

ACT 246

S.B. NO. 444

A Bill for an Act Relating to Barbering.

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

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

**“§438-1 Definitions.** For the purpose of this chapter:

“Apprentice” is a person who is engaged in learning or acquiring within a barbering establishment or school, and while learning assists in, any of the practices mentioned herein under the immediate direction and supervision of a barber or instructor.

“Barber” is a person, not an apprentice, who engages in [and follows any of such practices.] the practice of barbering.

“Barber shop” means any establishment or place of business wherein the practice of barbering is engaged or carried on and is the primary purpose of that establishment or business[.]; provided that the practice of cosmetology is allowed in that establishment or place of business.

“Board” means the board of barbers created under this chapter.

“Department” means the department of commerce and consumer affairs.

“Director” means the director of commerce and consumer affairs.

“Practice of barbering” means any combination of the following practices for remuneration: shaving, cutting, trimming, singeing, shampooing, arranging, dressing, curling, waving, or coloring the hair or beard or

applying tonics or other preparation thereto; massaging, cleansing, or applying oils, creams, lotions, or other preparation to the face, scalp, or neck, either by hand or by mechanical appliances; provided that nothing in this chapter shall be construed as applicable to those persons licensed under chapter 439 to practice the occupations named therein.”

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

**“§438-2 Certificate of registration required.** (a) It shall be unlawful for any person in the State to engage in the practice of barbering for compensation unless the person has first obtained a certificate of registration[.] or temporary permit.

(b) It shall be unlawful for any person to operate a barber shop in the State unless the person has first registered the barber shop.

(c) The practice of barbering shall be carried on only by persons duly registered to practice in this State and only in registered barber shops, except that a duly registered barber may practice barbering at a health care, nursing, mental or correctional facility, barber school, beauty shop, charitable event, or a person’s private home, office, or hotel room when requested to do so.”

SECTION 3. Section 438-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a)** The board [of barbers] may give examinations for the issuance of certificates of registration to practice barbering[.] or issue temporary permits; grant, revoke, or suspend certificates[.] or temporary permits; establish, subject to chapter 91 and with the approval of the governor and the director [of commerce and consumer affairs], rules governing the practice of barbering which shall have the force and effect of law.”

SECTION 4. Section 438-6, Hawaii Revised Statutes, is amended to read as follows:

**“§438-6 Appeal from actions of the board.** (a) An appeal may be taken from [an] a final action of the board [of barbers refusing to grant or] suspending or revoking a certificate for the causes mentioned in section [438-5] 438-14 to the circuit court of the circuit in which the person [who has been refused a certificate or] whose certificate has been suspended or revoked resides. The judgment of the circuit court may be reviewed by the supreme court.

(b) Any person aggrieved by the denial or refusal of a certificate or temporary permit by the board shall submit a request for a hearing pursuant to chapter 91 within sixty days of the date of the denial or refusal.”

SECTION 5. 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 board a written application, under oath, on a form prescribed and supplied by the board, shall submit satisfactory proof of the required age [and freedom from infectious or contagious diseases], and shall deposit with the board the required fees and [two photographs] a passport sized photograph of the applicant [of a size to be determined by the board].”

SECTION 6. 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 seventeen years of age.
- (2) Barbers] Applicants shall be at least seventeen 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 registered barber.

The board shall contract with [the same] a professional testing service [as the board of cosmetology] to have the testing service prepare and provide examinations for applicants as may be required for the purposes of this chapter. The examinations shall [include practical demonstrations; provided that the practical examination for waving and hair coloring shall be the same as the practical examination administered to cosmetologists; and written, or in prescribed circumstances, oral tests.] not be confined to any specific system or method, and the examinations shall be consistent with the practical and theoretical requirements as provided by this chapter.

Every applicant who is required by the board to be examined shall pay an examination fee as provided in rules adopted by the director pursuant to chapter 91. [The examination fee may be paid directly to the professional testing service by the director or the examinee or deposited with the director of finance to the credit of the general fund.]”

SECTION 7. Section 438-9, Hawaii Revised Statutes, is amended to read as follows:

**“§438-9 Certificates.** If [an] a barber 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 the applicant, the board shall issue a certificate signed by the 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 the person’s work chair. [No registered apprentice may independently practice barbering, but 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 8. Section 438-10, Hawaii Revised Statutes, is amended to read as follows:

**“§438-10 Temporary [certificates.] permits.** (a) Any person who is at least [eighteen] seventeen years of age and either:

- (1) [has] 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] Can prove to the satisfaction of the board [of barbers] that 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 the person is called by the board for examination to determine the person’s fitness to receive a certificate of registration to

practice barbering. If the applicant fails to pass the required examination, the applicant shall be allowed to practice as a [journeyman] barber until called by the board for the next term of examinations. [If the applicant fails at the third examination, the applicant shall cease to practice barbering in this State.]

(b) Any [apprentice] person who is at least [sixteen] seventeen years of age and has a certificate of registration or permit 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,] fees, be issued a permit to work as an apprentice until called by the board for examination to determine the applicant's fitness to receive a certificate of registration [as an apprentice.] to practice as a registered barber. [If the applicant passes the required examination a certificate of registration as a registered apprentice shall be issued to the applicant and the] The time spent in [such other] that state or country as an apprentice shall be credited [by this chapter as a] towards qualification to take the examination to determine the applicant's fitness to receive a certificate of registration as a registered barber[.] under this chapter.

(c) Any person who is at least seventeen years of age and who pays the required fees shall be issued a permit to train as an apprentice for six months or until called by the board for examination to determine the applicant's fitness to receive a certificate of registration to practice as a registered barber. No apprentice may independently practice barbering, but 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 9. Section 438-11, Hawaii Revised Statutes, is amended to read as follows:

"§438-11 Fees. (a) Applicants for barber [and apprentice barber] certificates of registration shall pay application, examination, and registration fees.

(b) Applicants for renewal of certificates to practice barbering [and to practice as an apprentice] and applicants for restoration of expired certificates shall pay the required fees.

(c) Applicants to conduct a barber shop shall pay application and registration fees. Applicants for biennial renewal of a certificate to conduct a barber shop and for the restoration of an expired certificate shall pay the required fees.

(d) Applicants for temporary permits shall pay application and registration fees.

[(d)] (e) A duplicate certificate 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 the applicant of one signed photograph of the applicant, and the payment of a duplicate fee. 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.

[(e)] (f) All fees required by this chapter shall be as provided in rules adopted by the director [of commerce and consumer affairs] pursuant to chapter 91 and shall be deposited with the director of finance to the credit of the general fund[.], except that the examination fee required in section 438-8 may be paid directly to the professional testing service by the department or examinee."

SECTION 10. Section 438-13, Hawaii Revised Statutes, is amended to read as follows:

**“§438-13 Penalties.** Any person who practices barbering, operates a barber shop, or acts in any capacity wherein a certificate or temporary permit is required, without a certificate or temporary permit as provided in this chapter shall be fined not more than \$100, or imprisoned not more than six months, or both. Each and every day of violation shall be a separate offense.”

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 24, 1987.)