

ACT 87

S.B. NO. 1521

A Bill for an Act Relating to the Board of Barbering and Cosmetology.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The board of acupuncture, board of public accountancy, board of [barbers, board of cosmetology,] barbering and cosmetology, boxing commission, board of chiropractic examiners, contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of professional engineers, architects, surveyors, and landscape architects, board of hearing aid dealers and fitters, board of massage therapy, board of medical examiners, motor vehicle industry licensing board, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of physical therapy, board of psychology, board of private detectives and guards, real estate commission, board of veterinary examiners, board of speech pathology and audiology, and any board, commission, program, or entity created pursuant to or specified by statute in furtherance of the purpose of this section including but not limited to section 26H-4, or chapters 484, 514A, and 514E shall be placed within the department of commerce and consumer affairs for administrative purposes.”

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

1. By adding a new definition to be appropriately inserted and to read:

“‘Student’ is a person who is engaged in learning to be a barber in a barber school and while so doing assists in doing any act involved in the practice of barbering under the supervision of an instructor.”

2. By amending the definitions of “apprentice”, “barber”, and “board” to read:

“[‘Apprentice’] ‘Barber apprentice’ is a person who is engaged in learning or acquiring the practice of barbering within a barbering [establishment or school,] or beauty shop and while learning assists in[, any of the practices mentioned herein under the immediate direction and supervision of a barber or [instructor.] beauty operator with hairdresser qualifications.

“Barber” is a person[, not an apprentice,] who [engages in the] is licensed to practice [of] barbering.

“Board” means the board of [barbers created under this chapter.] barbering and cosmetology as established pursuant to sections 438-3, 438-5, and 438-6.”

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

“§438-3 [Creation of state board.] Board of barbering and cosmetology.

(a) There shall be a state board of [barbers] barbering and cosmetology consisting of seven members who shall be appointed and may be removed by the governor. The members shall be residents of the State [and five], of which:

- (1) Two members [must have practiced barbering for at least five consecutive years immediately preceding the member’s appointment] shall be barbers licensed under chapter 438 who have been licensed to practice for at least five years and have been actively and continuously engaged as licensees for that period;
- (2) Two members shall be beauty operators licensed under chapter 439, who have been licensed to practice for at least five years and have been actively and continuously engaged as licensees for that period; and [two]
- (3) Three shall be public members.

Each member shall serve for a term of four years, and until the member’s successor is appointed and qualified.

(b) Board members affiliated with any school teaching any of the classified occupations shall disclose that affiliation and at all times shall adhere to chapter 84 and the interpretations of that chapter by the state ethics commission.”

SECTION 4. Section 438-5, Hawaii Revised Statutes, is amended to read as follows:

“§438-5 Powers and duties of the board. (a) In addition to any other powers and duties authorized by law, the board may give examinations for the issuance of licenses 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 that shall have the force and effect of law.

(b) The board may require the attendance of witnesses and the production of 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] that 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 the 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.

(c) 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 that member, members, or hearings officer shall be deemed to be the finding or order of the board when approved and confirmed by it.

(d) The board, as prescribed by rules, may recognize the equivalency of barber and hairdresser practices to allow training of an apprentice by either licensee in order for the apprentice to fulfill training requirements.”

SECTION 5. 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 license, apprentice permit, or temporary permit for the causes mentioned in section 438-14 or 439-19 to the

circuit court of the circuit in which the person whose 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 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 notification of the denial or refusal.”

SECTION 6. 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] a barber 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, deposit with the board the required fees, and 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 a¹ combination thereof:
 - (A) As [an] a barber apprentice, holding [an] a barber 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; and

- (3) Take and pass an examination for licensure.
- (c) An applicant for [an] a barber 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, or beauty shop under supervision of a licensed barber[.], or licensed beauty operator with hairdresser qualifications.
- (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, or beauty operators, beauty operator temporary permittees, or beauty operator apprentice 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] qualified licensees 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.

(g) The board, as prescribed by rules, may recognize training obtained under a licensed beauty operator with hairdresser qualifications to fulfill the barber training requirement.”

SECTION 7. Section 438-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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 or beauty operator with hairdresser qualifications 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.”

SECTION 8. Section 438-12, Hawaii Revised Statutes, is amended to read as follows:

“**§438-12 Renewal of licenses.** The holder of a barber or barber shop 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 license and pay the renewal fee. 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 9. Section 439-1, Hawaii Revised Statutes, is amended by amending the definitions of “apprentice”, “apprentice permit”, and “board” to read as follows:

“[“Apprentice”] “Beauty apprentice” means a person who is engaged in a beauty or barber shop in learning to be a beauty operator and while so doing assists in any of the practices of cosmetology under the supervision of a licensed beauty operator[.] or licensed barber for the hairdresser category.

[“Apprentice permit”] “Beauty apprentice permit” means a permit issued by the board, upon registration and payment of application and registration fees, to an apprentice who is under the supervision of a licensed beauty operator[.] or licensed barber for the hairdresser category.

“Board” means the board of [cosmetology of the State.] barbering and cosmetology pursuant to sections 438-3, 438-5 and 438-6.”

SECTION 10. Section 439-12, Hawaii Revised Statutes, is amended to read as follows:

“**§439-12 Requisites for admission to examination.** (a) The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations; provided that the licensure categories shall be limited to cosmetologist, hairdresser, cosmetician, manicurist,

and instructor. The preliminary qualifications for admission to examination shall be as provided in this section.

(b) A cosmetologist applicant shall be² least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Three thousand six hundred hours of training as [an] 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 licensed beauty school.

(c) A hairdresser applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Two thousand five hundred hours of training as [an] 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 licensed beauty school.

(d) A cosmetician applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) One thousand one hundred hours of training as [an] a beauty apprentice in a beauty shop or barber shop under the supervision of a licensed cosmetologist or cosmetician; or
- (2) Five hundred fifty hours of training in a licensed beauty school.

(e) A manicurist applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Seven hundred hours of training as [an] a beauty apprentice in a beauty shop or barber shop under the supervision of a licensed cosmetologist, cosmetician, or manicurist; or
- (2) Three hundred fifty hours of training in a licensed beauty school.

(f) An instructor applicant may apply to teach in any of the practices of cosmetology if the applicant has:

- (1) Completed six hundred hours of a board approved course in the theory and practice of teaching; and
- (2) Served actively for a period of at least one year as a licensed beauty operator in the State or in another jurisdiction having standards for beauty operators substantially equivalent to those of this State.

(g) The board shall recognize beauty training obtained in another jurisdiction which is substantially equivalent to the training available in this State. If such training is not equivalent, the board shall make a determination as to whether or not to recognize the training by evaluating the type and duration of the training and the experience required to obtain a license in the other jurisdiction.

(h) The board, as prescribed by rules, may recognize training obtained under a licensed barber to fulfill the hairdresser training requirement."

SECTION 11. Section 439-17, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The beauty shop owner shall be responsible for all operations of the shop and shall be responsible to see that only currently licensed individuals, apprentices, or temporary permittees are [performing cosmetology practices] practicing in the shop.”

SECTION 12. Section 439-3, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 439-5, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 439-7, Hawaii Revised Statutes, is repealed.

SECTION 15. Section 439-10, Hawaii Revised Statutes, is repealed.

SECTION 16. All rules, guidelines, and other material adopted or developed by the board of barbers and the board of cosmetology shall remain in full force and effect until the appointment of the members of the board of barbering and cosmetology and thereafter until amended or repealed by the board pursuant to chapter 91. In the interim, every reference to the boards of barbers and cosmetology in those rules, guidelines, and other material is amended to refer to the board of barbering and cosmetology as appropriate.

SECTION 17. Statutory material to be repealed is bracketed.³ New statutory material is underscored.

SECTION 18. This Act shall take effect upon its approval.

(Approved April 29, 1997.)

Notes

1. Prior to amendment “any” appeared here.
2. Prior to amendment “at” appeared here.
3. Edited pursuant to HRS §23G-16.5.