

# SENATE BILL REPORT

## SB 5326

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As of January 28, 2019

**Title:** An act relating to booth rental agreements.

**Brief Description:** Concerning booth rental agreements.

**Sponsors:** Senators Keiser, Rivers, Saldaña, Billig and Kuderer.

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/28/19.

### Brief Summary of Bill

- Repeals the exclusion of cosmetology and barbering booth renters from the definition of employment for the purposes of unemployment insurance.
- Removes the exemption from mandatory coverage for booth renters under workers' compensation law.
- Removes cosmetology and barbering booth renters from the list of booth renters considered to be independent contractors for the purposes of the business and occupation tax.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Staff:** Jarrett Sacks (786-7448)

**Background:** Department of Licensing. The Department of Licensing (DOL) regulates cosmetology, hair design, barbering, and esthetics. A person who engages in the commercial practice of cosmetology, hair design, barbering, esthetics, or manicuring must have a license. To receive a license, a person must meet training requirements and pass an exam. A person who operates a salon or shop where cosmetology, barbering, hair design, or esthetics are performed must have a salon/shop license.

**Booth Renters.** In general, booth renters are licensed cosmetologists, barbers, manicurists or estheticians that pay a fee to rent a chair or booth within a salon or shop.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Unemployment Insurance. Under the Employment Security Act (ESA), employers are responsible for unemployment insurance contributions. If an entity has persons engaged in employment, the entity is liable for unemployment insurance contributions. For the purposes of the ESA, employment does not include services performed in a barber shop or cosmetology shop by persons licensed by DOL if the person is a booth renter.

Workers' Compensation. The Industrial Insurance Act (IIA) requires employers to report and pay workers' compensation premiums for all of their workers. If an individual is considered a covered worker, the employer must pay and report workers' compensation premiums to the Department of Labor and Industries unless the worker falls under a statutory exemption. Services performed by a booth renter are exempt from mandatory coverage under the IIA.

Business and Occupation Tax. The Revenue Act imposes taxes on persons engaged in taxable business activity, which does not include employees, as opposed to an independent contractor. Independent contractors are subject to the business and occupation (B&O) tax. Under current law, booth renters are considered independent contractors. For the purposes of B&O tax, a booth renter means a person who:

- performs cosmetology, barbering, esthetics, or manicuring services for which a license is required; and
- pays a fee for the use of the salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Unemployment Insurance. A provision that excludes cosmetology and barbering booth renters from the definition of employment for the purposes of unemployment insurance is repealed.

Workers' Compensation. A provision excluding services performed by a booth renter from mandatory coverage under workers' compensation law is removed.

Business and Occupation Tax. Cosmetology and barbering booth renters are removed from the list of booth renters considered independent contractors for the purposes of B&O tax.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2020.

**Staff Summary of Public Testimony on Proposed Substitute:** PRO: The bill is about tax fairness and making sure individuals performing the same work are getting equal treatment. Some salons are treating booth renters like employees, and control much of their work, while avoiding paying taxes. Two states have already banned booth renters. Salon owners with employees pay full B&O tax, while most booth renters fall under the B&O tax threshold. Current laws and an even playing field need to be enforced.

CON: Many people choose to be self-employed for the flexibility, these people already pay B&O tax and the current system works just fine. Sole proprietors choose to forego benefits in exchange for flexible work schedules and being their own boss. The bill is a government overstep into the lives of independent business owners. The bill threatens the livelihoods of many salon owners and targets a predominantly female industry. The bill may force small business owners out of the industry. The multiple business models in the salon industry should be preserved in order to provide flexibility. The bill would force people to work at commission jobs or for employers, which does not work as well for the industry. Many commission employers do not provide benefits, while self-employed individuals can provide themselves with benefits. There should be more research done on the industry and the Cosmetology Board should be consulted. Giving people the flexibility to own their own business keeps people off public assistance. The bill will increase prices on the public and will put people on public assistance. Most of the industry complies with the law, the bill treats the industry like they are all law breakers.

**Persons Testifying:** PRO: Senator Karen Keiser, Prime Sponsor; Lisa Houser, Utopia Salon and Day Spa; Christine Blankenship, Salon Owner; Scott Missad, Gene Juarez.

CON: Kevin Thompson, Owner, Le Roi Salon; Priscilla Murphy, citizen; Abigail Horan, Ashton's Hair Design; Amy Virde, citizen; Nikki Stansberry, Kaylin Nicole Salon; Jackie Barrett, Jaelyn Raen Salon; Robin Salas, citizen; Mitchel Cunanan, Mitchel Cunanan LLC; Cecilia Fisher, citizen; Rachel Perez, citizen; Megan White, citizen; Veronica Black, Owner, Studio A Salon of Bonney Lake; Kari Reddinger, Haven Hair; Dawni McConnell, The Hair Chateau; Courtney Gutzman, Haven Beauty Sole Prop; Jodi York, Brush Salon and Spa; Rene Barnes, citizen; Susie Powers, Cosmologist; Connie McKnight, citizen; Mary Dean, citizen; Alissa Nix, citizen; Lindsey Dougherty, The Proper Salon and Barber; Eric Weir, citizen; Christeenna Tiffin, citizen; Megan Edwards, Megan Elizabeth Professional Services LLC; Bob Battles, Association of Washington Business; Heather Kerekfty, Salon Envy; Jenni Treutle, Studio 4; Kori Barnett, citizen; Lucinda Marshall, Salon Owner; Kila Herve, Cosmetologist; Debbie Whitt, Esthetician.

**Persons Signed In To Testify But Not Testifying:** PRO: Phil Brown, citizen.

CON: Jill Ogden, Jill Ogden LLC; Kathleen Rambo, Valley Hair Design; Samantha Knowles, Stylist Winslow Salon; William Sturtevant, By Design Gentlemen's Salon; Sara Hurley, Sara at Valley Hair Design; Shelbie Walsh, Kaylin Nicole Salon; Karli Britt, Owner, Salon 790 LLC; Stephanie Goff, Identity Studio Salon; Kelly Wallin, citizen; Mike Wallin, citizen; Jackie Epperson, Owner, Chroma Salon; Amber Maier, Owner, booth renting sole proprietor at Fresh Salon And Spa; Lydia Kapfer, G2salon; Erica Hjelmaa, citizen; Heidi Whipple, Lavish Hair Studio; Molly Mitchell, Spruce Salon and Spa; Christine Martin, citizen; Renay Crosby, Renay Crosby; Aida Sosa, citizen; Megan Crouch, citizen; Desirae Rye, citizen; Trisha Sandoval, citizen; Chelsea Fischer, citizen; Haley Williams, Kaylin Nicole Salon; Breanne Guyette, Kaylin Nicole Salon; Lori Dixon, Hairbrained Studios, LLC; Hanna Jones, citizen; Katie Edmonds, Kaylin Nicole Salon; Thien Son, Kaylin Nicole Salon; Hanna Jones, citizen; Elizabeth Blanchette, citizen; Albon Dougherty, citizen; Christyn Oestreich, Shear Attitude Salon; Kaylee Harris, Hairdresser; Shari Bailey, Owner, Capelli Salon; Laura Savage, Desert Rose Day Spa; Heather Niccoli, citizen; Gemmina Ray, Sole

Proprietorship/Nail Technician; Erica Trusley, Chair Nine Salon; Christina Abrams, citizen; Raeana Rader, citizen; Patty Wolf, citizen; Shawn Moore, Obidiah; Janet Ellis, Highlights Salon and Spa; Susan Bessey, citizen; Kimberly Garver, citizen; Jilian George, Cosmetologist and Owner of Salon; Sabrina Lee, citizen; Bruce Shearer, Shearer's Hair Design; Kristine Blake, citizen; Kurstin Stowe, Co-Owner, K[squared]; Jesse Floch, Owner, Euphorium; Shawna Nicholson, citizen; Kalie Hibbard, citizen; Micaela Castanon, citizen; Stephanie Peters, Stylist Booth Renter Sole Proprietor; Nicole McGinnis, citizen; Christine Selden, citizen; Heather Stokes, citizen; Gina Young, citizen; Maria Ramirez, citizen; Hanna Shaffer, citizen; Zackary Lee Munds, Cosmetologist; Shawn Manning; Rachel Hile, The Beyond Project; Nicholas Hearn, citizen; Lauren Susewind, Lauren Susewind Hairdresser, Ashlyn Jamyson Salon and Spa; Julie Berghammer, Owner, Cameo Hair & Beauty; Jennifer Cassady, Arrow Hair and Beauty; Samantha Stone, citizen; Donald Stone, citizen; Carolyn Bowen, citizen; Mandy Thornton, citizen; Rebekah Orton, Arrow Hair and Beauty; Cabryna Harkness, citizen.