

the bond of such officer.

§ 10. AMENDMENT.] Section 22 of Chapter 71 of the Session Laws of North Dakota for the year 1933 is hereby amended and re-enacted to read as follows:

§ 22. REPORTS, CONTENTS OF.] The State Examiner shall report to the Governor the result of his examinations on any public office or state institutions and shall also make a report on any particular matter connected therewith at any time when required to do so by the Governor.

§ 11. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of One Thousand (\$1,000.00) Dollars for the biennium beginning July 1st, 1943 and ending June 30, 1945, or as much thereof as may be necessary to pay the expenses of per diem and transportation of the members of said board other than the State Examiner.

§ 12. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 19, 1943.

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## BARBERING

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### CHAPTER 92

S. B. No. 134—(Braun, Blank, Bridston, Nordhougen and Young)

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#### BARBERS AND BARBERS SCHOOLS RESTRICTIONS, LICENSE FEES

An Act to Amend and Re-enact Section 7, the fourth paragraph of Section 11, and Section 15 of Chapter 101 of the Session Laws of 1927, Chapter 79 of the Session Laws of 1933, the first paragraph and sub-section 2 of Section 18 (as amended by Chapter 98 of the Session Laws of 1931) and the second paragraph of Section 21, of Chapter 101 of the Session Laws of 1927, relating to the Barbers Examining Board of the State of North Dakota and the Regulation of the Business of Barbering.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Section 7 of Chapter 101, Session Laws of 1927, is hereby amended and re-enacted to read as follows:

§ 7. MINIMUM STANDARD OF PROFESSIONAL EDUCATION.] No school of barbering shall be approved by the Board unless it requires

as a prerequisite to graduation a course of instruction of not less than 1000 hours to be completed in not less than six months of not more than eight hours in any one working day; such course of instruction to include the following subjects: Scientific fundamentals of barbering, hygiene, bacteriology, histology of the hair, skin, nails, muscles and nerves, structure of the head, face and neck, elementary chemistry relating to sterilization and antiseptics, diseases of the skin, glands and nails, massaging and manipulating the muscles of the upper body, hair cutting, shaving and arranging dressing, coloring, bleaching and tinting the hair.

No school or college of barbering shall enroll or admit any student thereto unless such student shall make and file, in duplicate, a duly verified application, which said application shall be of such form and contain such matters as the State Board of Barber Examiners may prescribe and shall be obtained by such student or the school or college from said Board. One copy of such application shall be retained by the school or college enrolling or admitting the student and the other copy shall be filed by such school or college with said Board.

No school or college of barbering shall enroll or admit any student in a post-graduate course thereof, which said post-graduate course shall be for the purpose of qualifying persons to pass the examination conducted by the Board to determine fitness to practice barbering, unless such student shall file, in duplicate, an application duly verified, which said application shall be obtained by such student or school or college from the Board and such application shall show that such applicant has either (a) graduated from a school or college of barbering approved by the Board; (b) then holds a valid, unexpired and uncanceled certificate of registration as a registered apprentice; (c) who can prove by sworn affidavits that he has practiced as a barber in another State of the American Union for at least two (2) years immediately prior to making such application. One copy of such application shall be retained by the college or school so admitting or enrolling such student and the other shall be filed by such school or college with said Board. Nothing in this section contained shall be construed as limiting or modifying the provisions of Chapter 99, Session Laws 1931.

It shall be unlawful for any person, firm or corporation to operate a barber school or barber college without first obtaining a permit from the State Board of Barber Examiners, fully complying with the provisions of this Act and paying an annual fee for the operation thereof.

§ 2. The fourth paragraph of Section 11 of Chapter 101 of the Session Laws of 1927 is hereby amended and re-enacted to read as follows:

Shall, upon payment of the required fee, at the next succeeding regular examination, be called by the Board for examination to de-

termine his fitness to receive a certificate of registration to practice barbering.

§ 3. Section 15 of Chapter 101, Session Laws 1927 is hereby amended and extended by adding thereto subsection 8 to read as follows:

8. Repeated violations of the sanitary rules and regulations of the State Board of Health and Board of Barber Examiners governing the sanitary regulations of barber shops and barber schools.

§ 4. Section 17 of Chapter 101 of the Session Laws of 1927 as amended by Chapter 79 of the Session Laws of 1933 is hereby amended and re-enacted to read as follows:

§ 17. FEES.] The fees to be paid by an applicant are as follows:

- 1. For examination for a certificate to practice barbering—\$ 10.00
- 2. For issuance of such certificate----- 2.00
- 3. For examination for a certificate to practice as an apprentice ----- 5.00
- 4. For issuance of such certificate ----- 1.00
- 5. For renewal of barber's certificate ----- 5.00
- 6. For restoration of expired barber's certificate----- 8.00
- 7. For renewal of apprentice's certificate----- 3.00
- 8. For restoration of expired apprentice's certificate----- 5.00
- 9. For a permit to operate a barber school or college, an annual fee of ----- 100.00
- 10. Annual establishment fee to be paid by each shop owner in advance ----- 1.00

Each application to open or establish a barber shop in this State shall be accompanied with a fee of \$10.00 to cover expenses of inspection which shall be retained by the Board and deposited as other fees. A duplicate license certificate or permit will be issued upon the filing of a statement covering the loss of same, verified by the oath of the applicant, and submitting a signed photograph of the applicant and the payment of a fee of 50c for the issuance of the same.

The Board shall have the power to reduce renewal fees below the amounts heretofore set out in this Section whenever such Board determines that the full amount is not necessary to finance the necessary and regular operations of the Board. Such reduction shall be exercised by the Board only by applying an equal percentage of reduction to all renewal fees provided for herein and such reduction shall be made when commencing the licensing year and shall be in effect for the whole of such year.

Providing, however, that any one becoming a member of the armed military services of the United States in time of war while holding a license as a barber or apprentice and while in good standing as to payment of fees, may obtain a restoration of his certificate without payment of such restoration fee.

§ 5. The first paragraph of Section 18 of Chapter 101, Session Laws of 1927 and sub-section 2 thereof as amended by Chapter 98

Session Laws of 1931, are hereby amended and re-enacted to read as follows:

§ 18. CERTAIN ACTS PROHIBITED.] Each of the following are hereby declared a misdemeanor punishable upon conviction of a fine of not less than \$25.00 nor more than \$100.00, or by imprisonment in a County Jail of not less than ten days nor more than thirty days, or both.

2. Permitting any person in one's employ, supervision or control to practice as an apprentice or barber unless that person has a certificate of registration as a registered apprentice or barber.

§ 6. The second paragraph of Section 21 of Chapter 101 of the Session Laws of 1927 is hereby amended and re-enacted to read as follows:

Each member of said Board shall receive a compensation of \$6.00 per day for actual services and actual and necessary expense of travel, including five cents per mile for automobile travel and not to exceed \$4.00 per day for room and meals when away from home, which compensation and expense shall be paid out of any money in the hands of the Treasurer of said Board as such.

Approved March 11, 1943.

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## CHAPTER 93

S. B. No. 133—(Braun, Blank, Bridston,  
Nordhaugen and Young)

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### REGULATION BARBERS

An Act to regulate and control the barber shop business of the State of North Dakota; conferring upon the State Board of Barber examiners powers and jurisdiction with relation thereto, defining such powers, jurisdiction and duties; authorizing the said Board to approve price schedules and to make orders fixing minimum prices for barber services; providing for judicial review of such acts of said Board; providing penalties for the violation of this Act.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. That the barber profession, by reason of the personal contacts exercised therein, is hereby declared to be a business affecting the public health, public welfare and public safety; that unfair and uneconomic trading practices which have been and are now being carried on in the operation of barber shops in this State, and unfair competition existing between individual barber shop operators of this State, have brought about an unjust and uneconomic reduc-

tion in prices for services commonly performed by said profession, and that the decrease in income and purchasing power resulting from such reduction in prices have made it impossible for many members of said profession within this State to maintain the healthful standard of living, and to purchase the sanitary products and equipment, necessary to support and maintain reasonably safe and healthful barbering services to the public, and in the interests of public welfare, public health and public safety; that immediate public supervision and control of said profession in the exercise of the police power of this State, and in accordance with the proper standards of said profession, is necessary to the protection and preservation of the public health, public safety and public welfare.

That the foregoing statement of facts, policy and application of this Act are hereby declared as a matter of legislative determination, and that this Act is enacted in the exercise of the police power of this State, and its purpose generally is to protect the public welfare, public health and public safety.

§ 2. DEFINITIONS.] As used in this Act, unless otherwise expressly stated, or unless the context or subject matter otherwise requires; "Barber Board" or "Board", means the Board of Barber Examiners. The other definitions, as set forth in Chapter 101 of the Session Laws of 1927, and all amendments thereto, are hereby adopted for the purpose of interpreting this Act.

§ 3. ADDITIONAL POWERS.] The Barber Board is hereby authorized, empowered, and directed to act as a control board for the purpose of administering this law and is hereby extended such specific powers as are necessary for the purposes of administering and enforcing same, provided, however, that their compensation shall be as provided by the said Chapter 101 of the Session Laws of 1927 and all amendments thereto.

§ 4. GENERAL POWERS.] The Board is hereby declared to be the instrumentality of the State in the administration of this Act, and for such purpose is hereby vested with the following additional powers:

(a) To supervise and regulate the barbering industry of the State of North Dakota in the manner and for the purposes provided herein.

(b) To investigate as the condition permits and regulate as the condition requires all matters pertaining to the proper supervision and control of all barber shops and the work of all barbers within this State, in conformity with the intent and purpose of this Act.

(c) To act as mediator and arbitrator in any controversy or issue that may arise among or between barbers as between themselves, or that may arise between them as groups, in harmony with and supplementary to any lawfully constituted medium of arbitration now existing or hereafter created, having jurisdiction of such matters.

(d) To issue subpoenas and to administer oaths as provided

in Section 6 of this act whenever necessary to carry out the purpose and intent of this act, and to issue commissions to take depositions of witnesses absent from this State whenever necessary for such purposes.

This Act shall be construed to be supplementary to, and not in abrogation of, any provisions of the public health laws or laws relating to general public health and sanitation, the North Dakota Barbers' Act, or any local health ordinance or regulation. The operation effect of any provisions of this Act conferring a general power upon the Board shall not be impaired or qualified by the granting to the Board by this Act of a specific power or powers.

§ 5. RULES AND ORDERS.] That the Board may adopt and enforce all rules and orders necessary to carry out the provisions of this Act. Every rule or order of the Board shall be posted for public inspection in the main office of the Board and a certified copy filed in the office of the Secretary of the Board and published in the press publications representing the barber industry.

An order applying only to a person or persons named therein shall be served on the person or persons affected. An order herein required shall be served by personal delivery of a certified copy or by mailing a certified copy in a sealed envelope with postage prepaid to each person affected thereby, or in the case of a corporation, to any officer or agent of the corporation upon whom a summons may be served in accordance with the provisions of law.

The posting in the main office of the Board of any rule and order not herein required to be served, and such filing in the office of the Secretary of the Board and publishing in representative publications, shall constitute due and sufficient notice to all persons affected by such rule or order. A rule of the Board when duly published, posted and filed as provided in this Section, shall have binding force and effect. The provisions of this Section as to service of orders shall not apply to orders fixing minimum prices as to which provision is made in Section 12 of this Act.

§ 6. INVESTIGATION.] That the practice and procedure of the Board with respect to any investigation by the Board authorized by this Act shall be in accordance with rules and regulations to be promulgated by the Board, which shall provide for at least 20 days notice in writing to all persons affected by orders to be made by the Board after such investigation, opportunity to be heard either in person or by counsel, and to introduce testimony in their behalf at a public hearing to be held for that purpose, and notice of any such investigation or hearing shall be given to all persons to be directly affected thereby in the manner and form provided in Section 16 of said Chapter 101 of the Session Laws of 1927.

For the purpose of such investigation of any hearing which the Board is authorized or required to conduct, the Board or any member thereof, and its secretary, shall have power to conduct such hearing, administer oaths, take depositions, issue subpoenas, compel

the attendance of witnesses and the production of books, papers, documents and testimony. In case of disobedience of any person to comply with the order of the Board or a subpoena issued by the Board, or any of its members, or its secretary, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the District Judge of the county, in which the person resides, on application of any member of the Board, or its secretary, may by order duly entered require the compliance of such person with any such order of the Board, and may enforce such compliance in the same manner as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Each officer who serves a subpoena shall receive the same fees as a sheriff, and each witness who appears in obedience to a subpoena, before the Board or a member, or its secretary, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of this State, which shall be audited and paid in the same manner as other expenses are audited and paid upon the presentation of proper vouchers, approved by any two members of the Board.

No witnesses subpoenaed at the instance of a party other than the Board or one of its members, or its secretary shall be entitled to compensation unless the Board shall certify that this testimony was material to the matter investigated.

§ 7. VIOLATIONS; REMEDIES.] That a violation of any provision of this Act or of any rule, subpoena or order of the Board lawfully made pursuant hereto, except as otherwise expressly provided by this Act, shall be a misdemeanor, punishable by a fine of not less than \$25.00 nor more than \$100.00, or by imprisonment in jail not exceeding thirty days or both, and each day during which such violation shall continue shall be deemed a separate offense.

The Board may institute such actions in the courts of competent jurisdiction as may appear necessary to enforce compliance with any provision of this Act, or to enforce compliance with any rule, subpoena, or order of the Board made pursuant to the provisions of this Act, and, in addition to any other remedy may apply to any District Court of Competent Jurisdiction for relief by injunction.

§ 8. SUSPENSION; REVOCATION; REVIEW.] That the Board may decline to grant a license as provided for in Chapter 101 of the Session Laws of 1927 and all amendments thereto, or may suspend or revoke such license if already granted, upon due notice and opportunity of hearing to the applicant, or licensee, as provided in Section 16 of said Chapter 101 of the Session Laws of 1927, when satisfied that any such person has violated the provisions of this Act and the trial and manner of provisions governing such suspension or revocation shall be the same as provided for conducting such hearings in said Chapter 101 of the Session Laws of 1927 and all amendments thereto.

(a) Any applicant or licensee deeming himself aggrieved by

any action of the Board taken under any of the provisions of this Act, may, within thirty (30) days after receipt of a copy of the order of the Board, file a petition in the District Court, which shall have jurisdiction to affirm, reverse, vacate, or modify the order complained of, if upon consideration of the records, such court is of the opinion that such order was unlawful or unreasonable.

The Board of Barber Examiners of North Dakota shall be the defendant, and such petition shall set forth the errors complained of thereupon.

Unless they be waived, citations and other judicial process shall be served upon the President of the Board, or in the event of his absence, upon any member of the Board, or by leaving a copy at the office of the Board or office of the Secretary and Treasurer.

Upon such service or waiver the Board shall with its answer file a transcript of the records of the Board, and the original papers or transcripts, thereof, and a certified transcript of all evidence adduced upon the hearing before the Board in the proceedings complained of, which shall be filed in the court.

No proceedings to vacate, reverse, or modify a final order rendered by the Board shall operate to stay the execution or effect thereof unless the District Court, or a Judge thereof in vacation, on application and three days' notice to the Board, shall allow such stay in which event the petitioner shall be required to execute his bond in such a sum as the court may prescribe, with sufficient surety to the satisfaction of the Court, conditioned for the prompt payment of all damage arising from or caused by the delay in the effectiveness or enforcement of the order complained of.

§ 9. REPORTS.] That each licensee shall, from time to time as required by rule or order of the Board, make or file a verified report on forms prescribed by the Board of all matters on account of which a record is required to be kept, together with such other information or facts as may be pertinent and material within the scope of the purpose and intent of this Act. Such report shall cover a period of time specified in the order.

§ 10. ORDER FIXING MINIMUM PRICE SCHEDULES OF BARBER SERVICES.]

(a) That the Board shall have the power to approve minimum price schedules of the various items of barber service for a given area, embracing either a County or City, if a petition signed by 75 per cent of the barber shop owners or managers representing a given district, shall be presented to the Board requesting that a minimum price schedule be approved for the area represented. When such area consists of a county, such petition shall be signed by 75 per cent of such shop owners or managers in cities of 2000 population or more and also by 75 per cent of such shop owners or managers in villages, towns or cities of less than 2000 population. The Board, after having received such petition shall ascertain by personal investigation what price schedule is just and under varying conditions will best protect



the public health and safety by affording a sufficient minimum price for all barber work, to enable the barber shops in such area to furnish modern and healthful services, using modern appliances and equipment so as to minimize the danger to public health and safety incident to such services.

(b) The Board, before approving a minimum price schedule for any given area, shall take into consideration all conditions affecting the barber profession in such area and its relation to the public health and safety.

In determining reasonable minimum prices for a given area, the Board shall take into consideration the necessary costs incurred in that particular area in maintaining a barber shop in a clean healthful and sanitary condition.

The Board, after having made such investigation shall fix by official order a schedule of minimum prices for all services usually performed in a barber shop, as in their judgment is fair and just for that area.

Provided, that any shop constituting the only shop operating in its village, town or city, so long as it maintains and observes reasonable sanitary conditions, shall be exempt from the operation of the minimum prices so fixed by the Board, unless the owner or manager of such shop shall request in writing that the Board include such shop therein, in which case it shall be included.

c) AMENDING OR MODIFYING PRICE SCHEDULES AFTER APPROVAL.] That if the Board, after investigation, made upon the petition of 75 per cent of barber shop owners or managers, operating under an approved minimum price schedule, determines that the minimum prices so fixed are insufficient to properly provide healthful services to the public and keep the shops sanitary, or if the minimum price set creates an undue hardship on the majority of barber shop owners affected, then the Board from time to time shall have authority to vary or refix the minimum prices for barber services in any county or city so affected.

§ 11. That no member of said Board, nor any officer, agent or employee thereof, shall divulge to any person, firm or corporation the contents of any document, paper or record, examined by him in the performance of his duties hereunder, or any information obtained by him in the course of his investigation, except as may be required to carry out the purpose of this Act.

§ 12. PARTIAL INVALIDITY.] That if any clause, sentence, paragraph or part of this Act, or rule of the Board adopted pursuant to it, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

§ 13. That all expenses incidental to the administration of this

Act shall be paid from the funds of the Board of Barber Examiners, in the manner and form now governing other expenditures of this Board.

§ 14. That all laws, or parts of laws in conflict herewith be, and the same are, hereby repealed.

Approved March 11, 1943.

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## BEVERAGES

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### CHAPTER 94

S. B. No. 48—(Committee on Tax and Tax Laws)

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#### BEER LAW AMENDMENT

An Act to Amend and Re-enact Section 6 of that Certain Initiated Measure Adopted by the Electors of the State of North Dakota on September 22, 1933, Relating to the Manufacture, Sale and Distribution of Beer, as Amended by Chapter 98 of the Session Laws of North Dakota for the Year 1935, Chapter 98 of the Session Laws of North Dakota for the Year 1937 and Chapter 103 of the Session Laws of North Dakota for the Year 1939; Providing Method of Examination; Method of Collecting State Tax on Beer by the State Tax Commissioner; Providing Penalty for Violation Thereof and Repealing All Acts and Parts of Acts in Conflict Herewith.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 6 of the Initiated Measure for the manufacture, sale and distribution of beer, enacted and approved September 22, 1933, as amended, is hereby amended and re-enacted to read as follows:

§ 6. ADDITIONAL STATE REVENUE. THE AMOUNT THEREOF AND HOW COLLECTED.] From and after the taking effect of this Act there is hereby levied and assessed and there shall be collected and paid to the State Treasurer upon all beer sold in North Dakota to consumers the following taxes:

On all beer sold a tax of \$2.48 per barrel of 31 gallons or pro rata proportion thereof in accordance with the size of the bulk container.

Every Brewery whose product is licensed for sale in this State shall on or before the 15th of each month file with the State Tax Commissioner a report of all shipments of beer for sale in the State