

ACT 240

H.B. NO. 286

A Bill for an Act Relating to the Practice of Barbering.

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

SECTION 1. Section 438-3, Hawaii Revised Statutes, is amended to read as follows:

“§438-3 Creation of state board. There shall be a state board of barbers consisting of seven members who shall be appointed and may be removed by the governor in the manner prescribed in section 26-34. The members shall be [citizens] residents of the State and five members must have practiced barbering in the State for at least five consecutive years immediately preceding [his] the member’s appointment and two shall be public members. [Three of the members of the board practicing barbering shall be residents of Oahu, and two practicing barbering shall be residents of the outside islands.] Each member shall serve for a term of four years, and until [his] the member’s successor is appointed and qualified.”

SECTION 2. Section 438-4, Hawaii Revised Statutes, is amended to read as follows:

“§438-4 Organization of the board; powers and duties. (a) The board of barbers shall have a [president, secretary, and treasurer] chairman who shall be elected annually from among its members. [The offices of the secretary and treasurer may be filled by the same member, as the board may determine.] An executive secretary assigned by the department of commerce and consumer affairs shall service the board. The [president] chairman and the board’s executive secretary may administer oaths.

[(b) The secretary shall receive an annual salary to be fixed by the board, not exceeding \$600 and his necessary expenses actually incurred in the performance

of his duties. He shall not be subject to the classification law or be a member of the employees retirement system of the State.

(c) (b) The board shall meet in Honolulu [on the second Tuesday] in January [and], April, July, and October of each year and at such other times and places as the board may direct. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its government and have a seal with which to authenticate its acts.

[(d)] (c) The board shall keep a record of its proceedings. It shall keep a register of applicants for certificates showing the name of the applicant, the name and location of [his] the applicant's place of occupation or business, and whether the applicant has been granted or refused a certificate. The books and records of the board shall be prima facie evidence of matters therein contained and constitute public records."

SECTION 3. Section 438-5, Hawaii Revised Statutes, is amended to read as follows:

"§438-5 Powers and duties of the board. (a) The board of barbers may give examinations for the issuance of certificates of registration to practice barbering[:]; grant, revoke, or suspend such certificates; establish, subject to chapter 91 and with the approval of the governor and the director of [regulatory agencies,] commerce and consumer affairs, rules [and regulations] governing the practice of barbering which shall have the force and effect of law.

(b) The board may suspend or revoke a certificate of a person guilty of fraud in passing the examination or at any time guilty of grossly unprofessional or dishonest conduct, or addicted to liquor or drugs to such a degree as to render [him] the person unfit to practice any of the occupations classified under this chapter, or knowingly advertising by means of false or deceptive statements, or failing to display the certificates as provided in section 438-9.

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

(d) Any investigation, inquiry, or hearing which the board is empowered by law to hold or undertake may be held or undertaken by or before any member or members of the board[,], or an appointed hearings officer and the finding or order of [such] that member [or], members, or hearings officer shall be deemed to be the finding or order of the board when approved and confirmed by it."

SECTION 4. Section 438-7, Hawaii Revised Statutes, is amended to read as follows:

"§438-7 Applications. Each person who desires to practice as a barber or as an apprentice barber shall file, with the [secretary of the] board of barbers a

written application, under oath, on a form prescribed and supplied by the board, shall submit satisfactory proof of the required age, good moral character, and freedom from infectious or contagious diseases, and shall deposit with the [secretary] board the required fees and two photographs of the applicant of a size to be determined by the board."

SECTION 5. Section 438-8, Hawaii Revised Statutes, is amended to read as follows:

"§438-8 Requisites for admission to examinations and registration. The executive secretary of the board of barbers shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations and registration. The following preliminary qualifications shall be sufficient:

- (1) Apprentices shall be at least sixteen years of age.
- (2) Barbers shall be at least eighteen years of age and have practiced as a barber or an apprentice for a period of at least six months under the immediate personal supervision of a barber.

The examination of applicants for certificates to practice shall be conducted under rules prescribed by the board, and shall include practical demonstrations and written, or in prescribed circumstances, oral tests."

SECTION 6. Section 438-9, Hawaii Revised Statutes, is amended to read as follows:

"§438-9 Certificates. If an applicant passes the examination to the satisfaction of the board of barbers, and has paid the fee required and complies with the requirements pertaining to [him,] the applicant, the board shall issue a certificate signed by the [president] chairman and executive secretary and attested by its seal. The certificate is evidence that the person to whom it is issued is entitled to practice as a registered apprentice barber or as a registered barber, as the case may be. The certificate shall be conspicuously displayed adjacent to or near [his] the person's work chair. No registered apprentice may independently practice barbering, but [he] may as an apprentice do any or all of the acts constituting the practice of barbering under the immediate personal supervision and employment of a registered barber."

SECTION 7. Section 438-10, Hawaii Revised Statutes, is amended to read as follows:

"§438-10 Temporary certificates. (a) Any person who is at least eighteen years of age and either (1) has a certified or photostat copy of a certificate, or certificate of registration, or license as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by this chapter, or (2) who can prove to the satisfaction of the board of barbers that [he] the person has practiced as a barber in another state or country for at least five years immediately prior to making application in this State, shall, upon payment of the required fee be issued a permit to practice as a journeyman barber only until [he] the person is called by the board for examination to determine [his] the person's fitness to receive a certificate of registration to practice barbering. If [he] the applicant fails to pass the required examination, [he] the applicant shall be allowed to practice as a journeyman barber until [he is] called

by the board for the next term of examinations. If [he] the applicant fails at the third examination, [he] the applicant shall cease to practice barbering in this State.

(b) Any apprentice who is a least sixteen years of age and has a certificate of registration as an apprentice in a state or country which has substantially the same requirements for registration as an apprentice as is provided by this chapter, shall upon payment of the required fee, be issued a permit to work as an apprentice until called by the board for examination to determine [his] the applicant's fitness to receive a certificate of registration as an apprentice [or barber]. If [he] the applicant passes the required examination a certificate of registration as a registered apprentice shall be issued to [him] the applicant and the time spent in such other state or country as an apprentice shall be credited by this chapter as a qualification to take the examination to determine [his] the applicant's fitness to receive a certificate of registration as a registered barber."

SECTION 8. Section 438-11, Hawaii Revised Statutes, is amended to read as follows:

"§438-11 Fees. (a) The fee to be paid by an applicant for an examination to determine [his] the applicant's fitness to receive a certificate of registration to practice barbering shall be \$15. The fee to be paid by an applicant for an examination to determine [his] the applicant's fitness to receive a certificate of registration to practice as an apprentice shall be \$10.

(b) The fee to be paid for the renewal of a certificate of registration to practice barbering shall be \$10, and for the restoration of an expired certificate \$10.

(c) The fee to be paid for the renewal of the certificate of registration to practice as an apprentice shall be \$8, and for the restoration of an expired certificate \$8.

(d) The fee to be paid by an applicant to conduct a barber shop shall be \$25. The fee to be paid for the biennial renewal of a certificate shall be \$20 and for the restoration of an expired certificate \$20.

(e) A duplicate certificate [will] shall be issued upon the filing of a statement covering the loss of a certificate or permit, verified by the oath of the applicant, and the submission by [him] the applicant of one signed photograph of [himself,] the applicant, and the payment of a fee of \$1. Each duplicate certificate or permit shall have the word "duplicate" stamped across the face thereof, and shall bear the same number as the certificate or permit that it was issued in lieu of. All fees received by the board of barbers shall be deposited by the director of [regulatory agencies] commerce and consumer affairs with the director of finance to the credit of the general fund."

SECTION 9. Section 438-12, Hawaii Revised Statutes, is amended to read as follows:

"§438-12 Renewal of certificates. The holder of a certificate issued by the board of barbers who continues in active practice shall biennially, on or before December 31 of each odd-numbered year, renew [his] the certificate and pay the renewal fee. A certificate which has not been renewed shall expire December 31 of the odd-numbered year next following the date of issuance. The holder of an

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expired certificate may have the same restored within three years of the date of expiration, upon due application therefor and payment of the delinquent fees.”

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 9, 1983.)