

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1638
Committee Substitute Favorable 8/27/02

Short Title: Private Protect. Services Crim. Hist. Check.

(Public)

Sponsors:

Referred to:

June 13, 2002

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO PROVIDE CRIMINAL RECORD CHECKS TO THE ALE DIVISION WHEN INVESTIGATING ABC PERMIT APPLICANTS, LOCAL LAW-ENFORCEMENT AGENCIES ISSUING PRECIOUS METAL DEALER PERMITS, THE PRIVATE PROTECTIVE SERVICES BOARD, THE ALARM SYSTEMS LICENSING BOARD, THE BOARD OF LAW EXAMINERS, THE MEDICAL BOARD, THE STATE BOARD OF DENTAL EXAMINERS, THE BOARD OF PHARMACY, THE BOARD OF MORTUARY SCIENCE, THE REAL ESTATE COMMISSION, THE COMMISSIONER OF LABOR WHEN INVESTIGATING PRIVATE PERSONNEL SERVICE LICENSE APPLICANTS, THE STRUCTURAL PEST CONTROL COMMITTEE, AND CITIES WHEN INVESTIGATING TAXI LICENSE APPLICANTS AND TO CHARGE A FEE FOR CONDUCTING THE CHECKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902 reads as rewritten:

"§ 18B-902. Application for permit; fees.

(a) Form. – An application for an ABC permit shall be on a form prescribed by the Commission and shall be notarized. ~~The application shall be signed and sworn to by each~~ Each person required to qualify under G.S. 18B-900(c). G.S. 18B-900(c) shall sign and swear to the application and shall submit a full set of fingerprints with the application.

(b) Investigation. – Before issuing a new permit, the Commission, with the assistance of the ALE Division, shall investigate the applicant and the premises for which the permit is requested. The Commission may request the assistance of local ABC officers in investigating applications. An applicant shall cooperate fully with the investigation.

The Department of Justice may provide a criminal record check to the ALE Division for a person who has applied for a permit through the Commission. The ALE Division

1 shall provide to the Department of Justice, along with the request, the fingerprints of the
2 applicant, any additional information required by the Department of Justice, and a form
3 signed by the applicant consenting to the check of the criminal record and to the use of
4 the fingerprints and other identifying information required by the State or national
5 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
6 Investigation for a search of the State's criminal history record file, and the State Bureau
7 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
8 Investigation for a national criminal history check. The ALE Division and the
9 Commission shall keep all information pursuant to this subsection privileged, in
10 accordance with applicable State law and federal guidelines, and the information shall
11 be confidential and shall not be a public record under Chapter 132 of the General
12 Statutes.

13 The Department of Justice may charge each applicant a fee for conducting the
14 checks of criminal history records authorized by this subsection.

15 (c) False Information. – Knowingly making a false statement in an application
16 for an ABC permit shall be grounds for denying, suspending, revoking or taking other
17 action against the permit as provided in G.S. 18B-104 and shall also be unlawful.

18 (d) Fees. – An application for an ABC permit shall be accompanied by payment
19 of the following application fee:

- 20 (1) On-premises malt beverage permit – \$400.00.
- 21 (2) Off-premises malt beverage permit – \$400.00.
- 22 (3) On-premises unfortified wine permit – \$400.00.
- 23 (4) Off-premises unfortified wine permit – \$400.00.
- 24 (5) On-premises fortified wine permit – \$400.00.
- 25 (6) Off-premises fortified wine permit – \$400.00.
- 26 (7) Brown-bagging permit – \$400.00, unless the application is for a
27 restaurant seating less than 50, in which case the fee shall be \$200.00.
- 28 (8) Special occasion permit – \$400.00.
- 29 (9) Limited special occasion permit – \$50.00.
- 30 (10) Mixed beverages permit – \$1,000.
- 31 (11) Culinary permit – \$200.00.
- 32 (12) Unfortified winery permit – \$300.00.
- 33 (13) Fortified winery permit – \$300.00.
- 34 (14) Limited winery permit – \$300.00.
- 35 (15) Brewery permit – \$300.00.
- 36 (16) Distillery permit – \$300.00.
- 37 (17) Fuel alcohol permit – \$100.00.
- 38 (18) Wine importer permit – \$300.00.
- 39 (19) Wine wholesaler permit – \$300.00.
- 40 (20) Malt beverage importer permit – \$300.00.
- 41 (21) Malt beverage wholesaler permit – \$300.00.
- 42 (22) Bottler permit – \$300.00.
- 43 (23) Salesman permit – \$100.00.
- 44 (24) Vendor representative permit – \$50.00.

- 1 (25) Nonresident malt beverage vendor permit – \$100.00.
2 (26) Nonresident wine vendor permit – \$100.00.
3 (27) Any special one-time permit under G.S. 18B-1002 – \$50.00.
4 (28) Winery special event permit – \$200.00.
5 (29) Mixed beverages catering permit – \$200.00.
6 (30) Guest room cabinet permit – \$1,000.
7 (31) Liquor importer/bottler permit – \$500.00.
8 (32) Cider and vinegar manufacturer permit – \$200.00.
9 (33) Brew on premises permit – \$400.00.
10 (34) Wine producer permit – \$300.00.
11 (35) Wine tasting permit – \$100.00.
12 (e) Repealed by Session Laws 1998-95, s. 29, effective May 1, 1999.
13 (f) Fee Not Refundable. – The fee required by subsection (d) shall not be
14 refunded.
15 (g) Fees to Treasurer. – All fees collected by the Commission under this or any
16 other section of this Chapter shall be remitted to the State Treasurer for the General
17 Fund."

18 **SECTION 2.** G.S. 66-165 reads as rewritten:

19 **"§ 66-165. Permits required.**

20 (a) Except as provided in subsection (c), it shall be unlawful for any person to
21 engage as a dealer in the business of purchasing precious metals either as a separate
22 business or in connection with other business operations without first obtaining a permit
23 for the business from the local law-enforcement agency. The form of the permit and
24 application therefor shall be as approved by the Department of Crime Control and
25 Public Safety. The application shall be given under oath and shall be notarized. A
26 30-day waiting period from the date of filing of the application is required prior to
27 initial issuance of a permit. A separate permit shall be issued for each location, place, or
28 premises within the jurisdiction of the local law-enforcement agency which is used for
29 the conduction of a precious metals business, and each permit shall designate the
30 location, place or premises to which it applies. Such business shall not be conducted in
31 any other place than that designated in the permit, and no business shall be conducted in
32 a mobile home, trailer, camper, or other vehicle, or structure not permanently affixed to
33 the ground or in any room customarily used for lodging in any hotel, motel, tourist
34 court, or tourist home as defined in G.S. 105-61. The permit shall be posted in a
35 prominent place on the designated premises. Permits shall be valid for a period of 12
36 months from the date issued and may be renewed without a waiting period upon filing
37 of an application and payment of the annual fee. The annual fee for each dealer's
38 permits within each jurisdiction shall be ten dollars (\$10.00) to provide for the
39 administrative costs of the local law-enforcement agency, including purchase of
40 required forms. The fee shall not be refundable even if the permits are denied or later
41 suspended or revoked. Such permits shall be in addition to and not in lieu of other
42 business licenses and are not transferable.

43 Any dealer applying to the local law-enforcement agency for a permit shall furnish
44 the local law-enforcement agency with the following information:

- 1 (1) His full name, and any other names used by the applicant during the
2 preceding five years. In the case of a partnership, association, or
3 corporation, the applicant shall list any partnership, association, or
4 corporate names used during the preceding five years;
- 5 (2) Current address, and all addresses used by the applicant during the
6 preceding five years;
- 7 (3) Physical description;
- 8 (4) Age;
- 9 (5) Driver's license number, if any, and state of issuance;
- 10 (6) Recent photograph;
- 11 (7) ~~Record of felony convictions; and~~ convictions;
- 12 (8) ~~Record of other convictions during the preceding five years; and~~
- 13 (9) A full set of fingerprints of the applicant.

14 If the applicant for a dealer's permit is a partnership or association, all persons
15 owning a ten percent (10%) or more interest in the partnership or association shall
16 comply with the provisions of this subsection. Any such permits shall be issued in the
17 name of the partnership or association.

18 If the applicant for a dealer's permit is a corporation, each officer, director and
19 stockholder owning ten percent (10%) or more of the corporation's stock, of any class,
20 shall comply with the provisions of this subsection. Any such permits shall be issued in
21 the name of the corporation.

22 No permit shall be issued to an applicant who, within five years prior to the date of
23 application, has been convicted of a felony involving a crime of moral turpitude, or
24 larceny, or receiving stolen goods or of similar charges in any federal court or a court
25 of this or any other state. In the case of a partnership, association, or corporation, no
26 permit shall be issued to any applicant with an officer, partner, or director who has,
27 within five years prior to the date of application, been convicted of a felony involving a
28 crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in
29 any federal court or a court of this or any other state.

30 The Department of Justice may provide a criminal record check to the local
31 law-enforcement agency for a person who has applied for a permit through the agency.
32 The agency shall provide to the Department of Justice, along with the request, the
33 fingerprints of the applicant, any additional information required by the Department of
34 Justice, and a form signed by the applicant consenting to the check of the criminal
35 record and to the use of the fingerprints and other identifying information required by
36 the State or national repositories. The applicant's fingerprints shall be forwarded to the
37 State Bureau of Investigation for a search of the State's criminal history record file, and
38 the State Bureau of Investigation shall forward a set of the fingerprints to the Federal
39 Bureau of Investigation for a national criminal history check. The agency shall keep all
40 information pursuant to this subsection privileged, in accordance with applicable State
41 law and federal guidelines, and the information shall be confidential and shall not be a
42 public record under Chapter 132 of the General Statutes.

43 The Department of Justice may charge each applicant a fee for conducting the
44 checks of criminal history records authorized by this subsection.

1 (b) Every employee engaged in the precious metal business shall, within two
2 days of being so engaged, register his name and address with the local law-enforcement
3 agency and have his photograph taken by the agency. The agency shall issue to him a
4 certificate of compliance with this section upon the applicant's payment of the sum of
5 three dollars (\$3.00) to the agency. The permit shall be posted in the work area of the
6 permit holder.

7 (c) A special occasion permit authorizes the permittee to purchase precious
8 metals as a dealer participating in any trade shows, antique shows, and crafts shows
9 conducted within the State. A special occasion permit shall be issued by any local
10 law-enforcement agency; provided, however, that a permittee under subsection (a) shall
11 apply for a special occasion permit with the local law-enforcement agency which issued
12 such dealer's permit. An application for a permit shall be on a form as approved by the
13 Department of Crime Control and Public Safety and shall be given under oath and
14 notarized. A 30-day waiting period from the date of filing of the application is required
15 prior to initial issuance of a permit.

16 Any dealer applying to a local law-enforcement agency for a special occasion permit
17 shall furnish the local law-enforcement agency with the information required in an
18 application for a dealer's permit as set forth in (a).

19 If the applicant for a special occasion permit is a partnership or association, all
20 persons owning a ten percent (10%) or more interest in the partnership or association
21 shall comply with the provisions of this subsection. Any such permits shall be issued in
22 the name of the partnership or association.

23 If the applicant for a special occasion permit is a corporation, each officer, director
24 and stockholder owning ten percent (10%) or more of the corporation's stock, of any
25 class, shall comply with the provisions of this subsection. Any such permits shall be
26 issued in the name of the corporation.

27 No permit shall be issued to an applicant who, within five years prior to the date of
28 application, has been convicted of a felony involving a crime of moral turpitude, or
29 larceny, or receiving stolen goods or of similar charges in any federal court or a court
30 of this or any other state. In the case of a partnership, association, or corporation, no
31 permit shall be issued to any applicant with an officer, partner, or director who has,
32 within five years prior to the date of application, been convicted of a felony involving a
33 crime of moral turpitude, or larceny, or receiving stolen goods or of similar charges in
34 any federal court or a court of this or any other state.

35 The Department of Justice may provide a criminal record check to the local
36 law-enforcement agency for a person who has applied for a permit through the agency.
37 The agency shall provide to the Department of Justice, along with the request, the
38 fingerprints of the applicant, any additional information required by the Department of
39 Justice, and a form signed by the applicant consenting to the check of the criminal
40 record and to the use of the fingerprints and other identifying information required by
41 the State or national repositories. The applicant's fingerprints shall be forwarded to the
42 State Bureau of Investigation for a search of the State's criminal history record file, and
43 the State Bureau of Investigation shall forward a set of the fingerprints to the Federal
44 Bureau of Investigation for a national criminal history check. The agency shall keep all

1 information pursuant to this subsection privileged, in accordance with applicable State
2 law and federal guidelines, and the information shall be confidential and shall not be a
3 public record under Chapter 132 of the General Statutes.

4 The Department of Justice may charge each applicant a fee for conducting the
5 checks of criminal history records authorized by this subsection.

6 The fee for an application for a special occasion permit shall be ten dollars (\$10.00)
7 to provide for the administrative cost of the local law-enforcement agency including
8 purchase of required forms. The fee shall not be refundable even if the permit is denied
9 or is later suspended or revoked. Such permits shall be in addition to and not in lieu of
10 other business licenses and are not transferable.

11 A special occasion permit shall be valid for 12 months from the date issued, unless
12 earlier surrendered, suspended, or revoked. Application for renewal of a permit for an
13 additional 12 months shall be on a form as approved by the Department of Crime
14 Control and Public Safety and shall be accompanied by an application fee of ten dollars
15 (\$10.00). A renewal fee shall not be refundable.

16 Each special occasion permit shall be posted in a prominent place on the premises of
17 any show at which the permittee purchases precious metals."

18 **SECTION 3.** G.S. 74C-8(c) is amended by adding a new subdivision to
19 read:

20 "(5) The Department of Justice may provide a criminal record check to the
21 Private Protective Services Board for a person who has applied for a
22 new or renewal license, registration, certification, or permit through
23 the Private Protective Services Board. The Board shall provide to the
24 Department of Justice, along with the request, the fingerprints of the
25 applicant, any additional information required by the Department of
26 Justice, and a form signed by the applicant consenting to the check of
27 the criminal record and to the use of the fingerprints and other
28 identifying information required by the State or national repositories.
29 The applicant's fingerprints shall be forwarded to the State Bureau of
30 Investigation for a search of the State's criminal history record file, and
31 the State Bureau of Investigation shall forward a set of the fingerprints
32 to the Federal Bureau of Investigation for a national criminal history
33 check. The Board shall keep all information pursuant to this
34 subdivision privileged, in accordance with applicable State law and
35 federal guidelines, and the information shall be confidential and shall
36 not be a public record under Chapter 132 of the General Statutes.

37 The Department of Justice may charge each applicant a fee for
38 conducting the checks of criminal history records authorized by this
39 subdivision."

40 **SECTION 4.** G.S. 74D-2(c) is amended by adding a new subdivision to
41 read:

42 "(5) The Department of Justice may provide a criminal record check to the
43 Alarm Systems Licensing Board for a person who has applied for a
44 new or renewal license, registration, certification, or permit through

1 the Alarm Systems Licensing Board. The Board shall provide to the
2 Department of Justice, along with the request, the fingerprints of the
3 applicant, any additional information required by the Department of
4 Justice, and a form signed by the applicant consenting to the check of
5 the criminal record and to the use of the fingerprints and other
6 identifying information required by the State or national repositories.
7 The applicant's fingerprints shall be forwarded to the State Bureau of
8 Investigation for a search of the State's criminal history record file, and
9 the State Bureau of Investigation shall forward a set of the fingerprints
10 to the Federal Bureau of Investigation for a national criminal history
11 check. The Board shall keep all information pursuant to this
12 subdivision privileged, in accordance with applicable State law and
13 federal guidelines, and the information shall be confidential and shall
14 not be a public record under Chapter 132 of the General Statutes.

15 The Department of Justice may charge each applicant a fee for
16 conducting the checks of criminal history records authorized by this
17 subdivision."

18 **SECTION 5.** G.S. 84-24 reads as rewritten:

19 **"§ 84-24. Admission to practice.**

20 For the purpose of examining applicants and providing rules and regulations for
21 admission to the Bar including the issuance of license therefor, there is hereby created
22 the Board of Law Examiners, which shall consist of 11 members of the Bar, elected by
23 the Council, who need not be members of the Council. No teacher in any law school,
24 however, shall be eligible. The members of the Board of Law Examiners elected from
25 the Bar shall each hold office for a term of three years.

26 The Board of Law Examiners shall elect a member of the Board as chair thereof, and
27 the Board may employ an executive secretary and provide such assistance as may be
28 required to enable the Board to perform its duties promptly and properly. The chair and
29 any employees shall serve for a period of time determined by the Board.

30 The examination shall be held in the manner and at the times as the Board of Law
31 Examiners may determine.

32 The Board of Law Examiners shall have full power and authority to make or cause
33 to be made such examinations and investigations as may be deemed by it necessary to
34 satisfy it that the applicants for admission to the Bar possess the qualifications of
35 character and general fitness requisite for an attorney and counselor-at-law and to this
36 end the Board of Law Examiners shall have the power of subpoena and to summons and
37 examine witnesses under oath and to compel their attendance and the production of
38 books, papers and other documents and writings deemed by it to be necessary or
39 material to the inquiry and shall also have authority to employ and provide assistance as
40 may be required to enable it to perform its duties promptly and properly. Records,
41 papers, and other documents containing information collected and compiled by the
42 Board or its members or employees as a result of investigations, inquiries, or interviews
43 conducted in connection with examinations or licensing matters, are not public records
44 within the meaning of Chapter 132 of the General Statutes.

1 All applicants for admission to the Bar shall be fingerprinted to determine whether
2 the applicant has a record of criminal conviction in this State or in any other state or
3 jurisdiction. The information obtained as a result of the fingerprinting of an applicant
4 shall be limited to the official use of the Board of Law Examiners in determining the
5 character and general fitness of the applicant. ~~The Board of Law Examiners, subject to~~
6 ~~the approval of the Council shall by majority vote, from time to time, make, alter and~~
7 ~~amend such rules and regulations for admission to the Bar as in their judgment shall~~
8 ~~promote the welfare of the State and the profession: Provided, that any change in the~~
9 ~~educational requirements for admission to the Bar shall not become effective within two~~
10 ~~years from the date of the adoption of the change.~~

11 The Department of Justice may provide a criminal record check to the Board of Law
12 Examiners for a person who has applied for a license through the Board. The Board
13 shall provide to the Department of Justice, along with the request, the fingerprints of the
14 applicant, any additional information required by the Department of Justice, and a form
15 signed by the applicant consenting to the check of the criminal record and to the use of
16 the fingerprints and other identifying information required by the State or national
17 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
18 Investigation for a search of the State's criminal history record file, and the State Bureau
19 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
20 Investigation for a national criminal history check. The Board shall keep all information
21 pursuant to this subsection privileged, in accordance with applicable State law and
22 federal guidelines, and the information shall be confidential and shall not be a public
23 record under Chapter 132 of the General Statutes.

24 The Department of Justice may charge each applicant a fee for conducting the
25 checks of criminal history records authorized by this section.

26 The Board of Law Examiners, subject to the approval of the Council, shall by
27 majority vote, from time to time, make, alter, and amend such rules and regulations for
28 admission to the Bar as in their judgment shall promote the welfare of the State and the
29 profession: Provided, that any change in the educational requirements for admission to
30 the Bar shall not become effective within two years from the date of the adoption of the
31 change.

32 All rules and regulations, and modifications, alterations and amendments thereof,
33 shall be recorded and promulgated as provided in G.S. 84-21 in relation to the certificate
34 of organization and the rules and regulations of the Council.

35 Whenever the Council shall order the restoration of license to any person as
36 authorized by G.S. 84-32, it shall be the duty of the Board of Law Examiners to issue a
37 written license to the person, noting thereon that the license is issued in compliance with
38 an order of the Council, whether the license to practice law was issued by the Board of
39 Law Examiners or the Supreme Court in the first instance.

40 Appeals from the Board shall be had in accordance with rules or procedures as may
41 be approved by the Supreme Court as may be submitted under G.S. 84-21 or as may be
42 promulgated by the Supreme Court."

43 **SECTION 6.** G.S. 90-11 reads as rewritten:

44 **"§ 90-11. Qualifications of applicant for license.**

1 (a) Every applicant for a license to practice medicine or to perform medical acts,
2 tasks, and functions as a physician assistant in the State shall satisfy the North Carolina
3 Medical Board that the applicant is of good moral character and meets the other
4 qualifications for the issuance of a license before any such license is granted by the
5 Board to the applicant.

6 (b) The Department of Justice may provide a criminal record check to the Board
7 for a person who has applied for a license through the Board. The Board shall provide to
8 the Department of Justice, along with the request, the fingerprints of the applicant, any
9 additional information required by the Department of Justice, and a form signed by the
10 applicant consenting to the check of the criminal record and to the use of the
11 fingerprints and other identifying information required by the State or national
12 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
13 Investigation for a search of the State's criminal history record file, and the State Bureau
14 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
15 Investigation for a national criminal history check. The Board shall keep all information
16 pursuant to this subsection privileged, in accordance with applicable State law and
17 federal guidelines, and the information shall be confidential and shall not be a public
18 record under Chapter 132 of the General Statutes.

19 The Department of Justice may charge each applicant a fee for conducting the
20 checks of criminal history records authorized by this subsection."

21 **SECTION 7.** G.S. 90-30 reads as rewritten:

22 "**§ 90-30. Examination and licensing of applicants; qualifications; causes for**
23 **refusal to grant license; void licenses.**

24 (a) The North Carolina State Board of Dental Examiners shall grant licenses to
25 practice dentistry to such applicants who are graduates of a reputable dental institution,
26 who, in the opinion of a majority of the Board, shall undergo a satisfactory examination
27 of proficiency in the knowledge and practice of dentistry, subject, however, to the
28 further provisions of this section and of the provisions of this Article.

29 The applicant shall be of good moral character, at least 18 years of age at the time
30 the application for examination is filed. The application shall be made to the said Board
31 in writing and shall be accompanied by evidence satisfactory to said Board that the
32 applicant is a person of good moral character, has an academic education, the standard
33 of which shall be determined by the said Board; that he is a graduate of and has a
34 diploma from a reputable dental college or the dental department of a reputable
35 university or college recognized, accredited and approved as such by the said Board.

36 The North Carolina State Board of Dental Examiners is authorized to conduct both
37 written or oral and clinical examinations of such character as to thoroughly test the
38 qualifications of the applicant, and may refuse to grant license to any person who, in its
39 discretion, is found deficient in said examination, or to any person guilty of cheating,
40 deception or fraud during such examination, or whose examination discloses to the
41 satisfaction of the Board, a deficiency in academic education. The Board may employ
42 such dentists found qualified therefor by the Board, in examining applicants for licenses
43 as it deems appropriate.

1 The North Carolina State Board of Dental Examiners may refuse to grant a license to
2 any person guilty of a crime involving moral turpitude, or gross immorality, or to any
3 person addicted to the use of alcoholic liquors or narcotic drugs to such an extent as, in
4 the opinion of the Board, renders the applicant unfit to practice dentistry.

5 Any license obtained through fraud or by any false representation shall be void ab
6 initio and of no effect.

7 (b) The Department of Justice may provide a criminal record check to the North
8 Carolina State Board of Dental Examiners for a person who has applied for a license
9 through the Board. The Board shall provide to the Department of Justice, along with the
10 request, the fingerprints of the applicant, any additional information required by the
11 Department of Justice, and a form signed by the applicant consenting to the check of the
12 criminal record and to the use of the fingerprints and other identifying information
13 required by the State or national repositories. The applicant's fingerprints shall be
14 forwarded to the State Bureau of Investigation for a search of the State's criminal
15 history record file, and the State Bureau of Investigation shall forward a set of the
16 fingerprints to the Federal Bureau of Investigation for a national criminal history check.
17 The Board shall keep all information pursuant to this subsection privileged, in
18 accordance with applicable State law and federal guidelines, and the information shall
19 be confidential and shall not be a public record under Chapter 132 of the General
20 Statutes.

21 The Department of Justice may charge each applicant a fee for conducting the
22 checks of criminal history records authorized by this subsection."

23 **SECTION 8.** G.S. 90-85.15 is amended by adding a new subsection to read:

24 "(c) The Department of Justice may provide a criminal record check to the Board
25 for a person who has applied for a license through the Board. The Board shall provide to
26 the Department of Justice, along with the request, the fingerprints of the applicant, any
27 additional information required by the Department of Justice, and a form signed by the
28 applicant consenting to the check of the criminal record and to the use of the
29 fingerprints and other identifying information required by the State or national
30 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
31 Investigation for a search of the State's criminal history record file, and the State Bureau
32 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
33 Investigation for a national criminal history check. The Board shall keep all information
34 pursuant to this subsection privileged, in accordance with applicable State law and
35 federal guidelines, and the information shall be confidential and shall not be a public
36 record under Chapter 132 of the General Statutes.

37 The Department of Justice may charge each applicant a fee for conducting the
38 checks of criminal history records authorized by this subsection."

39 **SECTION 9.** G.S. 90-210.25(a) reads as rewritten:

40 **"§ 90-210.25. Licensing.**

41 (a) Qualifications, Examinations, Resident Traineeship and Licensure. –

42 (1) To be licensed for the practice of funeral directing under this Article, a
43 person must:

44 a. Be at least 18 years of age.

- 1 b. Be of good moral character.
- 2 c. Have completed a minimum of 32 semester hours or 48 quarter
- 3 hours of instruction, including the subjects set out in sub-part
- 4 e.1. of this subdivision, as prescribed by a mortuary science
- 5 college approved by the Board or a school of mortuary science
- 6 accredited by the American Board of Funeral Service
- 7 Education.
- 8 d. Have completed 12 months of resident traineeship as a funeral
- 9 director, pursuant to the procedures and conditions set out in
- 10 G.S. 90-210.25(a)(4), either before or after satisfying the
- 11 educational requirement under sub-subdivision c. of this
- 12 subdivision.
- 13 e. Have passed an oral or written funeral director examination on
- 14 the following subjects:
- 15 1. Psychology, sociology, funeral directing, business law,
- 16 funeral law, funeral management, and accounting.
- 17 2. Repealed by 1997-399, s. 5.
- 18 3. Laws of North Carolina and rules of the Board of
- 19 Mortuary Science and other agencies dealing with the
- 20 care, transportation and disposition of dead human
- 21 bodies.
- 22 (2) To be licensed for the practice of embalming under this Article, a
- 23 person must:
- 24 a. Be at least 18 years of age.
- 25 b. Be of good moral character.
- 26 c. Be a graduate of a mortuary science college approved by the
- 27 Board.
- 28 d. Have completed 12 months of resident traineeship as an
- 29 embalmer pursuant to the procedures and conditions set out in
- 30 G.S. 90-210.25(a)(4), either before or after satisfying the
- 31 educational requirement under sub-subdivision c. of this
- 32 subdivision.
- 33 e. Have passed an oral or written embalmer examination on the
- 34 following subjects:
- 35 1. Embalming, restorative arts, chemistry, pathology,
- 36 microbiology, and anatomy.
- 37 2. Repealed by 1997-399, s. 6.
- 38 3. Laws of North Carolina and rules of the Board of
- 39 Mortuary Science and other agencies dealing with the
- 40 care, transportation and disposition of dead human
- 41 bodies.
- 42 (3) To be licensed for the practice of funeral service under this Article, a
- 43 person must:
- 44 a. Be at least 18 years of age.

- 1 b. Be of good moral character.
- 2 c. Be a graduate of a mortuary science college approved by the
- 3 Board or a school of mortuary science accredited by the
- 4 American Board of Funeral Service Education. Have completed
- 5 a minimum of 32 semester hours or 48 quarter hours of
- 6 instruction, including the subjects set out in sub-part e.1. of this
- 7 subdivision, as prescribed by a mortuary science college
- 8 approved by the Board or a school of mortuary science
- 9 accredited by the American Board of Funeral Service
- 10 Education.
- 11 d. Have completed 12 months of resident traineeship as a funeral
- 12 service licensee, pursuant to the procedures and conditions set
- 13 out in G.S. 90-210.25(a)(4), either before or after satisfying the
- 14 educational requirement under sub-subdivison c. of this
- 15 subdivision.
- 16 e. Have passed an oral or written funeral service examination on
- 17 the following subjects:
- 18 1. Psychology, sociology, funeral directing, business law,
- 19 funeral law, funeral management, and accounting.
- 20 2. Embalming, restorative arts, chemistry, pathology,
- 21 microbiology, and anatomy.
- 22 3. Repealed by 1997-399, s. 7.
- 23 4. Laws of North Carolina and rules of the Board of
- 24 Mortuary Science and other agencies dealing with the
- 25 care, transportation and disposition of dead human
- 26 bodies.
- 27 (4) a. A person desiring to become a resident trainee shall apply to the
- 28 Board on a form provided by the Board. The application shall
- 29 state that the applicant is not less than 18 years of age, of good
- 30 moral character, and is the graduate of a high school or the
- 31 equivalent thereof, and shall indicate the licensee under whom
- 32 the applicant expects to train. A person training to become an
- 33 embalmer may serve under either a licensed embalmer or a
- 34 funeral service licensee. A person training to become a funeral
- 35 director may serve under either a licensed funeral director or a
- 36 funeral service licensee. A person training to become a funeral
- 37 service licensee shall serve under a funeral service licensee. The
- 38 application must be sustained by oath of the applicant and be
- 39 accompanied by the appropriate fee. When the Board is
- 40 satisfied as to the qualifications of an applicant it shall instruct
- 41 the secretary to issue a certificate of resident traineeship.
- 42 b. When a resident trainee leaves the proctorship of the licensee
- 43 under whom the trainee has worked, the licensee shall file with
- 44 the Board an affidavit showing the length of time served with

- 1 the licensee by the trainee, and the affidavit shall be made a
2 matter of record in the Board's office. The licensee shall deliver
3 a copy of the affidavit to the trainee.
- 4 c. A person who has not completed the traineeship and wishes to
5 do so under a licensee other than the one whose name appears
6 on the original certificate may reapply to the Board for
7 approval, without payment of an additional fee.
- 8 d. A certificate of resident traineeship shall be signed by the
9 resident trainee and upon payment of the renewal fee shall be
10 renewable one year after the date of original registration; but
11 the certificate may not be renewed more than one time. The
12 Board shall mail to each registered trainee at his last known
13 address a notice that the renewal fee is due and that, if not paid
14 within 30 days of the notice, the certificate will be canceled. A
15 penalty, in addition to the renewal fee, shall be charged for a
16 late renewal, but the renewal of the registration of any resident
17 trainee who is engaged in the active military service of the
18 United States at the time renewal is due may, at the discretion
19 of the Board, be held in abeyance for the duration of that
20 service without penalties. No credit shall be allowed for the
21 12-month period of resident traineeship that shall have been
22 completed more than three years preceding the examination for
23 a license.
- 24 e. All registered resident trainees shall report to the Board at least
25 once every month during traineeship upon forms provided by
26 the Board listing the work which has been completed during the
27 preceding month of resident traineeship. The data contained in
28 the reports shall be certified as correct by the licensee under
29 whom the trainee has served during the period and by the
30 licensed person who is managing the funeral service
31 establishment. Each report shall list the following:
- 32 1. For funeral director trainees, the conduct of any funerals
33 during the relevant time period,
 - 34 2. For embalming trainees, the embalming of any bodies
35 during the relevant time period,
 - 36 3. For funeral service trainees, both of the activities named
37 in 1 and 2 of this subsection, engaged in during the
38 relevant time period.
- 39 f. To meet the resident traineeship requirements of G.S.
40 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)
41 the following must be shown by the affidavit(s) of the
42 licensee(s) under whom the trainee worked:

- 1 1. That the funeral director trainee has, under supervision,
2 assisted in directing at least 25 funerals during the
3 resident traineeship,
4 2. That the embalmer trainee has, under supervision,
5 assisted in embalming at least 25 bodies during the
6 resident traineeship,
7 3. That the funeral service trainee has, under supervision
8 assisted in directing at least 25 funerals and, under
9 supervision, assisted in embalming at least 25 bodies
10 during the resident traineeship.
11 g. The Board may suspend or revoke a certificate of resident
12 traineeship for violation of any provision of this Article.
13 h. Each sponsor for a registered resident trainee must during the
14 period of sponsorship be actively employed with a funeral
15 establishment. The traineeship shall be a primary vocation of
16 the trainee.
17 i. Only one resident trainee may register and serve at any one time
18 under any one person licensed under this Article.
19 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
20 l. The Board shall register no more than one resident trainee at a
21 funeral establishment that served 100 or fewer families during
22 the 12 months immediately preceding the date of the
23 application, and shall register no more than one resident trainee
24 for each additional 100 families served at the funeral
25 establishment during the 12 months immediately preceding the
26 date of the application.
27 (5) The Board by regulation may recognize other examinations that the
28 Board deems equivalent to its own.
29 a. All licenses shall be signed by the president and secretary of the
30 Board and the seal of the Board affixed thereto. All licenses
31 shall be issued, renewed or duplicated for a period not
32 exceeding one year upon payment of the renewal fee, and all
33 licenses, renewals or duplicates thereof shall expire and
34 terminate the thirty-first day of December following the date of
35 their issue unless sooner revoked and canceled; provided, that
36 the date of expiration may be changed by unanimous consent of
37 the Board and upon 90 days' written notice of such change to all
38 persons licensed for the practice of funeral directing,
39 embalming and funeral service in this State.
40 b. The holder of any license issued by the Board who shall fail to
41 renew the same on or before January 31 of the calendar year for
42 which the license is to be renewed shall have forfeited and
43 surrendered the license as of that date. No license forfeited or
44 surrendered pursuant to the preceding sentence shall be

1 reinstated by the Board unless it is shown to the Board that the
2 applicant has, throughout the period of forfeiture, engaged full
3 time in another state of the United States or the District of
4 Columbia in the practice to which his North Carolina license
5 applies and has completed for each such year continuing
6 education substantially equivalent in the opinion of the Board to
7 that required of North Carolina licensees; or has completed in
8 North Carolina a total number of hours of accredited continuing
9 education computed by multiplying five times the number of
10 years of forfeiture; or has passed the North Carolina
11 examination for the forfeited license. No additional resident
12 traineeship shall be required. The applicant shall be required to
13 pay all delinquent annual renewal fees and a reinstatement fee.
14 The Board may waive the provisions of this section for an
15 applicant for a forfeiture which occurred during his service in
16 the armed forces of the United States provided he applies within
17 six months following severance therefrom.

- 18 c. All licensees now or hereafter licensed in North Carolina shall
19 take courses of study in subjects relating to the practice of the
20 profession for which they are licensed, to the end that new
21 techniques, scientific and clinical advances, the achievements of
22 research and the benefits of learning and reviewing skills will
23 be utilized and applied to assure proper service to the public.
- 24 d. As a prerequisite to the annual renewal of a license, the licensee
25 must complete, during the year immediately preceding renewal,
26 at least five hours of continuing education courses, approved by
27 the Board prior to enrollment. A licensee who completes more
28 than five hours in a year may carry over a maximum of five
29 hours as a credit to the following year's requirement. A licensee
30 who is issued an initial license on or after July 1 does not have
31 to satisfy the continuing education requirement for that year.
- 32 e. The Board shall not renew a license unless fulfillment of the
33 continuing education requirement has been certified to it on a
34 form provided by the Board, but the Board may waive this
35 requirement for renewal in cases of certified illness or undue
36 hardship or where the licensee lives outside of North Carolina
37 and does not practice in North Carolina, and the Board shall
38 waive the requirement for all licensees who have been licensed
39 in North Carolina for a continuous period of 25 years or more,
40 and for all licensees who are, at the time of renewal, members
41 of the General Assembly.
- 42 f. The Board shall cause to be established and offered to the
43 licensees, each calendar year, at least five hours of continuing
44 education courses in subjects encompassing the license

1 categories of embalming, funeral directing and funeral service.
2 The Board may charge licensees attending these courses a
3 reasonable registration fee in order to meet the expenses thereof
4 and may also meet those expenses from other funds received
5 under the provisions of this Article.

6 g. Any person who having been previously licensed by the Board
7 as a funeral director or embalmer prior to July 1, 1975, shall not
8 be required to satisfy the requirements herein for licensure as a
9 funeral service licensee, but shall be entitled to have such
10 license renewed upon making proper application therefor and
11 upon payment of the renewal fee provided by the provisions of
12 this Article. Persons previously licensed by the Board as a
13 funeral director may engage in funeral directing, and persons
14 previously licensed by the Board as an embalmer may engage
15 in embalming. Any person having been previously licensed by
16 the Board as both a funeral director and an embalmer may upon
17 application therefor receive a license as a funeral service
18 licensee.

19 h. The Department of Justice may provide a criminal record check
20 to the Board for a person who has applied for a new or renewal
21 license, or certification through the Board. The Board shall
22 provide to the Department of Justice, along with the request, the
23 fingerprints of the applicant, any additional information
24 required by the Department of Justice, and a form signed by the
25 applicant consenting to the check of the criminal record and to
26 the use of the fingerprints and other identifying information
27 required by the State or national repositories. The applicant's
28 fingerprints shall be forwarded to the State Bureau of
29 Investigation for a search of the State's criminal history record
30 file, and the State Bureau of Investigation shall forward a set of
31 the fingerprints to the Federal Bureau of Investigation for a
32 national criminal history check. The Board shall keep all
33 information pursuant to this subdivision privileged, in
34 accordance with applicable State law and federal guidelines,
35 and the information shall be confidential and shall not be a
36 public record under Chapter 132 of the General Statutes.

37 The Department of Justice may charge each applicant a fee
38 for conducting the checks of criminal history records authorized
39 by this subdivision."

40 **SECTION 10.** G.S. 90-224 is amended by adding a new subsection to read:

41 "(c) The Department of Justice may provide a criminal record check to the Board
42 for a person who has applied for a new or renewal license through the Board. The Board
43 shall provide to the Department of Justice, along with the request, the fingerprints of the
44 applicant, any additional information required by the Department of Justice, and a form

1 signed by the applicant consenting to the check of the criminal record and to the use of
2 the fingerprints and other identifying information required by the State or national
3 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
4 Investigation for a search of the State's criminal history record file, and the State Bureau
5 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
6 Investigation for a national criminal history check. The Board shall keep all information
7 pursuant to this subsection privileged, in accordance with applicable State law and
8 federal guidelines, and the information shall be confidential and shall not be a public
9 record under Chapter 132 of the General Statutes.

10 The Department of Justice may charge each applicant a fee for conducting the
11 checks of criminal history records authorized by this subsection."

12 **SECTION 11.** G.S. 93A-4 is amended by adding a new subsection to read:

13 "(b1) The Department of Justice may provide a criminal record check to the
14 Commission for a person who has applied for a license through the Commission. The
15 Commission shall provide to the Department of Justice, along with the request, the
16 fingerprints of the applicant, any additional information required by the Department of
17 Justice, and a form signed by the applicant consenting to the check of the criminal
18 record and to the use of the fingerprints and other identifying information required by
19 the State or national repositories. The applicant's fingerprints shall be forwarded to the
20 State Bureau of Investigation for a search of the State's criminal history record file, and
21 the State Bureau of Investigation shall forward a set of the fingerprints to the Federal
22 Bureau of Investigation for a national criminal history check. The Commission shall
23 keep all information pursuant to this subsection privileged, in accordance with
24 applicable State law and federal guidelines, and the information shall be confidential
25 and shall not be a public record under Chapter 132 of the General Statutes.

26 The Department of Justice may charge each applicant a fee for conducting the
27 checks of criminal history records authorized by this subsection."

28 **SECTION 12.** G.S. 95-47.2(d) reads as rewritten:

29 "(d) Upon the receipt of an application for a license the Commissioner:

- 30 (1) Shall publish a notice of the pending application in a newspaper of
31 general circulation in the area of the proposed location of the
32 employment agency and may publish the notice in a newspaper of
33 general circulation in each area in which the applicant (or if a
34 corporation, the president and majority shareholder) has resided during
35 the five years preceding the time of the application. The notice shall
36 include a statement informing individuals of their right to protest the
37 issuance of a license by filing within 10 days written comments with
38 the Commissioner. The protest shall be in writing and signed by the
39 person filing the protest or by his authorized agent or attorney, and
40 shall state reasons why the license should not be granted. Upon the
41 filing of a protest, the Commissioner, if he determines the protest to be
42 of such a nature that a hearing should be conducted and that the protest
43 is for a cause on which denial of a license may properly be based, shall
44 appoint a time and place for a hearing on the application and shall give

1 at least seven days' notice of that time and place to the license
2 applicant and to the person filing the protest. The hearing shall be
3 conducted in accordance with the provisions of the rules of the
4 Administrative Procedure Act;

5 (2) Shall investigate the character, criminal record and business integrity
6 of each applicant for agency license and shall investigate the criminal
7 records of all persons listed as agency owners, officers, directors or
8 managers. The applicant and all agency owners, officers, directors and
9 managers shall assist the department in obtaining necessary
10 information by authorizing the release of all relevant information;

11 (2a) The Department of Justice may provide a criminal record check to the
12 Commissioner for a person or agency who has applied for a license
13 through the Commissioner. The Commissioner shall provide to the
14 Department of Justice, along with the request, the fingerprints of all
15 applicants, any additional information required by the Department of
16 Justice, and a form signed by the applicants consenting to the check of
17 the criminal record and to the use of the fingerprints and other
18 identifying information required by the State or national repositories.
19 The applicants' fingerprints shall be forwarded to the State Bureau of
20 Investigation for a search of the State's criminal history record file, and
21 the State Bureau of Investigation shall forward a set of the fingerprints
22 to the Federal Bureau of Investigation for a national criminal history
23 check. The Commissioner shall keep all information pursuant to this
24 subdivision privileged, in accordance with applicable State law and
25 federal guidelines, and the information shall be confidential and shall
26 not be a public record under Chapter 132 of the General Statutes.

27 The Department of Justice may charge each applicant a fee for
28 conducting the checks of criminal history records authorized by this
29 subdivision.

30 (3) Upon completion of the investigation, or 30 days after the application
31 was received, whichever is later, but in no case more than 45 days after
32 the application was received, shall determine whether or not a license
33 should be issued. The license shall be denied for any of the following
34 reasons:

35 a. If the applicant for agency license, or the president or majority
36 shareholder of a corporate applicant, omits or falsifies any
37 material information asked for in the application and required
38 by the Commissioner;

39 b. If any owner, officer, director or manager of the employment
40 agency:

41 1. Has been convicted in any state of the criminal offense
42 of embezzlement, obtaining money under false
43 pretenses, forgery, conspiracy to defraud or any similar
44 offense involving fraud or moral turpitude;

2. Was an owner, officer, director or manager of an employment agency or other business whose license was revoked or that was otherwise caused to cease operation by action of any State or federal agency or court because of violations of law or regulation relating to deceptive or unfair practices in the conduct of business;
 3. As an owner or manager of an employment agency or other business or as an employment counselor was found by any State or federal agency or court to have violated any law or regulation relating to deceptive or unfair practices in the conduct of business; or
 4. In any other demonstrable way engaged in deceptive or unfair practices in the conduct of business;
- c. If the employment agency will be operated on the same premises as a loan agency (as defined in G.S. 105-88) or collection agency (as defined in G.S. 58-70-15)."

SECTION 13. G.S. 106-65.26 is amended by adding a new subsection to read:

"(e) The Department of Justice may provide a criminal record check to the Committee for a person who has applied for a new or renewal license through the Committee. The Committee 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 Committee 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."

SECTION 14. G.S. 160A-304(a) reads as rewritten:

"(a) A city may by ordinance license and regulate all vehicles operated for hire in the city. The ordinance may require that the drivers and operators of taxicabs engaged in the business of transporting passengers for hire over the public streets shall obtain a license or permit from the city; provided, however, that the license or permit fee for taxicab drivers shall not exceed fifteen dollars (\$15.00). The ordinances may also specify the types of taxicab services which are legal in the municipality; provided, that in all cases shared-ride services as well as exclusive-ride services shall be legal. Shared-ride service is defined as a taxi service in which two or more persons with either different origins or with different destinations, or both, occupy a taxicab at one time.

1 Exclusive-ride service is defined as a taxi service in which the first passenger or party
2 requests exclusive use of the taxicab. In the event the applicant is to be subjected to a
3 national criminal history background check, the ordinance shall specifically authorize
4 the use of FBI records. The ordinance shall require any applicant who is subjected to a
5 national criminal history background check to be fingerprinted.

6 The Department of Justice may provide a criminal record check to the city for a
7 person who has applied for a license or permit through the city. The city shall provide to
8 the Department of Justice, along with the request, the fingerprints of the applicant, any
9 additional information required by the Department of Justice, and a form signed by the
10 applicant consenting to the check of the criminal record and to the use of the
11 fingerprints and other identifying information required by the State or national
12 repositories. The applicant's fingerprints shall be forwarded to the State Bureau of
13 Investigation for a search of the State's criminal history record file, and the State Bureau
14 of Investigation shall forward a set of the fingerprints to the Federal Bureau of
15 Investigation for a national criminal history check. The city shall keep all information
16 pursuant to this subsection privileged, in accordance with applicable State law and
17 federal guidelines, and the information shall be confidential and shall not be a public
18 record under Chapter 132 of the General Statutes.

19 The Department of Justice may charge each applicant a fee for conducting the
20 checks of criminal history records authorized by this subsection.

21 The following factors shall be deemed sufficient grounds for refusing to issue a
22 permit or for revoking a permit already issued:

- 23 (1) Conviction of a felony against this State, or conviction of any offense
24 against another state which would have been a felony if committed in
25 this State;
- 26 (2) Violation of any federal or State law relating to the use, possession, or
27 sale of alcoholic beverages or narcotic or barbiturate drugs;
- 28 (3) Addiction to or habitual use of alcoholic beverages or narcotic or
29 barbiturate drugs;
- 30 (4) Violation of any federal or State law relating to prostitution;
- 31 (5) Noncitizenship in the United States;
- 32 (6) Habitual violation of traffic laws or ordinances.

33 The ordinance may also require operators and drivers of taxicabs to display prominently
34 in each taxicab, so as to be visible to the passengers, the city taxi permit, the schedule of
35 fares, a photograph of the driver, and any other identifying matter that the council may
36 deem proper and advisable. The ordinance may also establish rates that may be charged
37 by taxicab operators, may limit the number of taxis that may operate in the city, and
38 may grant franchises to taxicab operators on any terms that the council may deem
39 advisable."

40 **SECTION 15.** If the Private Security Officer Employment Standards Act of
41 2002 is ratified by the United States Congress, the State of North Carolina declines to
42 participate in the background check system authorized by that act as a result of the
43 enactment of this act.

44 **SECTION 16.** This act is effective when it becomes law.