

### **157.13 Violations.**

1. It is unlawful for a person to employ an individual to practice cosmetology arts and sciences unless that individual is licensed or has obtained a temporary permit under this chapter. It is unlawful for a licensee to practice with or without compensation in any place other than a licensed salon, a licensed school of cosmetology arts and sciences, or a licensed barbershop as defined in section 158.1, except that a licensee may practice at a location which is not a licensed salon or school of cosmetology arts and sciences under extenuating circumstances arising from physical or mental disability or death of a customer. It is unlawful for a licensee to claim to be a licensed barber, but it is lawful for a licensed cosmetologist to work in a licensed barbershop. It is unlawful for a person to employ a licensed cosmetologist, esthetician, or electrologist to perform the services described in section 157.3A if the licensee has not received the additional training and met the other requirements specified in section 157.3A.

2. If the owner or manager of a salon does not comply with the sanitary rules adopted under section 157.6 or fails to maintain the salon as prescribed by rules of the department, the department may notify the owner or manager in writing of the failure to comply. If the rules are not complied with within five days after receipt of the written notice by the owner or manager, the department shall in writing order the salon closed until the rules are complied with. It is unlawful for a person to practice in a salon which has been closed under this section. The county attorney in each county shall assist the department in enforcing this section.

3. If the board has reasonable grounds to believe that a person or establishment which is not licensed under this chapter has engaged, or is about to engage, in an act or practice which requires licensure under this chapter, or otherwise violates a provision of this chapter, the board may issue an order to require the unlicensed person or establishment to comply with the provisions of this chapter, and may impose a civil penalty not to exceed one thousand dollars for each violation of this chapter by an unlicensed person or establishment. Each day of a continued violation after an order or citation by the board constitutes a separate offense, with the maximum penalty not to exceed ten thousand dollars.

*a.* In determining the amount of a civil penalty, the board may consider the following:

(1) Whether the amount imposed will be a substantial economic deterrent to the violation.

(2) The circumstances leading to or resulting in the violation.

(3) The severity of the violation and the risk of harm to the public.

(4) The economic benefits gained by the violator as a result of noncompliance.

(5) The welfare or best interest of the public.

*b.* The board may conduct an investigation as needed to determine whether probable cause exists to initiate the proceedings described in this subsection. Before issuing an order or citation under this section, the board shall provide written notice and the opportunity to request a hearing on the record. The hearing must be requested within thirty days of the issuance of the notice and shall be conducted as provided in chapter 17A. The board may, in connection with a proceeding under this section, issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence and may request the attorney general to bring an action to enforce the subpoena.

*c.* A person aggrieved by the imposition of a civil penalty under this section may seek judicial review in accordance with section 17A.19. The board shall notify the attorney general of the failure to pay a civil penalty within thirty days after entry of an order pursuant to this subsection, or within ten days following

final judgment in favor of the board if an order has been stayed pending appeal. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs. An action to enforce an order under this subsection may be joined with an action for an injunction.

[C31, 35, § 2585-c12; C39, § **2585.22**; C46, 50, 54, 58, 62, 66, 71, 73, 77, 79, 81, § 157.13]

88 Acts, ch 1110, § 3; 92 Acts, ch 1205, § 11; 2004 Acts, ch 1044, §12, 13