

JAN 26 2022

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

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

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

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

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

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

"Hairdresser" means a licensed person who engages for compensation in any of the following practices: arranging, 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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(3) At a charitable event; or

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

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

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

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

(1) Two members shall possess a current and active license 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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1 § -6 Applications; requisites for admission to

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

5 (1) Be at least sixteen years of age;

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

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

9 (4) Possess the qualifications specified in this section.

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

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

16 (1) Three thousand hours of training as a barber
17 apprentice in a barber or beauty shop under the
18 supervision of a licensed barber or beauty operator
19 with the license category of cosmetologist or
20 hairstylist; or

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

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

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

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

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

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

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

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

(1) One thousand two hundred hours of training as a beauty 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 Apprentice 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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§ -10 Barber shops and beauty shops. (a) An applicant for a barber shop or beauty shop license shall:

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

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

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

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

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

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

(c) Any transfer of ownership of a barber or beauty shop, or relocation of a shop shall require the filing of an 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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1 REQUEST" in capital letters at least three-fourths
2 inch in size;

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

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

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

19 (7) Failure of a beauty school performing work upon or for
20 members of the public to display, in a conspicuous
21 place in each reception and work room, a sign not less
22 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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chapter 53, Hawaii Administrative Rules, is deemed to refer to the board of barbering and cosmetology established by section -4 in section 1 of this Act, as appropriate.

All contracts, agreements, licenses, permits, and other documents executed or entered into by or on behalf of the board of barbering and cosmetology pursuant to those provisions of the Hawaii Revised Statutes that are reenacted or made applicable to the board of barbering and cosmetology created by section -4 in section 1 of this Act, shall remain in full force and effect.

Every reference to the board of barbering and cosmetology therein shall be construed as a reference to the board of barbering and cosmetology established by section -4 in section 1 of this Act.

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

SECTION 5. Construction; severability. This Act shall be liberally construed in order to accomplish the purposes set forth herein. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the 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

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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.