

ACT 210

H.B. NO. 810

A Bill for an Act Relating to the Practice of Beauty Culture.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 439-2, Hawaii Revised Statutes, is amended to read as follows:

“§439-2 **Registration required.** No person shall for commercial purposes demonstrate any hair or cosmetic preparations or products or practice as [an] a cosmetologist, operator, apprentice, student, or instructor or operate a school or beauty shop or announce or advertise [himself] as being prepared or qualified [so to do] to do so unless [he] the person is registered with and holds a certificate from the board of cosmetology authorizing [him] the person to do so¹; provided that this

chapter shall not affect the right of any person licensed by the State to engage in any other occupation from doing any of the acts properly authorized by [his] the person's license. The certificate of [an] a cosmetologist, operator, apprentice, shop, or school shall be displayed in a conspicuous place in the office, place of business or employment, or school of the holder thereof."

SECTION 2. Section 439-4, Hawaii Revised Statutes, is amended to read as follows:

"§439-4 Officers of the board. The board of cosmetology shall select a [president, a secretary, and a treasurer.] chairman annually. [The offices of secretary and treasurer may be combined in one person.] An executive secretary, assigned by the department of commerce and consumer affairs, shall service the board.

The [president] chairman of the board shall preside at all meetings and in [his] the chairman's absence the members present shall select a [president] chairman protem."

SECTION 3. Section 439-5, Hawaii Revised Statutes, is amended to read as follows:

"§439-5 Meetings. The board of cosmetology shall hold meetings at [such] times as it deems necessary. A majority of the board shall constitute a quorum and the concurrence of a majority of the members present shall be necessary to make any action of the board valid."

SECTION 4. Section 439-6, Hawaii Revised Statutes, is amended to read as follows:

"§439-6 Power to investigate. The board of cosmetology or any member thereof, or any person designated by the board for the purpose, may investigate any violation or suspected violation of this chapter. Each member of the board may administer oaths in connection with any [such] investigation."

SECTION 5. Section 439-7, Hawaii Revised Statutes, is amended to read as follows:

"§439-7 Rules [and regulations]. The board of cosmetology may make, amend, and repeal [such] rules [and regulations] as it deems proper to fully effectuate and carry out the purpose of this chapter which is declared to be the protection of the general public in its dealings with hairdressers, cosmeticians, and cosmetologists. The rules [and regulations] shall be made subject to chapter 91 and shall be approved by the governor and the director of commerce and consumer affairs. They shall have the force and effect of law."

SECTION 6. Section 439-9, Hawaii Revised Statutes, is amended as read as follows:

"§439-9 Expenses. (a) The members of the board shall serve without pay but shall be reimbursed for actual expenses incurred in the [discharge] discharge of their duties.

(b) All fees received by the board shall be deposited by the director of commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 7. Section 439-10, Hawaii Revised Statutes, is amended to read as follows:

“§439-10 Apprentices, [and] students[.], and instructor-trainees. An apprentice [or], student, or instructor-trainee shall be registered and given a certificate to that effect upon application and payment of a fee of \$3 and submission of evidence satisfactory to the board of cosmetology that [he] the applicant is at least sixteen years of age, of good moral character, [and] is possessed of an education equivalent to the completion of four years of high school[.] and, in the case of an instructor-trainee, has the required three years of experience as a registered operator.”

SECTION 8. Section 439-12, Hawaii Revised Statutes, is amended to read as follows:

“§439-12 Requisites for admission to examination and registration. The executive secretary of the board of cosmetology shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualification shall be sufficient:

- (1) An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of an examination fee of \$20 for each of the practices or occupations or any one or any combination of the practices or occupations, provided [he] the operator is of good moral character and has an education equivalent to the completion of four years of high school and has either (A) served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including two thousand hours for each of the two classified occupations; or (B) has acquired the equivalent training in a registered school, and has passed the prescribed examination or examinations to the satisfaction of the board; and provided further[.], that an applicant to be registered solely in the practice of removing superfluous hair by the use of electricity and commonly known and defined as the practice of electrolysis, shall have trained under the supervision of a registered electrologist for at least six hundred hours including [such] other studies as the board may prescribe; provided further[.], that the removal of superfluous hair by use of an electrical instrument or device which neither touches nor penetrates the skin shall not constitute the practice of electrolysis for purposes of this section; and provided further[.], that an applicant may be registered solely in the classified practice of a manicurist and [such] an applicant so registered may engage in [such] a classified practice in a barber shop, a beauty shop, or in [his] the applicant's² own shop upon serving seven hundred hours of time as an apprentice under the supervision of a registered operator or instructor or three hundred fifty hours of training in a registered school and upon satisfying all the other requirements of this section; and provided further[.], that an applicant may be registered solely as a “Hair Cosmetician” in the classified occupation of a cosmetician upon serving one thousand two hundred

hours of time as an apprentice under the supervision of a registered operator or instructor or six hundred hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination after paying the initial examination fee of \$20, shall thereafter pay an examination fee of \$10 for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a "Junior Operator" and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which [such] the person has been examined so long as [such] the person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a "Junior Operator" to take any prescribed examination or examinations shall be sufficient reason for the revocation of [such] the registration by the board.

- (2) Instructors may be registered in any of the classified practices or occupations upon the payment of an examination fee of \$20, provided [they] the instructors are of good moral character and have completed a course satisfactory to the board in the theory and practice of education and have served actively for a period of at least three years as a registered operator in the State or in another jurisdiction having standards for registration in the particular practice or occupation substantially equivalent to those of the State and have passed an examination satisfactory to the board; provided[,] that the board may at its discretion and without regard to the requirements of this section, issue and revoke a temporary certificate to any person holding a valid existing instructor's license in another territory, county, or state having standards substantially equivalent to those in force in the State at the time of [such] the registration, for the limited purpose of either (A) commercially demonstrating in the State, any hair or cosmetic preparations or products identifiable by a trade name or trademark; or (B) instructing in hairstyling in a registered school or under the sponsorship of any organization approved by the board until the next following instructor's examination given by the board. Instructors duly registered under chapter 453, need not be holders of instructors certificates."

SECTION 9. Section 439-15, Hawaii Revised Statutes, is amended to read as follows:

"§439-15 Certificates of registration. (a) Certificates. The board of cosmetology shall issue a certificate of registration as apprentice, student, operator, or instructor, as the case may be, to each person who passes the required examination, pays the proper fee, and meets all of the other requirements of this chapter. The certificate shall state specifically the occupation for which the person is registered and shall be signed by the [president] chairman and executive secretary and impressed with the seal of the board.

(b) Expiration. All certificates issued by the board expire on December 31 of each odd-numbered year.

(c) Renewal. Every registered operator and instructor shall pay to the [treasurer of the] board between December 1 and 31 of each odd-numbered year a biennial renewal fee of \$8. The payment of the renewal fee shall entitle the registrant to renewal of [his] the² certificate.

(d) Renewal after lapse. The certificate of an apprentice, operator, or instructor shall be reinstated upon payment of all delinquent fees and a penalty of \$10 if application is made within three years after lapse."

SECTION 10. Section 439-16, Hawaii Revised Statutes, is amended to read as follows:

"§439-16 Temporary certificates. The board of cosmetology may issue temporary certificates authorizing the person concerned to practice as an operator until the results of the next examinations have been published. The certificate may be issued upon application only to a person who has paid the usual examination fee and [who shows to the satisfaction of the board that he of good moral character, that he has been a resident of the State for not less than sixty days immediately preceding the filing of an application for examination and registration, and that he] possesses one of the following qualifications:

- (1) [He is] Is a graduate of a school and course which meet the standards established for schools in the State;
- (2) [He has] Has been, for three out of the four years immediately preceding the date of [his] the² application, lawfully engaged in another state, territory, or country in the occupation covered by the certificate sought;
- (3) [He holds] Holds a valid and existing license to engage in the occupation covered by the certificate sought in a state, territory, or country having standards for registration substantially equivalent to those in force in the State at the time of the application."

SECTION 11. Section 439-17, Hawaii Revised Statutes, is amended to read as follows:

"§439-17 Beauty shops. (a) Registration. A certificate of registration of a beauty shop may be secured by filing an application therefor and paying a fee of \$20 and showing to the satisfaction of the board of cosmetology that the shop meets the standards of sanitation required by the rules [and regulations] of the department of health, that a registered managing operator who has practiced as a registered operator in the State for at least one year is in charge of the shop, and that it is adequately equipped for the practices in which it engages. The board may waive the requirement that the registered managing operator have practiced in the State, for at least one year, upon a showing that the person has had other experience as a managing operator equivalent to one year's practice in this State and upon further showing that the aforesaid requirement creates undue hardship on the shop.

(b) Renewal. All [such] certificates shall expire on December 31 [next following the date of issue, but] in each odd-numbered year. Certificates may be renewed by payment of a biennial fee of [\$3 [4]] \$8 prior to the date of expiration.

A lapsed certificate may be reissued upon payment of the renewal fee and a penalty of [\$5.] \$10.

(c) Nothing in this chapter shall prohibit registered operators within a beauty shop from teaching any of the practices of the classified occupations in the regular course of business; provided the owners or managers [thereof] do not hold themselves out as a school, and do not hire or employ or teach, regularly, at any one time, more than one apprentice unless [they have] there are three operators regularly employed in the business for each apprentice."

SECTION 12. Section 439-18, Hawaii Revised Statutes, is amended to read as follows:

"§439-18 Schools. (a) Registration. Any person may apply to the board of cosmetology for a certificate of registration as a school of any of the practices of the classified occupations, upon the payment to the board of an initial registration fee for the first year of the registration in the sum of [\$500 [750].] \$750. Thereafter an annual registration fee shall be paid to the board in accordance with the following schedule; if at no time during the preceding year the school had more than twenty-five pupils, then the fee shall be in the sum of [\$125 [150].] \$150, and if at any time during the preceding year the school had twenty-six or more pupils, then the fee shall be in the sum of \$250.

(b) No school shall be granted a certificate of registration unless it attaches to its staff a regularly licensed physician and employs and maintains a sufficient number of registered instructors, and requires a course of training of [not less than nine hundred hours for each of the two classified occupation, or] a proportioned number of hours as approved by the board, for any of the classified practices, provided the total shall not be less than eighteen hundred hours, to include both practical demonstrations, written and oral tests, and practical instruction in sanitation, sterilization, and the use of antiseptics consistent with the practical and theoretical requirements applicable to the classified occupations.

All [such] certificates shall expire on December 31 next following the date of issue, but may be renewed by payment of the annual registration fee prior to the date of expiration. A lapsed certificate may be reissued upon payment of the renewal fee and a penalty of the same amount as the required annual registration fee."

SECTION 13. Section 439-19, Hawaii Revised Statutes, is amended to read as follows:

"§439-19 Refusal to grant and revocation and suspension of certificates.

(a) The board of cosmetology may refuse to grant, renew, reinstate, or restore any certificate required under this chapter, whether covering the registration of an apprentice, student, cosmetologist, operator, instructor, school, or shop, for any cause which would be grounds for revocation of a certificate under this section. The board may, nevertheless, renew, reinstate, or restore any [such] certificate when it determines that [such] action is just and may be done consistently with the accomplishment of the purpose of this chapter.

(b) The board may revoke or suspend any certificate, whether covering the registration of an apprentice, student, cosmetologist, operator, instructor, school, or shop, for any of the following causes:

- (1) Professional misconduct, gross carelessness, or manifest incapacity;
 - (2) Violation of any of the provisions of this chapter or the rules [and regulations promulgated] adopted pursuant thereto or any other law which applies to [him] the person in the occupation covered by the certificate;
 - (3) Making any false representation or promise through advertising or otherwise or in any manner dealing fraudulently or dishonestly in the occupation covered by the certificate;
 - (4) Habitual intemperance in use of alcoholic beverages or addiction to the use of narcotic drugs; or
 - (5) Failing to display the certificate as provided in this chapter.
- No certificate shall be suspended for longer than two years."

SECTION 14. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 15. This Act shall take effect upon its approval.

(Approved June 7, 1983.)

Notes

1. Prior to amendment "," appeared here.
2. Underscoring missing.