal history information to the Board shall be subject to,  
4 and in compliance with, rules governing the dissemination of criminal history record  
5 checks as adopted by the North Carolina Division of Criminal Information. All of the  
6 information the Board receives through the checking of the criminal history is for the  
7 exclusive use of the Board and shall be kept confidential.

8 (d) If the applicant's verified criminal history record check reveals one or more  
9 convictions of a crime that is punishable as a felony offense, or the conviction of any  
10 crime involving fraud or moral turpitude, the Board may deny the applicant's  
11 registration. However, the conviction shall not automatically prohibit registration, and  
12 the following factors shall be considered by the Board in determining whether  
13 registration shall be denied:

14 (1) The level and seriousness of the crime.

15 (2) The date of the crime.

16 (3) The age of the person at the time of the crime.

17 (4) The circumstances surrounding the commission of the crime, if known.

18 (5) The nexus between the criminal conduct of the applicant and the  
19 applicant's duties as a barber or apprentice.

20 (6) The prison, jail, probation, parole, rehabilitation, and employment  
21 records of the applicant since the date the crime was committed.

22 (7) The subsequent commission by the person of a crime.

23 (e) The Board may deny registration to an applicant who refuses to consent to a  
24 criminal history record check or use of fingerprints or other identifying information  
25 required by the State or National Repositories of Criminal Histories.

26 (f) The Board shall notify the applicant of the applicant's right to review the  
27 criminal history information, the procedure for challenging the accuracy of the criminal  
28 history, and the applicant's right to contest the Board's denial of licensure."

29 **SECTION 6.** Article 4 of Chapter 114 of the General Statutes is amended by  
30 adding a new section to read:

31 **§ 114-19.12. Criminal record checks of applicants for registration as barbers.**

32 The Department of Justice may provide to the State Board of Barber Examiners  
33 from the State and National Repositories of Criminal Histories the criminal history of  
34 any applicant for registration as a barber under Chapter 86A of the General Statutes.  
35 Along with the request, the Board shall provide to the Department of Justice the  
36 fingerprints of the applicant, a form signed by the applicant consenting to the criminal  
37 record check, and use of fingerprints and other identifying information required by the  
38 State and National Repositories, and any additional information required by the  
39 Department of Justice. The applicant's fingerprints shall be forwarded to the State  
40 Bureau of Investigation for a search of the State's criminal history record file and the  
41 State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of  
42 Investigation for a national criminal history record check. The Board shall keep all  
43 information obtained pursuant to this section confidential. The Department of Justice  
44 may charge a fee to offset the cost incurred by it to conduct a criminal record check

1 under this section. The fee shall not exceed the actual cost of locating, editing,  
2 researching, and retrieving the information."

3 **SECTION 7.** G.S. 86A-9 reads as rewritten:

4 **"§ 86A-9. Board to conduct examinations not less than four times each year.**

5 The Board shall conduct examinations of applicants for certificates of registration to  
6 practice as registered barbers and registered apprentices, not less than four times each  
7 year, at such times and places as will prove most convenient and as the Board may  
8 determine. While taking the examination, each applicant shall conduct himself or  
9 herself in a manner prescribed in rules adopted by the Board. The Board may discipline  
10 an applicant, including expulsion from the examination, for violation of the rules  
11 adopted by the Board."

12 **SECTION 8.** G.S. 86A-17(b) reads as rewritten:

13 "(b) A registered barber whose certificate of registration has expired may have the  
14 certificate restored immediately upon paying all lapsed renewal fees and the required  
15 late fee and furnishing a health certificate if required by the Board; provided, however, a  
16 registered barber whose certificate has expired for a period of five years shall be  
17 required to take the clinical examination prescribed by the State Board of Barber  
18 Examiners and otherwise comply with the provisions of this Chapter before engaging in  
19 the practice of barbering. No registered barber who is reissued a certificate under this  
20 subsection shall be required to serve an apprenticeship as a prerequisite to reissuance of  
21 the certificate. If a license has expired for a period greater than six months, the Board  
22 may impose civil penalties in accordance with G.S. 86A-19.1."

23 **SECTION 9.** Chapter 86A of the General Statutes is amended by adding a  
24 new section to read:

25 **"§ 86A-19.1. Civil penalties.**

26 (a) Authority to Access Civil Penalties. - In addition to taking any of the actions  
27 permitted under G.S. 86A-18, the Board may assess a civil penalty not in excess of one  
28 thousand dollars (\$1,000) for each violation of any section of this Chapter or the  
29 violation of any rules adopted by the Board. All civil penalties collected by the Board  
30 shall be remitted to the school fund of the county in which the violation occurred to the  
31 extent required by G.S. 115C-457.2.

32 (b) Consideration Factors. - Before imposing and assessing a civil penalty and  
33 fixing the amount of the penalty, the Board shall, as a part of its deliberations, take into  
34 consideration the following factors:

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

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

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

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

41 (c) Costs. - The Board may in a disciplinary proceeding charge costs, including  
42 reasonable attorneys' fees, to the person against whom the proceedings were brought."

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

1 **"§ 86A-20.1. Injunctive relief.**

2 If the Board finds that a person who does not have a registration issued under this  
3 Chapter claims to be a barber or an apprentice or is engaging in practice as a barber or  
4 an apprentice in violation of this Chapter, the Board may apply to superior court for an  
5 order enjoining a violation of this Chapter or rules adopted by the Board. Upon a  
6 showing by the Board that a person has violated or is about to violate this Chapter, the  
7 court may grant an injunction, restraining order, or take other appropriate action.  
8 Actions under this section shall be brought in the county where the person resides or  
9 maintains his or her principal place of business or where the alleged act occurred."

10 **SECTION 11.** G.S. 86A-22(2) reads as rewritten:

11 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

12 The North Carolina State Board of Barber Examiners may approve barber schools or  
13 colleges in the State, and may prescribe rules and regulations for their operation. No  
14 barber school or college shall be approved by the Board unless the school or college  
15 meets all of the following requirements:

16 ...

- 17 (2) Each school shall ~~have employ~~ at least two ~~instructors, except that~~  
18 ~~nonprofit schools shall have at least one instructor for every 20~~  
19 ~~enrolled students.~~instructors for the first 40 enrolled students and at  
20 least one additional instructor for every 20 enrolled students, in  
21 addition to the first 40 enrolled students. Each instructor must shall  
22 hold a valid instructor's certificate issued by the Board. At least one  
23 instructor must be on the premises of a barber school during regular  
24 instruction hours.Schools that are organized as nonprofit and have  
25 obtained a ruling from the Internal Revenue Service recognizing their  
26 tax-exempt status shall have at least one instructor for every 20  
27 enrolled students. No school, whether for profit or nonprofit, shall  
28 provide practical training and theoretical training simultaneously  
29 unless at least two instructors are present on the school premises."

30 **SECTION 12.** G.S. 86A-24(b) reads as rewritten:

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

41 **SECTION 13.** G.S. 86A-25 reads as rewritten:

42 **"§ 86A-25. Fees collectible by Board.**

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

44 Certificate of registration or renewal as a barber \$30.0035.00

1	Certificate of registration or renewal as an apprentice barber	<del>30.00</del> <u>35.00</u>
2	Barbershop permit or renewal	<del>30.00</del> <u>35.00</u>
3	Examination to become a registered barber	<del>50.00</del> <u>55.00</u>
4	Examination to become a registered apprentice barber	<del>50.00</del> <u>55.00</u>
5	Late fee for restoration of an expired barber certificate	
6	within first year after expiration	<del>20.00</del> <u>25.00</u>
7	Late fee for restoration of an expired barber certificate	
8	after first year after expiration but within	
9	five years after expiration	<del>40.00</del> <u>45.00</u>
10	Late fee for restoration of an expired apprentice certificate	
11	within first year after expiration	<del>20.00</del> <u>25.00</u>
12	Late fee for restoration of an expired apprentice	
13	certificate after first year after expiration but	
14	within three years of first issuance of the certificate	<del>25.00</del> <u>30.00</u>
15	Late fee for restoration of an expired barbershop certificate	<del>25.00</del> <u>30.00</u>
16	Examination to become a barber school instructor	<del>95.00</del> <u>100.00</u>
17	Student permit	<del>15.00</del> <u>20.00</u>
18	Issuance of any duplicate copy of a license, certificate, or permit	<del>7.50</del> <u>13.00</u>
19	Barber school permit or renewal	<del>75.00</del> <u>80.00</u>
20	Late fee for restoration of an expired barber school certificate	<del>50.00</del> <u>55.00</u>
21	Barber school instructor certificate or renewal	<del>50.00</del> <u>55.00</u>
22	Late fee for restoration of an expired barber school	
23	instructor certificate within first year after expiration	<del>25.00</del> <u>30.00</u>
24	Late fee for restoration of an expired barber school	
25	instructor certificate after first year after	
26	expiration but within three years after expiration	<del>50.00</del> <u>55.00</u>
27	Inspection of newly established barbershop	<del>70.00</del> <u>75.00</u>
28	Inspection of newly established barber school	<del>125.00</del> <u>130.00</u>
29	Issuance of a registered barber or apprentice	
30	certificate by certification	<del>70.00</del> <u>75.00</u>
31	Barbers 70 years and older certificate or renewal	No charge-charge

Reasonable charges for certified copies of Board records."

**SECTION 14.** 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, 'family' means the person's spouse or lineal descendants."

**SECTION 15.** This act is effective when it becomes law.