SENATE FILE 540
BY COMMITTEE ON STATE GOVERNMENT

(SUCCESSOR TO SF 164)

(As Amended and Passed by the Senate March 10, 2021)

_____ and [= New Language by the Senate

* = Language Stricken by the Senate

A BILL FOR

An Act relating to the practice of barbering and cosmetology arts and sciences and providing transition provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 10A.104, subsection 14, Code 2021, is amended to read as follows:

14. Administer inspections of cosmetology ~~salons~~ establishments under ~~section 157.7 and barbershops under section 158.6~~ chapter 157.

Sec. 2. Section 147.13, subsection 11, Code 2021, is amended to read as follows:

11. For cosmetology arts and sciences, the board of barbering and cosmetology arts and sciences.

Sec. 3. Section 147.13, subsection 12, Code 2021, is amended by striking the subsection.

Sec. 4. Section 147.14, subsection 1, paragraphs a and n, Code 2021, are amended by striking the paragraphs.

Sec. 5. Section 147.14, subsection 1, Code 2021, is amended by adding the following new paragraph:

NEW PARAGRAPH. *x.* For barbering and cosmetology arts and sciences, three members who are licensed cosmetologists, at least one of whom is also a licensed instructor of cosmetology arts and sciences; two members who are licensed to practice barbering and hairstyling; one member who is a licensed electrologist, esthetician, or nail technologist; one member who owns a school of cosmetology arts and sciences; and two members who are not licensed to practice barbering and hairstyling or licensed in a practice of cosmetology arts and sciences and who shall represent the general public.

Sec. 6. Section 147.76, Code 2021, is amended to read as follows:

147.76 Rules.

The boards for the various professions shall adopt all necessary and proper rules to administer and interpret this chapter and chapters 148 through ~~158~~ 157, except chapter 148D.

Sec. 7. Section 157.1, Code 2021, is amended by adding the following new subsections:

NEW SUBSECTION. 01. *"Barber and hairstylist"* means a person who performs the practice of barbering and hairstyling,

or otherwise by the person's occupation claims to have knowledge or skill particular to the practice of barbering and hairstyling.

NEW SUBSECTION. 001. *"Barbering"* means the practices listed in this subsection performed with or without compensation. *"Barbering"* includes but is not limited to the following practices performed upon the upper part of the human body of any person for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

a. Shaving or trimming for hair removal by the use of a straight edge razor.

b. Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand, or by electrical or mechanical appliances.

c. Singeing, shampooing, hair body processing, curling, blow waving, hair relaxing, bleaching or coloring the hair, or applying hair tonics.

d. Applying cosmetic preparations, antiseptics, powders, oils, clays, waxes, or lotions to the scalp, face, or neck.

e. Styling, cutting, or shampooing hairpieces or wigs when done in conjunction with haircutting or hairstyling.

NEW SUBSECTION. 10A. *"Establishment"* means a fixed place or a place that is readily movable where one or more persons engage in the practice of cosmetology arts and sciences, including but not limited to a retail establishment.

NEW SUBSECTION. 14A. *"Hairstyling"* means curling, waving, press and curl hair straightening, shampooing, cutting, singeing, bleaching, coloring, or similar works, upon the hair on the head of any person, or upon a wig or hairpiece when done in conjunction with haircutting or styling by any means.

Sec. 8. Section 157.1, subsection 1, Code 2021, is amended to read as follows:

1. *"Board"* means the board of barbering and cosmetology arts and sciences.

Sec. 9. Section 157.1, subsection 5, paragraph a, Code 2021,

is amended to read as follows:

a. ~~Arranging, braiding, dressing,~~ Hairstyling, including curling, waving, press and curl hair straightening, shampooing, cutting, singeing, bleaching, coloring, or similar works, upon the hair of any person, or upon a wig or hairpiece when done in conjunction with haircutting or hairstyling by any means.

Sec. 10. Section 157.1, subsection 5, Code 2021, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* Barbering.

Sec. 11. Section 157.1, subsection 6, paragraph e, Code 2021, is amended to read as follows:

e. ~~Manicuring and pedicuring~~ Hairstyling.

Sec. 12. Section 157.1, subsection 26, Code 2021, is amended by striking the subsection.

Sec. 13. Section 157.1, subsection 27, Code 2021, is amended to read as follows:

27. *"School of barbering and cosmetology arts and sciences"* means an establishment operated for the purpose of teaching cosmetology arts and sciences.

Sec. 14. Section 157.2, subsection 1, paragraphs b and h, Code 2021, are amended by striking the paragraphs.

Sec. 15. Section 157.2, subsection 2, Code 2021, is amended to read as follows:

2. Cosmetologists shall not represent themselves to the public as electrologists, estheticians, or nail technologists unless the cosmetologist has completed the ~~additional~~ course of study for the respective practice as prescribed by the board pursuant to section 157.10.

Sec. 16. Section 157.3, subsection 1, paragraph a, Code 2021, is amended to read as follows:

a. Presents to the department a diploma, or similar evidence, issued by a licensed school of barbering and cosmetology arts and sciences indicating that the applicant has completed the course of study for the appropriate practice of the cosmetology arts and sciences prescribed by the board.

An applicant may satisfy this requirement upon presenting a diploma or similar evidence issued by a school in another state, recognized by the board, which provides instruction regarding the practice for which licensure is sought, provided that the course of study is equivalent to or greater in length and scope than that required for a school in this state, and is approved by the board.

Sec. 17. Section 157.3, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The board shall adopt rules for the licensure of persons who perform the practice of barbering and hairstyling. A barber and hairstylist licensed pursuant to this subsection shall not practice any cosmetology art or science other than barbering and hairstyling. Nothing in this subsection shall restrict the practice of barbering or hairstyling by a cosmetologist.

Sec. 18. Section 157.3A, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Shaving or trimming for hair removal by the use of a straight edge razor shall only be performed by the following persons:

a. A licensed barber and hairstylist.

b. A cosmetologist trained and certified in the use of a straight edge razor in compliance with applicable rules of the board. The board shall not require a cosmetologist to complete more than forty clock hours of training to receive a certification under this paragraph.

Sec. 19. Section 157.4, subsection 3, paragraph a, Code 2021, is amended to read as follows:

a. The permit shall be issued for a specific event and may be issued to ~~a salon~~ an establishment, school of barbering and cosmetology arts and sciences, or person.

Sec. 20. Section 157.6, Code 2021, is amended to read as follows:

157.6 Sanitary rules — practice in the home.

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The department shall prescribe sanitary rules for ~~salons~~ establishments and schools of cosmetology arts and sciences which shall include the sanitary conditions necessary for the practice of cosmetology arts and sciences and for the prevention of infectious and contagious diseases. Subject to local zoning ordinances, ~~a salon~~ an establishment may be established in a residence if a room other than the living quarters is equipped for that purpose. The department shall enforce this section and make necessary inspections for enforcement purposes.

Sec. 21. Section 157.7, subsection 1, Code 2021, is amended to read as follows:

1. The department of inspections and appeals shall employ personnel pursuant to chapter 8A, subchapter IV, to perform duties related to inspection functions under this chapter. ~~The department of inspections and appeals shall, when possible, integrate inspection efforts under this chapter with inspections conducted under chapter 158.~~

Sec. 22. Section 157.8, subsection 1, Code 2021, is amended to read as follows:

1. It is unlawful for a school of barbering and cosmetology arts and sciences to operate unless the owner has obtained a license issued by the department. The owner shall file a verified application with the department on forms prescribed by the board.

Sec. 23. Section 157.8, subsection 2, paragraph c, Code 2021, is amended by striking the paragraph.

Sec. 24. Section 157.8, subsection 2, paragraph d, Code 2021, is amended to read as follows:

d. The school of barbering and cosmetology arts and sciences must pass a sanitary inspection under section 157.6. An annual inspection of each school of barbering and cosmetology arts and sciences, including the educational activities of each school, shall be conducted and completed by the board or its designee prior to renewal of the license.

Sec. 25. NEW SECTION. **157.8A Use of schools of barbering and cosmetology arts and sciences.**

A school of barbering and cosmetology arts and sciences may be used for purposes other than student instruction during scheduled instruction time and work experience time so long as the other activities do not disrupt classes. The board shall adopt rules for the implementation of this section.

Sec. 26. Section 157.9, Code 2021, is amended to read as follows:

157.9 License suspension and revocation.

Any license issued by the department under the provisions of this chapter may be suspended, revoked, or renewal denied by the board for violation of any provision of this chapter ~~or chapter 158~~ or rules promulgated by the board under the provisions of chapter 17A.

Sec. 27. Section 157.10, subsections 1 and 3, Code 2021, are amended to read as follows:

1. *a.* The course of study required for licensure for the practice of cosmetology shall be two thousand one hundred clock hours, or seventy semester credit hours or the equivalent thereof as determined pursuant to administrative rule and regulations promulgated by the United States department of education. The clock hours, and equivalent number of semester credit hours or the equivalent thereof as determined pursuant to administrative rule and regulations promulgated by the United States department of education, of a course of study required for licensure for the practices of electrology, esthetics, and nail technology~~, manicuring, and pedicuring~~ shall be established by the board. The board shall adopt rules to define the course and content of study for each practice of cosmetology arts and sciences.

b. The course of study required for licensure which is limited to the practice of esthetics shall be six hundred hours.

c. The course of study required for licensure which is

limited to the practice of nail technology shall be three hundred twenty-five hours.

3. A ~~barber licensed under chapter 158 or a~~ student in a barber school who ~~applies for licensure in a practice of cosmetology arts and sciences or who~~ enrolls in a school of barbering and cosmetology arts and sciences shall be granted, at the discretion of the school, at least half credit and up to full credit for each course successfully completed for licensure ~~as a barber~~ in the practice of barbering which meets the requirements for licensure in ~~a~~ the practice of barbering and hairstyling or the practice of cosmetology arts and sciences.

Sec. 28. NEW SECTION. **157.10A Course of study — barbering and hairstyling.**

The course of study required for a license to practice barbering and hairstyling shall be one thousand five hundred hours or an equivalent number of semester credit hours or the equivalent thereof. Nothing in this section shall restrict the practice of barbering or hairstyling by a cosmetologist.

Sec. 29. Section 157.11, Code 2021, is amended to read as follows:

157.11 ~~Salon~~ Establishment licenses.

1. ~~A salon~~ An establishment shall not operate unless the owner has obtained a license issued by the department. The owner shall apply to the department on forms prescribed by the board. The department may perform a sanitary inspection of each ~~salon~~ establishment biennially and may perform a sanitary inspection of ~~a salon~~ an establishment prior to the issuance of a license. An inspection of ~~a salon~~ an establishment may also be conducted upon receipt of a complaint by the department.

2. The application shall be accompanied by the biennial license fee determined pursuant to section 147.80. The license is valid for two years and may be renewed.

3. A licensed school of cosmetology arts and sciences at which students practice cosmetology arts and sciences is exempt

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from licensing as ~~a salon~~ an establishment.

Sec. 30. Section 157.13, subsection 1, unnumbered paragraph 1, Code 2021, is amended to read as follows:

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~~ establishment, or a licensed school of barbering and cosmetology arts and sciences~~, or a licensed barbershop as defined in section 158.1~~. The following exceptions to this subsection shall apply:

Sec. 31. Section 157.13, subsection 1, paragraph a, Code 2021, is amended to read as follows:

a. A licensee may practice at a location which is not a licensed ~~salon~~ establishment, school of barbering and cosmetology arts and sciences, or licensed barbershop under extenuating circumstances arising from physical or mental disability or death of a customer.

Sec. 32. Section 157.13, subsection 3, Code 2021, is amended to read as follows:

3. If the owner or manager of ~~a salon~~ an establishment does not comply with the sanitary rules adopted under section 157.6 or fails to maintain the ~~salon~~ establishment 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~~ establishment closed until the rules are complied with. It is unlawful for a person to practice in ~~a salon~~ an establishment which has been closed under this section. The county attorney in each county shall assist the department in enforcing this section.

Sec. 33. Section 261.9, subsection 3, paragraph b, Code 2021, is amended to read as follows:

b. Is a ~~barber school licensed under section 158.7 or~~ a school of barbering and cosmetology arts and sciences licensed under chapter 157 and is accredited by a national accrediting agency recognized by the United States department of education. For the fiscal year beginning July 1, 2017, an eligible institution under this paragraph shall provide a matching aggregate amount of institutional financial aid equal to at least seventy-five percent of the amount received by the institution's students for Iowa tuition grant assistance under section 261.16A. For the fiscal year beginning July 1, 2018, the institution shall provide a matching aggregate amount of institutional financial aid equal to at least eighty-five percent of the amount received in that fiscal year. Commencing with the fiscal year beginning July 1, 2019, and each succeeding fiscal year, the matching aggregate amount of institutional financial aid shall be at least equal to the match provided by eligible institutions under paragraph "*a*".

Sec. 34. Section 261B.11, subsection 1, paragraph i, Code 2021, is amended to read as follows:

i. Postsecondary educational institutions licensed by the state of Iowa under ~~section 157.8 or 158.7~~ chapter 157 to operate as schools of cosmetology arts and sciences ~~or as barber schools~~ in the state.

Sec. 35. Section 272C.1, subsection 6, paragraph g, Code 2021, is amended to read as follows:

g. The board of barbering and cosmetology arts and sciences, created pursuant to chapter 147.

Sec. 36. Section 272C.1, subsection 6, paragraph i, Code 2021, is amended by striking the paragraph.

Sec. 37. Section 714.25, subsection 2, unnumbered paragraph 1, Code 2021, is amended to read as follows:

A proprietary school shall, prior to the time a student is obligated for payment of any moneys, inform the student, the college student aid commission, and in the case of a school licensed under section 157.8, the board of barbering

and cosmetology arts and sciences ~~or in the case of a school licensed under section 158.7, the board of barbering, of~~ all of the following:

Sec. 38. REPEAL. Chapter 158, Code 2021, is repealed.

Sec. 39. EMERGENCY RULES. The board of cosmetology arts and sciences, board of barbering, and board of barbering and cosmetology arts and sciences may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 40. TRANSITION PROVISIONS.

1. a. The merger of the boards of barbering and cosmetology arts and sciences in this Act shall not affect the appointment or any term of office of a member of either board prior to the effective date of this Act. A member of the board of barbering or the board of cosmetology arts and sciences shall continue to serve until the member's term expires or the member ceases to hold office, whichever first occurs.

b. The initial membership of the board of barbering and cosmetology arts and sciences shall consist of all members of the boards of barbering and cosmetology arts and sciences serving on the effective date of this Act.

2. A rule adopted by the board of cosmetology arts and sciences or board of barbering that is in force and effect immediately prior to the effective date of this Act shall continue in full force and effect until the earlier of the following:

a. The rule is amended, rescinded, or supplemented by the affirmative action of the board of barbering and cosmetology arts and sciences.

b. The rule expires by its own terms.

3. Any license or permit issued by the board of cosmetology

arts and sciences or board of barbering in effect on the effective date of this Act shall continue in full force and effect until expiration or renewal, except as provided in subsection 8.

4. Any funds in any account or fund of the board of cosmetology arts and sciences or board of barbering shall be transferred to the control of the board of barbering and cosmetology arts and sciences.

5. Any cause of action, statute of limitation, or administrative action relating to or initiated by the board of cosmetology arts and sciences or board of barbering shall not be affected as a result of this Act and shall apply to the board of barbering and cosmetology arts and sciences.

6. All client and organizational files in the possession of the board of cosmetology arts and sciences or board of barbering shall become the property of the board of barbering and cosmetology arts and sciences.

7. Any personnel in the state merit system of employment who are mandatorily transferred due to the effect of this Act shall be so transferred without any loss in salary, benefits, or accrued years of service.

8. A person licensed as a barber as of the July 1, 2021, shall be considered to be a person licensed to practice barbering and hairstyling and shall be issued a license to practice barbering and hairstyling upon the expiration of the person's barbering license. Such a license shall permit such a person to continue to practice barbering as provided in chapter 158, Code 2021.

9. A person currently enrolled in a barbering school in a course of study requiring at least two thousand one hundred hours of instruction must complete the course of study by August 1, 2022. Each school of cosmetology arts and sciences shall offer a course of study in barbering and hairstyling by August 1, 2022.