



# SENATE BILL 640: Amend Occupational Licensing Board Statutes.

2023-2024 General Assembly

---

<b>Committee:</b>		<b>Date:</b>	June 27, 2024
<b>Introduced by:</b>	Sens. Britt, B. Newton, Daniel	<b>Prepared by:</b>	Chris Saunders Trina Griffin Staff Attorneys
<b>Analysis of:</b>	Fifth Edition		

---

**OVERVIEW:** *Senate Bill 640 would do all of the following:*

- *Require occupational licensing board members to receive training in antitrust law and state action immunity and would enact new statutes regarding occupational licensing board actions.*
- *Make various changes to the Alarm Systems Licensing Act.*
- *Exclude from property taxation certain nonfunctional business personal property and extend the listing period until April 15.*
- *Raise the number of in-class training hours required for licensure as a massage therapist to 650.*

## CURRENT LAW AND BILL ANALYSIS:

### PART I. CHANGES IN RESPONSE TO DENTAL BOARD V. FTC

The doctrine of state action immunity is the concept, first recognized in *Parker v. Brown*, 317 U.S. 341 (1943) that units of state and municipal government are immune from federal antitrust lawsuits for actions taken pursuant to a clearly expressed state policy that had foreseeable anticompetitive effects when enacted.

In *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S. Ct. 1101 (2015), the US Supreme Court held that the NC Dental Board was not protected from antitrust actions under the doctrine of state action immunity because the Board was controlled by active market participants and was not subject to active supervision by the State.

**Part I of Senate Bill 640** would require occupational licensing board members to receive training in antitrust law and state action immunity as part of their required biennial training.

This Part would add several new sections to Chapter 93B as follows:

- G.S. 93B-17 would require occupational licensing boards to adopt rules for the receipt and resolution of complaints, for taking disciplinary or enforcement actions against its licensees, and for taking enforcement actions against persons not licensed by the board.
- G.S. 93B-18 would clarify occupational licensing boards' authority to investigate unlicensed activity and to notify unlicensed persons of possible violations of laws and rules. This section would also provide standardized language for notifying unlicensed persons and entities of possible violations of the law. The notification would not indicate that the board has made a finding of a

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578

# Senate Bill 640

Page 2

violation but may indicate the board's belief or opinion that an unlicensed activity may violate the board's enabling statutes, include factual information regarding legislation and court proceedings concerning the potential violation, and provide notice of the board's intent to pursue administrative remedies or court actions.

- G.S. 93B-19 would provide that the venue for an injunctive relief sought by an occupational licensing board is the superior court of the county where the defendant resides or where the occupational licensing board has its principal place of business.
- G.S. 93B-20 would authorize an occupational licensing board to appear in its own name in actions for injunctive relief, authorizes the superior court to grant injunctions, restraining orders, or take other appropriate action even if criminal prosecution has been instituted. No board may issue orders independently of the superior court unless specifically authorized to do so by law.
- G.S. 93B-21 would encourage the resolution of jurisdictional disputes among occupational licensing boards by informal procedures. If the dispute is cannot be resolved through informal procedures, an affected board may file a petition with the Office of Administrative Hearings.

G.S. 93B-22 would require each occupational licensing board to implement a complaint process, that provides for the process to be described on the board's website, an electronic complaint submission form, and the ability to provide complainants with a written description of the final disposition of the complaint.

## **PART II. ALARM SYSTEMS LICENSING ACT MODERNIZATION**

The Alarm Systems Licensing Act (ASLA), Chapter 74D of the General Statutes, establishes the Alarm Systems Licensing Board (Board) and requires any person, firm, association, and corporation, or any department or division of those entities, to obtain a license prior to engaging in the alarm systems business in North Carolina. The seven member Board, under the Department of Public Safety (DPS), enforces the ASLA and administers the licensing, education, and training requirements for those engaged in the alarm systems business. Alarm system business is defined as selling or attempting to sell an alarm system device through personal solicitation at a residence or business or installing, servicing, monitoring, or responding to electrical or mechanical alarm signal devices, burglar alarms, monitored access control, or cameras used to detect unlawful entry or illegal activity. Certain alarm system activities are exempt from the licensing requirements including the sale of alarm systems not involving personal solicitation at residential or business locations, fire alarm system installation, monitoring activity located in another state not involving personal solicitation, and the provision of alarm system services provided to a State or local government.

**Part II** of the bill would do all of the following:

- Rename Article 1 of Chapter 74D the "Security Systems Licensing Act" and change "alarm system" to "security system" throughout the Chapter.
- Update the definition of "security systems business" to include:
  - Any solicitation for the sale of a security system.
  - Wireless or hardwired alarm devices and security systems.
  - Integrated automation of a residence or business that includes a security element.
  - Analytic capturing devices, systems providing intelligence, or other imaging devices used to detect various illegal activities.

# Senate Bill 640

Page 3

- Add additional requirements an applicant must meet to become a qualifying agent and grant the Director of the Board additional discretionary authority related to the extension of time to find substitute qualifying agents.
- Give the Board additional powers related to investigating unlicensed activity, engaging in real property transactions, and denying, suspending, or revoking a license or registration.
- Update the various requirements and conditions for issuing licenses, registrations, and permits.
- Remove outdated and unnecessary language and move certain statutory language to more appropriate locations in the Chapter.

This Part would become effective October 1, 2024.

## **PART II. MACHINERY ACT CHANGES**

All personal property used to produce income is considered business personal property and is taxable. Any individual or business owning or possessing personal property used or connected with a business or other income producing purpose on January 1 must list the property for taxation during the annual listing period (January 1 – January 31).

**Part III** of the bill would exclude from property taxation personal property that was suitable when fully functional to be used by the owner for the production of income or in connection with a business, or both, but due to malfunction or nonfunction has a value not greater than scrap value.

Part III of the bill would also extend the end of the regular listing period from January 31 to April 15 and eliminate the ability of individuals to request an extension to that same date for good cause shown. It would maintain the current ability of an individual to request an extension to June 1 in those counties that have provided for electronic listing of personal property.

The exclusion of malfunctioning or nonfunctioning property becomes effective for taxes imposed for taxable years beginning on or after July 1, 2025. The remainder of this Part would be effective when it becomes law.

## **PART IV. INCREASE THE AMOUNT OF TRAINING REQUIRED FOR LICENSURE BY THE NORTH CAROLINA BOARD OF MASSAGE AND BODYWORK THERAPY**

Under current law, 500 hours of in-class training are necessary for licensure as a massage therapist. Most massage schools in North Carolina require 650 hours for graduation even though State law only requires 500 hours for licensure. Due to a change in federal regulations effective July 1, 2024, federal financial aid will only be available for the number of education hours required for licensure in the State.

**Part IV** of the bill would raise the number of in-class training hours required for licensure as a massage therapist to 650.

This section would become effective July 1, 2024, and would apply to licenses issued on or after that date.

**EFFECTIVE DATE:** Except as otherwise provided, this act would be effective when it becomes law.