

SENATE BILL REPORT

ESHB 1136

AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 8, 1991

Brief Description: Revising provisions regulating cosmetology.

SPONSORS: House Committee on Commerce & Labor (originally sponsored by Representatives Haugen, O'Brien, Wilson, Wineberry, Spanel, Prince, Valle, H. Myers, Heavey, Scott, Cole, Zellinsky, Wood, Paris, Orr, Jacobsen, Leonard and May).

HOUSE COMMITTEE ON COMMERCE & LABOR

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Anderson, Vice Chairman; McMullen, Moore, Murray, and Skratek.

Staff: Forrest Bathurst (786-7429)

Hearing Dates: April 1, 1991

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Bailey, Bauer, Gaspard, Hayner, Johnson, L. Kreidler, Metcalf, Murray, Niemi, Owen, L. Smith, Talmadge, and Wojahn.

Staff: Steve Jones

Hearing Dates: April 8, 1991

BACKGROUND:

RCW 18.16 recognizes that the practice of cosmetology involves the use of tools and chemicals which may be dangerous when used, mixed or applied improperly. Therefore, it is necessary in the interest of the public health, safety and welfare to regulate the practice of cosmetology in Washington State.

It is a misdemeanor for any person to do any of the following activities without first obtaining a license: 1) the commercial practice of cosmetology, barbering, or manicuring; 2) instructing in a school; or 3) operating a school.

Each license category has specific classroom instruction requirements. They are: 1,600 hours for cosmetologists, 800 hours for barbers, and 500 hours for manicurists.

Salon/shops and booth renters were deregulated in 1984.

Licenses are valid for one year.

Cosmetology schools must apply for and maintain a school license.

A cosmetologist, barber, or manicurist licensed in another state is eligible for a Washington State license without taking the examination if he or she has completed a training course equivalent to that required in Washington.

Any person wishing to operate a cosmetology school shall, before opening such a school, file with the director a license application containing the following information: 1) the names and addresses of all owners and instructors, 2) proof that the school's curriculum satisfies the training guidelines established by the director, 3) the catalogs, brochures, and contract forms the school proposes to use, 4) a sample of the school's enrollment contract, and cancellation and refund policies, 5) a description of the school's physical equipment and facilities, 6) a surety bond in an amount not less than \$1,000 or 5 percent of the annual gross tuition collected by the school, whichever is greater.

The Director of the Department of Licensing does not have subpoena power or the ability to impose penalties on unlicensed practice.

Some salon/shop owners rent booth space to other cosmetologists. In these cases, it is not always clear whether the booth renter or the shop owner is required to pay industrial insurance premiums or business and occupation taxes.

SUMMARY:

The definition of "board" is amended to include esthetics.

The definition of "the practice of cosmetology" is amended to include cutting, trimming, styling, and shampooing hair, as well as manicuring and esthetics.

The practice of esthetics means skin care using applications or equipment meant for only for professional use.

The definition of school is amended to include esthetics.

Applicants for an instructor-operator-cosmetology, instructor-operator-barber, instructor-operator-manicure, or instructor-operator-esthetics license must complete 500 hours of instructor training if they do not have a college degree in education.

The Director of the Department of Licensing is given the power to investigate all persons licensed in a cosmetology category, to issue subpoenas, statements of charges, statements of intent, final orders, stipulated agreements, cease and desist orders, letters of warning, to prepare and approve licensing

examinations, and to establish minimum safety and sanitation standards.

The state cosmetology board shall include a minimum of two instructors.

A fine of \$1,000 shall be placed on persons operating without a license.

Persons licensed in any category of cosmetology-instructor may perform work commercially without being licensed as a cosmetologist.

The director shall establish by rule the minimum passing score and requirements for reexamination for licenses.

The classroom requirements for a barber are increased from 800 hours to 1,000 hours, and 500 hours are required for esthetics.

A person may apply for a license in another cosmetology category if he or she currently holds a valid cosmetology license and completes the required cross-over training.

Salon/shops are required to maintain a valid salon/shop license.

A person renewing an expired cosmetology license is required to pay the fees for each year the license was invalid up to a maximum of four years.

A salon/shop must provide proof it has public liability insurance of not less than \$100,000 for combined bodily injury and property damage to renew a license.

Licenses issued prior to January 1, 1992, shall remain in effect until renewal or January 1, 1992, or whichever is earlier.

A licensed cosmetologist may request licenses in cosmetology, barbering, manicuring and esthetics. A licensed manicurist may request licenses in manicuring and esthetics. A license fee is required for each license, and a cosmetologist requesting all four shall pay four license fees. An instructor will be issued one license with endorsements in each area of instruction and only one fee is required.

After January 1, 1993, any licensee applying for a multiple license must meet the training requirements for each category of license being obtained.

Students enrolled in an approved school as of January 1, 1992, may apply to take the examinations for multiple categories without having met multiple training requirements.

Schools must update their curriculum by July 1, 1992 to comply with this act.

Salon/shop licenses and school licenses are valid for one year. Cosmetologist, barber, manicurist, and instructor licenses are valid for two years.

Any person wishing to operate a school shall file for a license application and provide the following information: a) the names and addresses of all owners, managers, and instructors, b) a copy of the school's curriculum satisfying the training guidelines established by the director, c) a sample copy of the school's catalog, brochure, enrollment contract, and cancellation and refund policies that will be used or distributed by the school to students and the public, d) a description and floor plan of the school's physical equipment and facilities, e) a surety bond, irrevocable letter of credit, or savings assignment in an amount not less than \$10,000 or 10 percent of the annual gross tuition collected by the school, whichever is greater. The approved security shall not exceed \$50,000 and shall run to the state of Washington for the protection of unearned prepaid student tuition. The school shall attest to its gross tuition at least annually on forms provided by the department. When a new school license is being applied for, the applicant will estimate its annual gross tuition to establish a bond amount. This shall not apply to community colleges and vocational technical schools. Upon approval of the application and documents, the director shall issue a license to operate a school with the appropriate certification or certifications.

Changes to the information provided by schools shall be submitted to the department within 15 days of the implementation date.

A change involving the controlling interest of the school requires a new license application and fee. The new application shall include all required documentation, proof of ownership change, and be approved prior to a license being issued.

Schools may be audited by the director at the director's discretion.

Any applicant or licensee may be subject to disciplinary action by the director if the licensee or applicant: 1) has aided and abetted unlicensed activity; 2) has engaged in the commercial practice of cosmetology, barbering, manicuring, esthetics, or instructed in or operated a school without first obtaining the license required by this chapter, 3) has engaged in the commercial practice of cosmetology in a school, 4) has not provided a safe, sanitary, and good moral environment for students and public, 5) has not provided records as required by this chapter, 6) has not cooperated with the department in supplying records or assisting in an investigation or disciplinary procedure, or 7) has violated any provision of this chapter or any rule adopted under it.

A salon/shop shall meet the following minimum requirements: 1) maintain an outside entrance separate from any rooms used for sleeping or residential purposes, 2) provide and maintain

for the use of its customers adequate toilet facilities located within or adjacent to the salon/shop, 3) be operated under the direct supervision of a licensed cosmetologist except that a salon/shop that is limited to barbering may be directly supervised by a barber, a salon/shop that is limited to manicuring may be directly supervised by a manicurist, and a salon/shop that is limited to esthetics may be directly supervised by an esthetician, 4) any room used wholly or in part as a salon/shop shall not be used for residential purposes, except that toilet facilities may be used jointly for residential and business purposes, 5) meet the zoning requirements of the county, city, or town, as appropriate, 6) provide for safe storage and labeling of chemicals used in the practice of cosmetology, 7) meet all applicable local and state fire codes, 8) provide proof that the salon/shop is covered by a public liability insurance policy in an amount not less than \$100,000 for combined bodily injury and property damage liability, and 10) other requirements which the director determines are necessary for safety and sanitation of salons/shops. The director may consult with the state Board of Health and the Department of Labor and Industries in establishing minimum salon/shop safety and sanitation requirements.

At least once every two years or upon receipt of a written complaint the director shall inspect the salon/shop. If the director determines that any salon/shop is not in compliance with this chapter, the director shall send written notice to the salon/shop. A salon/shop which fails to correct the conditions to the satisfaction of the director within a reasonable time shall, upon due notice, be subject to the penalties imposed by the director. The director may enter any salon/shop during business hours for the purpose of inspection. The director may contract with health authorities of local governments to conduct the inspections.

A salon/shop, including a salon/shop operated by a booth renter, shall obtain a certificate of registration from the Department of Revenue.

The director shall prepare and provide to all licensed salons/shops a notice to consumers. The notice shall state that cosmetology, barber, esthetics, and manicure salons/shops are required to be licensed, that salons/shops are required to maintain minimum safety and sanitation standards, that customer complaints regarding salons/shops may be reported to the department, and a telephone number and address where complaints may be made.

The term "employment" does not include services performed in a barber shop or cosmetology shop if the person is a booth renter.

A booth renter is an independent contractor and may elect to be covered for industrial insurance.

A person licensed in another jurisdiction is eligible to take the examination for a Washington license if he or she is

licensed in good standing, and upon passing the examination, a license to practice in Washington will be issued.

Appropriation: \$429,000

Revenue: yes

Fiscal Note: available

Effective Date: July 1, 1991

SUMMARY OF PROPOSED SENATE WAYS & MEANS AMENDMENT:

The bill is made contingent on funding being provided in the budget act.

TESTIMONY FOR (Commerce & Labor):

The bill corrects problems resulting from deregulation in 1984. Public health and safety concerns require the cosmetology industry be reregulated.

TESTIMONY AGAINST (Commerce & Labor): None

TESTIFIED (Commerce & Labor): Margit Turner (pro); Casey Held, UFCW (pro); Antonia Morales, shop owner (pro); Darrell Camp, school owner (pro); Mike Kennard, School Owners Association (pro); Pat Crowley, WSCA (pro)

TESTIMONY FOR (Ways & Means):

The bill is a consumer protection measure designed to protect the public from unlicensed practitioners and unsanitary conditions. The Department of Licensing lacks adequate enforcement powers under current law.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED: Representative Mary Margaret Haugen, original sponsor (pro); Darrell Camp, school owner (pro); Mike Kennard, Washington State School Owners Association (pro)