

A Bill for an Act Relating to the Board of Barbers.

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

SECTION 1. Section 438-2, Hawaii Revised Statutes, is amended to read as follows:

“**§438-2 [Certificate of registration] License 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] license, apprentice permit, 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] obtained a license for the barber shop.

(c) The practice of barbering shall be carried on only by persons [duly registered] holding a license, apprentice permit, or temporary permit to practice in this State and only in [registered] licensed barber shops, except that a duly [registered] licensed 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 2. Section 438-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other powers and duties authorized by law, the board may give examinations for the issuance of [certificates of registration] licenses to practice barbering [or]; issue apprentice permits or temporary permits; grant, revoke, or suspend [certificates] 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 that shall have the force and effect of law.”

SECTION 3. 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 a final action of the board suspending or revoking a [certificate] license, apprentice permit, or temporary permit for the causes mentioned in section 438-14 to the circuit court of the circuit in which the person whose [certificate] license, apprentice permit, or temporary permit 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] license, apprentice permit, 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 4. Section 438-7, Hawaii Revised Statutes, is amended to read as follows:

“**§438-7 Applications.** (a) Each person who desires to practice as a barber or as an apprentice barber or to operate a barber shop shall first 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 shall] deposit with the

board the required fees, and [a passport sized photograph of the applicant.] satisfy the applicable qualification requirements specified in this section.

(b) An applicant for a barber's license shall:

- (1) Be at least seventeen years of age;
- (2) Have a total of fifteen hundred clock hours of barber training through the following or any combination thereof:
  - (A) As an apprentice, holding an apprentice permit; or
  - (B) As a student enrolled in a school that has a barbering curriculum; provided that only classes related to barbering shall be applied towards the accumulation of clock hours.

The board shall adopt rules pursuant to chapter 91 to implement this paragraph.

- (3) Take and pass an examination for licensure; and
- (4) Provide a current passport sized photograph.

(c) An applicant for an apprentice permit shall:

- (1) Be at least seventeen years of age; and
- (2) Provide proof that the applicant will be training in a licensed barber shop under supervision of a licensed barber.

(d) An applicant for a barber shop license shall:

- (1) Meet the standards of sanitation required by the department of health and as prescribed by the rules of the board;
- (2) Identify at least one licensed barber at the barber shop to qualify the barber shop for licensure;
- (3) Identify the owner of the barber shop who shall be responsible for all operations of the barber shop and who shall ensure that only currently licensed barbers, barber apprentice permittees, or barber temporary permittees practice barbering in the barber shop;
- (4) Identify the name and location of the barber shop;
- (5) Demonstrate that the applicant has adequate equipment and facilities for the practice of barbering as prescribed by the rules of the board; and
- (6) Provide a statement that the applicant shall allow only licensed barbers who have at least one year's experience to train apprentices as prescribed by the rules of the board.

(e) Any barber applicant who has not obtained licensure after four consecutive examinations offered by the board shall be required to apply and train as an apprentice barber for six months before qualifying for another series of examinations.

(f) Any transfer of ownership of a barber shop, change in a barber shop name, or relocation of a barber shop shall require the filing of a new application for licensure together with the required fees."

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

**"§438-8 Requisites for admission to examinations. (a)** The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of barber applicants for admission to examinations. [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.]

**(b)** The board shall contract with a professional testing service to have the testing service prepare and provide examinations for applicants as may be required for the purposes of this chapter. The examinations shall 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.

(c) 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.”

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

“**§438-9 [Certificates.] Issuance and display of licenses or permits.** [If a barber applicant passes the examination to the satisfaction of the board, and has paid the fee required and complies with the requirements pertaining to the applicant, the board shall issue a certificate signed by the chairperson 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 barber.] (a) A barber license shall be issued to each applicant who satisfies the application requirements, passes the examination, and pays the required fees. The [certificate] license shall be conspicuously displayed adjacent to or near the person’s work [chair.] station.

(b) A barber shop license shall be issued to each applicant who satisfies the application requirements and pays the required fees. The license shall be displayed in a conspicuous place in the barber shop.

(c) A temporary permit may be issued to a qualified applicant approved for examination who pays the required fees. The temporary permit shall be conspicuously displayed adjacent to or near the person’s work station.

(d) An apprentice permit shall be issued to an applicant who satisfies the application requirements and pays the required fees. The apprentice permit shall be conspicuously displayed adjacent to or near the person’s work station.”

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

“**§438-10 Temporary permits[.]; apprentice permits.** [(a) Any person who is at least seventeen 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) Can prove to the satisfaction of the board 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 barber 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 barber until called by the board for the next term of examinations.

(b) Any person who is at least 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 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 to practice as a registered barber. The time spent in that state or country as an apprentice shall be credited 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.] (a) A temporary permit may be issued upon application for examination and payment of the required fees. The temporary permit shall allow the qualified applicant to practice barbering under the supervision of a licensed barber and shall be effective for the period of time covering four consecutive examinations offered by the board after the permit's date of issuance. If the applicant has not obtained licensure after four consecutive examinations offered by the board, the applicant shall be required to apply and train as an apprentice for six months before qualifying for another series of examinations.

(b) An apprentice permit shall be used by the apprentice to obtain the hours of training needed to qualify for a barber's license. An apprentice shall obtain an apprentice permit before beginning apprenticeship training."

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

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

(b) Applicants for renewal of certificates to practice barbering 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.] (a) Applicants for licensure and renewal of licensure under this chapter shall pay the required fees.

[(d)] (b) Applicants for temporary permits or apprentice permits shall pay application and [registration] permit fees.

[(e)] (c) A duplicate [certificate shall] license or permit may 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,] written request 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.]

[(f)] (d) All fees required by this chapter shall be as provided in rules adopted by the director 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 9. Section 438-12, Hawaii Revised Statutes, is amended to read as follows:

**"§438-12 Renewal of [certificates.] licenses.** The holder of a [certificate] license issued by the board of barbers who continues in active practice shall biennially, on or before December 31 of each odd-numbered year, renew the [certificate] license 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 expired certificate may have the same restored

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within three years of the date of expiration, upon due application therefor and payment of the delinquent fees.] A license that has not been renewed shall be considered forfeited. A forfeited license may be restored within three years after the date of forfeiture upon compliance with the licensing renewal requirements provided by law and upon written application and payment of all applicable fees; provided that the board may consider restoration beyond this period as prescribed by rules of the board.”

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] license, apprentice permit, or temporary permit is required, without a [certificate] license, apprentice permit, 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. Section 438-14, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to any other actions authorized by law, the board may take disciplinary action against any person to whom a [certificate] license, apprentice permit, or temporary permit has been issued under this chapter, including but not limited to revocation of the [certificate,] license, apprentice permit, or temporary permit, suspension, fine, or a combination thereof, or may refuse to grant or renew any [certificate] license, apprentice permit, or temporary permit for any cause authorized by law, including but not limited to the following:

- (1) Procuring a [certificate] license, apprentice permit, or temporary permit through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross negligence, or manifest incapacity;
- (3) Permitting [an uncertified] a person without a license, apprentice permit, or temporary permit to perform activities which require a [certificate] license, apprentice permit, or temporary permit under this chapter;
- (4) Violation of this chapter or the rules adopted pursuant thereto;
- (5) Making any false representation or promise through advertising or otherwise;
- (6) Failing to display [the certificate] a license, apprentice permit, or temporary permit as provided in this chapter;
- (7) Any [other] conduct constituting fraudulent or dishonest dealings;
- (8) Failure to comply with a board order; or
- (9) Making a false statement on any document submitted or required to be filed by this chapter.”

SECTION 12. Section 438-15, Hawaii Revised Statutes, is amended to read as follows:

“**[§438-15] Right of injunction.** The department [of commerce and consumer affairs] may, in addition to any other remedies available, apply to a court having competent jurisdiction for an injunction to restrain any violation of this chapter.”

SECTION 13. Section 438-4, Hawaii Revised Statutes, is repealed.

SECTION 14. Any holder of an apprentice permit in effect prior to January 1, 1994, who files an application for a barber's license before July 31, 1994, may satisfy this training requirement by having practiced as an apprentice for a period of at least six months under the immediate personal supervision of a registered barber.

SECTION 15. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 16. This Act shall take effect upon its approval; provided that SECTIONS 4, 5, and 7 shall take effect on January 1, 1994.

(Approved June 18, 1993.)

**Note**

1. Edited pursuant to HRS §23G-16.5.