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## A BILL FOR AN ACT

RELATING TO THE BARBERING AND COSMETOLOGY LICENSING ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               **"CHAPTER \_\_\_\_**

5                               **BARBERING AND COSMETOLOGY LICENSING ACT**

6       §   -1 **Short title.** This chapter may be cited as the  
7 Barbering and Cosmetology Licensing Act.

8       §   -2 **Definitions.** For the purpose of this chapter:

9       "Adequate sanitary facilities" means toilets located in  
10 properly ventilated rooms with doors, hot and cold running  
11 water, sinks or wash basins, and other requirements as may be  
12 prescribed by the rules of the board;

13       "Apprentice permit" means a permit issued by the board,  
14 upon registration and payment of application and registration  
15 fees, to a barber apprentice or beauty apprentice.

16       "Barber" means a licensed person who engages in the  
17 practice of barbering for compensation.

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1 "Barber apprentice" means a person registered with the  
2 board to learn the practice of barbering within a barber or  
3 beauty shop and while learning assists in the practice of  
4 barbering under the immediate direction and supervision of a  
5 licensed barber or beauty operator with the license category of  
6 cosmetologist or hairdresser for the hairdresser portion of  
7 training.

8 "Barber school" means a licensed school engaged in teaching  
9 the practice of barbering.

10 "Barber shop" means a licensed establishment or place of  
11 business wherein the practice of barbering is engaged or carried  
12 on and is the primary purpose of that establishment or place of  
13 business; provided that the practice of cosmetology is allowed.

14 "Barber student" means a person enrolled in a barber school  
15 who is engaged in learning to be a barber and while learning  
16 assists in the practice of barbering.

17 "Beauty apprentice" means a person registered with the  
18 board to learn the practice of cosmetology within a barber or  
19 beauty shop and while learning assists in any of the practices  
20 of cosmetology under the immediate direction and supervision of  
21 a licensed barber or beauty operator.

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1 "Beauty operator" means one of the following license  
2 categories: cosmetologist; hairdresser; esthetician; or nail  
3 technician.

4 "Beauty instructor" means a licensed person who teaches any  
5 of the cosmetology license categories; provided that the term  
6 shall not be taken to include a beauty operator who teaches a  
7 barber or beauty apprentice in a barber or beauty shop.

8 "Beauty school" means a licensed school engaged in teaching  
9 the practice of cosmetology.

10 "Beauty shop" means a licensed establishment or place of  
11 business wherein the practice of cosmetology is engaged or  
12 carried on and is the primary purpose of that establishment or  
13 place of business; provided that the practice of barbering is  
14 allowed.

15 "Beauty student" means a person enrolled in a beauty school  
16 who is engaged in learning to be a beauty operator and while  
17 learning assists in any of the practices of cosmetology.

18 "Board" means the board of barbering and cosmetology as  
19 established pursuant to section -4.

20 "Cosmetologist" means a licensed person who engages in the  
21 practices of a hairdresser, esthetician, and nail technician for  
22 compensation.

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1 "Department" means the department of commerce and consumer  
2 affairs.

3 "Director" means the director of commerce and consumer  
4 affairs.

5 "Esthetician" means a licensed person who, with hands or  
6 nonmedically prescribed mechanical or electrical apparatus or  
7 devices or by use of cosmetic preparations, antiseptics, tonics,  
8 lotions, or creams, engages for compensation in any of the  
9 following practices:

10 (1) Massaging, cleansing, stimulating, manipulating,  
11 exercising, beautifying, or doing similar work on the  
12 scalp, face, neck, hands, arms, bust, upper part of  
13 the body, legs, or feet;

14 (2) Cleansing, exfoliating, wrapping, or doing similar  
15 work upon the entire body, without direct contact by  
16 the hands and utilizing gloves, loofah mitts, or  
17 brushes; or

18 (3) Removing superfluous hair about the body of any person  
19 by means other than electrolysis.

20 "Hairdresser" means a licensed person who engages for  
21 compensation in any of the following practices: arranging,  
22 dressing, curling, waving, cleansing, cutting, singeing,

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1 bleaching, coloring, relaxing, or similar work upon the hair of  
2 another person.

3 "Nail technician" means a licensed person who engages for  
4 compensation in any of the following practices:

5 (1) Cutting, trimming, polishing, coloring, cleansing, or  
6 otherwise treating a person's fingernails and  
7 toenails;

8 (2) Applying artificial fingernails and toenails; and

9 (3) Massaging and cleansing a person's hands, arms, legs,  
10 and feet.

11 "Practice of barbering" means any of the following  
12 practices: shaving, cutting, trimming, singeing, shampooing,  
13 arranging, dressing, curling, waving, relaxing, or coloring the  
14 hair or beard or applying tonics or other preparation thereto;  
15 massaging, cleansing, or applying oils, creams, lotions, or  
16 other preparation to the face, scalp, or neck, either by hand or  
17 by mechanical appliances.

18 "Practice of cosmetology", also known as beauty culture,  
19 means the art and science of beauty care of the skin, hair,  
20 scalp, and nails, and includes any one or a combination of the  
21 beauty operator license categories if they are performed on a

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1 person's head, face, neck, shoulders, arms, hands, bust, upper  
2 part of the body, legs, or feet for cosmetic purposes.

3 "Temporary permit" means a permit allowing an applicant  
4 approved for examination to practice as a barber, beauty  
5 operator, or beauty instructor under the supervision of a  
6 licensed barber, beauty operator, or beauty instructor for one  
7 year after the permit's date of issuance.

8 § -3 **License required.** (a) No person shall for  
9 commercial purposes practice as a barber apprentice, beauty  
10 apprentice, barber, beauty operator, or beauty instructor, or  
11 operate a barber shop, beauty shop, or beauty school, or  
12 announce or advertise as being prepared or qualified to do so  
13 unless the person is licensed as required by this chapter.

14 (b) The practice of barbering and cosmetology shall be  
15 carried on only by persons duly licensed to practice in this  
16 State and only in licensed barber shops or beauty shops;  
17 provided that nothing in this chapter prevents or prohibits a  
18 duly licensed barber to practice barbering or a duly licensed  
19 beauty operator to practice cosmetology at:

20 (1) Any place for educational purposes;

21 (2) Upon persons at a health care, nursing, mental, or  
22 correctional facility;

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1           (3) At a charitable event; or

2           (4) A person's private home, office, or hotel room when  
3           requested to do so.

4           (c) All licensees shall follow the sanitary practices as  
5   prescribed by the rules of the board and any other sanitary  
6   practices or public health guidelines recommended by government  
7   agencies to protect the health and safety of the public.

8           (d) Nothing in this chapter shall be construed to prohibit  
9   or restrict the practice of a profession by individuals who are  
10   licensed, certified, or registered under the laws of this State  
11   who are performing services within their authorized scope of  
12   practice.

13         **§ -4 Board of barbering and cosmetology.** (a) There is  
14   established the board of barbering and cosmetology placed within  
15   the department pursuant to section 26-9. The board shall  
16   consist of seven members who shall be appointed and may be  
17   removed by the governor pursuant to section 26-34, except as  
18   provided by law. The members shall be residents of the State,  
19   of which:

20           (1) Two members shall possess a current and active license  
21           as a barber;

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(2) Two members shall possess a current and active license as a beauty operator; and

(3) Three members shall be private citizens not connected with the industry.

(b) Board members affiliated with any school teaching the practice of barbering or the practice of cosmetology or any apprenticeship or other barbering or cosmetology program shall disclose that affiliation and at all times shall adhere to chapter 84 and the interpretations of that chapter by the state ethics commission.

**§ -5 Powers and duties of the board.** (a) In addition to any other powers and duties authorized by law, the board shall have all the powers necessary to effectuate the purpose of this chapter; may approve examinations for licensure to practice barbering and cosmetology; issue apprentice permits or temporary permits; grant, revoke, or suspend licenses, apprentice permits, or temporary permits; and establish, subject to chapter 91 and with the approval of the governor and the director, rules governing the practice of barbering and cosmetology and the standards and requirements for apprenticeship training and courses of training provided by schools that shall have the force and effect of law.



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1           (b) The board may require the attendance of witnesses and  
2 the production of books, records, and papers as it or any person  
3 involved may desire at any hearing of any matter that the board  
4 has authority to investigate, and for that purpose may require  
5 the executive secretary to issue a subpoena for any witness or a  
6 subpoena duces tecum to compel the production of any books,  
7 records, or papers directed to the sheriff or chief of police of  
8 the county where the witness resides or is found, which subpoena  
9 shall be served and returned in the same manner as a subpoena in  
10 a criminal case. Fees and mileage shall be paid from the funds  
11 in the state treasury for the use of the board in the same  
12 manner as other expenses of the board.

13           (c) Any investigation, inquiry, or hearing that the board  
14 is authorized by law to hold or undertake may be held or  
15 undertaken by or before any member or members of the board or an  
16 appointed hearings officer and the finding or order of that  
17 member, members, or hearings officer shall be deemed to be the  
18 finding or order of the board when approved and confirmed by it.

19           (d) The board may adopt rules pursuant to chapter 91 to  
20 allow training of an apprentice by either a barber or a  
21 hairdresser in order for the apprentice to fulfill training  
22 requirements.

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§ -6 Applications; requisites for admission to

examination. (a) Each person who desires to practice as a barber apprentice, beauty apprentice, barber, beauty operator, or beauty instructor shall:

(1) Be at least sixteen years of age;

(2) File with the board a written application on a form prescribed by the board;

(3) Deposit with the board the required fees; and

(4) Possess the qualifications specified in this section.

(b) A barber apprentice or beauty apprentice applicant shall provide proof that the applicant will be training in a barber or beauty shop under the supervision of a licensed barber or beauty operator.

(c) A barber applicant shall have an education equivalent to the completion of high school and either:

(1) Three thousand hours of training as a barber apprentice in a barber or beauty shop under the supervision of a licensed barber or beauty operator with the license category of cosmetologist or hairdresser; or

(2) One thousand five hundred hours of training in a barber school.

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1 (d) A cosmetologist applicant shall have an education  
2 equivalent to the completion of high school and either:

3 (1) Three thousand six hundred hours of training as a  
4 beauty apprentice in a beauty shop under the  
5 supervision of a licensed cosmetologist or in a barber  
6 shop under the supervision of a licensed barber for  
7 the hairdresser training only; or

8 (2) One thousand eight hundred hours of training in a  
9 beauty school.

10 (e) A hairdresser applicant shall have an education  
11 equivalent to the completion of high school and either:

12 (1) Two thousand five hundred hours of training as a  
13 beauty apprentice in a beauty shop or barber shop  
14 under the supervision of a licensed cosmetologist or  
15 hairdresser or licensed barber for the hairdresser  
16 training; or

17 (2) One thousand two hundred fifty hours of training in a  
18 beauty school.

19 (f) An esthetician applicant shall have an education  
20 equivalent to the completion of high school and either:

21 (1) One thousand two hundred hours of training as a beauty  
22 apprentice in a beauty shop or barber shop under the

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1 supervision of a licensed cosmetologist or  
2 esthetician; or

3 (2) Six hundred hours of training in a beauty school.

4 (g) A nail technician applicant shall have an education  
5 equivalent to the completion of high school and either:

6 (1) Seven hundred hours of training as a beauty apprentice  
7 in a beauty shop or barber shop under the supervision  
8 of a licensed cosmetologist, esthetician, or nail  
9 technician; or

10 (2) Three hundred fifty hours of training in a beauty  
11 school.

12 (h) A beauty instructor applicant may apply to teach in  
13 any of the practices of cosmetology if the applicant has:

14 (1) Completed six hundred hours of a board approved course  
15 in the theory and practice of instruction; and

16 (2) Served actively for a period of at least one year as a  
17 licensed beauty operator in the State or in another  
18 jurisdiction having standards for beauty operators  
19 substantially equivalent to those of this State.

20 (i) The board shall recognize barber and beauty training  
21 obtained in another jurisdiction that is substantially  
22 equivalent to the training in this State. If such training is

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1 not equivalent, the board shall make a determination as to  
2 whether or not to recognize the training by evaluating the type  
3 and duration of the training and the experience required to  
4 obtain a license in the other jurisdiction.

5       **§ -7 Apprentices permits.** (a) The barber or beauty  
6 apprentice shall obtain an apprentice permit before beginning  
7 apprenticeship training.

8       (b) There shall not be a ratio of more than one apprentice  
9 to one barber or beauty operator in any shop.

10       (c) Apprentices shall have forty-two months from the date  
11 of registration to complete training at the minimum of twenty  
12 hours per week.

13       **§ -8 Examination.** (a) The board shall contract with a  
14 professional testing service to have the testing service provide  
15 examinations for applicants as required for the purposes of this  
16 chapter.

17       (b) The professional testing service shall administer the  
18 examination approved by the board. Examinations shall be given  
19 on a regular basis.

20       (c) Every applicant who is required by the board to be  
21 examined shall pay an examination fee as provided in rules  
22 adopted by the director pursuant to chapter 91. The examination

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1 fee may be paid directly to the professional testing service by  
2 the department or the examinee.

3 (d) An applicant who fails an initial examination  
4 thereafter may file another application for examination with the  
5 professional testing service and shall pay the examination fee  
6 for any subsequent examination.

7 (e) The board shall issue a barber, beauty operator, or  
8 beauty instructor license to each person who passes the required  
9 examination, pays the proper fees, and meets all of the other  
10 requirements of this chapter. The license shall state the  
11 license category for which the person is licensed.

12 **§ -9 Temporary permits.** (a) The board may issue a  
13 temporary permit to an applicant approved for examination. A  
14 temporary permit may be issued upon application for examination  
15 and payment of the required fees. The temporary permit shall  
16 allow the applicant to practice barbering or cosmetology or  
17 teach cosmetology under the supervision of a licensed barber,  
18 beauty operator, or beauty instructor, and shall be effective  
19 for one year from the date of issuance.

20 (b) The board may grant an extension to a temporary permit  
21 if the professional testing service is unable to administer the  
22 examination on a regular basis.

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1        §    -10   **Barber shops and beauty shops.**   (a)   An applicant  
2   for a barber shop or beauty shop license shall:

3        (1)   Identify the name and location of the shop;

4        (2)   Identify at least one licensed barber or beauty  
5           operator to qualify the shop for licensure in the  
6           applicable license category;

7        (3)   Identify the owner of the shop who shall be  
8           responsible for all operations of the shop and be  
9           responsible to see that only currently licensed  
10          individuals, apprentices, or temporary permittees are  
11          practicing in the shop;

12       (4)   Demonstrate that the applicant has adequate sanitary  
13          facilities as defined in section    -2;

14       (5)   Provide a statement that the applicant shall allow  
15          only licensees who have at least one year of  
16          experience to train apprentices as prescribed by the  
17          rules of the board.

18       (b)   Barber and beauty apprentices training in a barber or  
19   beauty shop shall be compensated in accordance with chapter 387.

20       (c)   Any transfer of ownership of a barber or beauty shop,  
21   or relocation of a shop shall require the filing of an  
22   application with the required fees.

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1       **§ -11 Beauty schools.** (a) Any person may apply to the  
2 board for a license as a beauty school upon the payment of  
3 application and license fees.

4       (b) No beauty school shall be granted a license unless it  
5 employs and maintains a sufficient number of licensed  
6 instructors, and requires a course of training of a proportioned  
7 number of hours as approved by the board, for any of the license  
8 categories, to include practical demonstrations, written and  
9 oral tests, and practical instruction in sanitation,  
10 sterilization, and the use of antiseptics consistent with the  
11 practical and theoretical requirements applicable to the  
12 practice of cosmetology.

13       (c) All schools shall have sufficient equipment and  
14 adequate facilities as prescribed by the rules of the board.

15       **§ -12 Display of licenses or permits.** The license of a  
16 barber, beauty operator, beauty instructor, barber shop, beauty  
17 shop, or beauty school and the permit of a barber or beauty  
18 apprentice or temporary permittee shall be displayed in a  
19 conspicuous place in the shop or school.

20       **§ -13 Fees; compliance resolution fund.** All fees  
21 required by this chapter shall be as provided in rules adopted  
22 by the director pursuant to chapter 91 and shall be deposited



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1 with the director to the credit of the compliance resolution  
2 fund established pursuant to section 26-9(o), except that the  
3 examination fee required in section -8 may be paid directly to  
4 the professional testing service by the department or the  
5 examinee.

6       **§ -14 Renewal of licenses.** (a) The holder of a barber,  
7 beauty operator, beauty instructor, barber shop, or beauty shop  
8 license issued by the board shall biennially, on or before  
9 December 31 of each odd-numbered year, renew the license and pay  
10 the renewal fee.

11       (b) The holder of a beauty school license issued by the  
12 board shall annually, on or before December 31 following the  
13 date of issue, renew the license and pay the renewal fee.

14       (c) A license that has not been renewed shall be  
15 considered forfeited. A forfeited license shall be restored  
16 upon payment of all delinquent fees and a penalty fee if  
17 application is made within three years after the license is  
18 forfeited. Thereafter, the person shall apply as a new  
19 applicant and the board may require the person to take and pass  
20 the examination.

21       **§ -15 Citation for licensee or permittee violations;**  
22 **fines.** (a) In addition to any other remedy available under

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1 this chapter, the department may issue a citation to any person  
2 who holds a barber, beauty operator, beauty instructor, barber  
3 shop, beauty shop, or beauty school license, or a temporary or  
4 apprentice permit, for any of the following violations of this  
5 chapter or the rules adopted pursuant to this chapter and  
6 chapter 91:

7 (1) Failure of a barber, beauty operator, beauty  
8 instructor, barber shop, beauty shop, beauty school,  
9 barber apprentice, beauty apprentice, or temporary  
10 permittee engaged in the practice of barbering or  
11 cosmetology to display a license or permit in a  
12 conspicuous place in the office, place of business or  
13 employment, or school, during all hours of operation;

14 (2) Failure of a barber shop owner, beauty shop owner, or  
15 beauty school to ensure that only individuals who hold  
16 a current and appropriate license or permit engage in  
17 the practice of barbering and cosmetology in the  
18 barber shop, beauty shop or beauty school;

19 (3) Failure of a barber shop or beauty shop engaged in the  
20 practice of barbering or cosmetology to conspicuously  
21 display in reception or work rooms, a price list or  
22 sign that shall read "PRICE LIST AVAILABLE UPON

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REQUEST" in capital letters at least three-fourths  
inch in size;

(4) Failure of a beauty school to identify each  
instructor-trainee at the beauty school with a name  
tag, stating that person's full name and the words  
"Instructor-trainee", to be worn during all hours of  
instruction;

(5) Failure of a beauty school to identify each instructor  
at the beauty school with a name tag, stating that  
person's full name, the word "Instructor", and  
identifying the instructor's appropriate beauty  
operator category, to be worn during all hours of  
instruction;

(6) Failure of a beauty school, during all hours of  
instruction, to operate the beauty school with an  
instructor-student ratio of at least one instructor  
for every twenty-five students, and with a minimum of  
two licensed instructors; or

(7) Failure of a beauty school performing work upon or for  
members of the public to display, in a conspicuous  
place in each reception and work room, a sign not less  
than eighteen inches by twenty-four inches in size

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1           that shall state "School of Beauty Culture - Work done  
2           by students under supervision" in letters not less  
3           than one-half inch high.

4           (b) Each citation:

5           (1) Shall be in writing and describe the basis of the  
6           citation, including the specific statute or rule  
7           violated;

8           (2) May contain an order of abatement and the assessment  
9           of a fine in the amount of \$500 for each violation;

10          (3) Shall be served on the licensee or permittee by  
11          personal service; and

12          (4) Shall inform the licensee or permittee that the  
13          licensee or permittee may submit a written request to  
14          the board or its designee for a hearing to contest the  
15          citation, within twenty calendar days from the service  
16          of the citation.

17          (c) If the licensee or permittee timely submits a written  
18          request to the board or its designee for a hearing, the board  
19          may designate a hearings officer to conduct the hearing in  
20          accordance with chapter 91.

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(d) If the licensee or permittee does not timely submit a written request to the board or its designee for a hearing, the citation shall be deemed a final order of the board.

(e) Failure of a licensee or permittee to pay any assessed fine within thirty calendar days, unless the licensee or permittee contests the citation, may result in further disciplinary action taken by the board.

**§ -16 Refusal to grant and revocation and suspension of licenses.** (a) In addition to any other actions authorized by law, the board may take disciplinary action against any license issued under this chapter, including but not limited to revocation, suspension, fine, or a combination thereof, or refuse to grant or renew any license for any cause authorized by law, including but not limited to the following:

- (1) Procuring a license through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross carelessness, or manifest incapacity;
- (3) Permitting a person without a license, apprentice permit, or temporary permit to perform activities which require a license, apprentice permit, or temporary permit under this chapter;

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- 1 (4) Violation of this chapter or the rules adopted  
2 pursuant thereto;
- 3 (5) Making any false representation or promise through  
4 advertising or otherwise;
- 5 (6) Failing to display a license, apprentice permit, or  
6 temporary permit as provided in this chapter;
- 7 (7) Any other conduct constituting fraudulent or dishonest  
8 dealings;
- 9 (8) Failing to comply with a board order; or
- 10 (9) Making a false statement on any document submitted or  
11 required to be filed by this chapter.

12 (b) Any licensee who violates this chapter or the rules  
13 adopted pursuant thereto shall be fined not less than \$500 nor  
14 more than \$2,000 for each violation.

15 **§ -17 Appeal from actions of the board; hearing. (a)**

16 An appeal may be taken from a final action of the board  
17 suspending or revoking a license, apprentice permit, or  
18 temporary permit for the causes mentioned in section -16 to  
19 the circuit court of the circuit in which the person whose  
20 license, apprentice permit, or temporary permit has been  
21 suspended or revoked resides.

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1           (b) Any person aggrieved by the denial of a license,  
2     apprentice permit, or temporary permit by the board may submit a  
3     request for a hearing pursuant to chapter 91 within sixty days  
4     of the date of notification of the denial or refusal.

5           (c) In all proceedings before it, the board and each  
6     member thereof shall have the same powers respecting  
7     administering oaths, compelling the attendance of witnesses, and  
8     the production of documentary evidence, and examining witnesses,  
9     as are possessed by circuit courts. In case of disobedience by  
10    any person of any order of the board or any member thereof, or  
11    of any subpoena issued by it or any member, or the refusal of  
12    any witness to testify to any matter regarding which the witness  
13    may lawfully be questioned, any circuit judge, on application by  
14    the board or any member thereof, shall compel obedience as in  
15    the case of disobedience of the requirements of a subpoena  
16    issued by a circuit court, or a refusal to testify therein.

17        §   -18 **Board to aid prosecution.** The board shall aid  
18    prosecuting officers in the prosecution of persons charged with  
19    violations of this chapter.

20        §   -19 **Right of injunction.** The department may, in  
21    addition to any other remedies available, apply to a court

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1 having competent jurisdiction for an injunction to restrain any  
2 violation of this chapter.

3       **§ -20 Cumulative remedies.** Unless otherwise expressly  
4 provided, the remedies or penalties provided by this chapter are  
5 cumulative to each other and to the remedies or penalties  
6 available under all other laws of this State."

7       SECTION 2. Chapters 438 and 439, Hawaii Revised Statutes,  
8 are repealed.

9       SECTION 3. **Transfer of functions.** The jurisdiction,  
10 functions, powers, duties, and authority heretofore exercised by  
11 the board of barbering and cosmetology pursuant to chapters 438  
12 and 439, Hawaii Revised Statutes, shall be transferred to and  
13 conferred upon the board of barbering and cosmetology  
14 established by section -4 in section 1 of this Act and shall  
15 be performed and enforced in the same manner as previously  
16 authorized, entitled, or obligated except as otherwise  
17 authorized, directed, or instructed by this Act.

18       The board of barbering and cosmetology established by  
19 section -4 in section 1 of this Act, shall succeed to all of  
20 the rights and powers previously exercised, and all of the  
21 duties and obligations incurred by the board of barbering and  
22 cosmetology in the exercise of the functions, powers, duties,



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1 and authority transferred, whether such functions, powers,  
2 duties, and authority are mentioned in or granted by any law,  
3 contract, or other document.

4 All rules, policies, procedures, guidelines and other  
5 material adopted or developed by the board of barbering and  
6 cosmetology to implement provisions of the Hawaii Revised  
7 Statutes that are reenacted or made applicable to the board of  
8 barbering and cosmetology created by section -4 in section 1  
9 of this Act, shall remain in full force and effect until amended  
10 or repealed, pursuant to chapter 91, Hawaii Revised Statutes, by  
11 the board of barbering and cosmetology established by section  
12 -4 in section 1 of this Act. Every reference to the board of  
13 barbering and cosmetology in those rules, policies, procedures,  
14 guidelines, and other material is deemed to refer to the board  
15 of barbering and cosmetology established by section -4 in  
16 section 1 of this Act, as appropriate. All fees established by  
17 title 16, chapter 53, Hawaii Administrative Rules, that are made  
18 applicable to the board of barbering and cosmetology created by  
19 section -4 in section 1 of this Act, shall remain in full  
20 force and effect until amended or repealed by the director,  
21 pursuant to chapter 91, Hawaii Revised Statutes. Every  
22 reference to the board of barbering and cosmetology in title 16,

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1 chapter 53, Hawaii Administrative Rules, is deemed to refer to  
2 the board of barbering and cosmetology established by section  
3 -4 in section 1 of this Act, as appropriate.

4 All contracts, agreements, licenses, permits, and other  
5 documents executed or entered into by or on behalf of the board  
6 of barbering and cosmetology pursuant to those provisions of the  
7 Hawaii Revised Statutes that are reenacted or made applicable to  
8 the board of barbering and cosmetology created by section -4  
9 in section 1 of this Act, shall remain in full force and effect.  
10 Every reference to the board of barbering and cosmetology  
11 therein shall be construed as a reference to the board of  
12 barbering and cosmetology established by section -4 in section  
13 1 of this Act.

14 **SECTION 4. Continuity of board members.** Each member of  
15 the board of barbering and cosmetology shall be constituted a  
16 member of the board of barbering and cosmetology established by  
17 section -4 in section 1 of this Act.

18 **SECTION 5. Construction; severability.** This Act shall be  
19 liberally construed in order to accomplish the purposes set  
20 forth herein. If any provision of this Act, or the application  
21 thereof to any person or circumstances is held invalid, the  
22 invalidity does not affect other provisions or applications of

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1 the Act that can be given effect without the invalid provision  
2 or application, and to this end the provisions of this Act are  
3 severable.

4 SECTION 6. Any holder of a barber apprentice permit in  
5 effect prior to July 1, 2023, who files an application for a  
6 barber's license before July 1, 2024, may satisfy the training  
7 requirement by having one thousand five hundred hours of barber  
8 training in a barber shop or beauty shop. Any barber student  
9 who began training prior to the effective date of this Act, may  
10 satisfy the training requirement by having one thousand five  
11 hundred hours of barber training in a barber school.

12 SECTION 7. This Act, upon its approval, shall take effect  
13 on July 1, 2022.

14  
15 INTRODUCED BY: \_\_\_\_\_



16 BY REQUEST

JAN 24 2022

# H.B. NO. 2109

**Report Title:**

Barbering and Cosmetology Licensing Act

**Description:**

Adds and updates definitions to satisfy current industry practice needs; aligns and remedies inconsistencies between chapters 438 and 439, Hawaii Revised Statutes; removes the five-year license requirement for barber and beauty operator Board of Barbering and Cosmetology member seats; raises fees for penalties and disciplinary actions; and removes medical clearance requirements.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO BARBERING AND COSMETOLOGY LICENSING ACT.

PURPOSE: To add and update definitions to satisfy current industry needs; remedy inconsistencies between Hawaii Revised Statutes (HRS) chapters 438 (barbering) and 439 (cosmetology); remove the five-year license requirement for barber and beauty operator Board of Barbering and Cosmetology (Board) member seats presently set forth by section 438-3, HRS; increase penalties and fines; and remove the medical clearance requirement presently in sections 439-12.5 and 438-8.5, HRS.

MEANS: Add a new chapter to the HRS and repeal chapters 438 and 439, HRS.

JUSTIFICATION: The Board administers chapter 438 (barbering) and chapter 439 (cosmetology) and finds that there are inconsistent provisions in each chapter that make regulation unduly complex.

To remedy these inconsistencies and address the current regulatory needs of the profession, the Board proposes to add or update definitions; align the regulatory structures for barbering and cosmetology; make additional updates to the new chapter to better accommodate the existing needs of the Board, licensees, and consumers; raise the penalty and fine amounts for unlicensed activity and license violations; and remove the medical clearance requirement for licensees.

Impact on the public: Aligning the regulatory structure for barbering and cosmetology will help clarify the licensure requirements and minimize confusion among

licensees and applicants. Increased penalties and fines may deter unlicensed activity or activities that result in discipline.

Impact on the department and other agencies:  
Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division (PVL) staff may be required to create new forms to reflect amended licensure requirements. Removing six months remedial training for barbers will decrease administrative processes for PVL staff.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: CCA-105.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: July 1, 2022.