

1 HOUSE BILL 375

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Monica Youngblood

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10 AN ACT

11 RELATING TO LICENSING; AMENDING AND ENACTING SECTIONS OF THE
12 BARBERS AND COSMETOLOGISTS ACT TO PROVIDE FOR A HAIRSTYLIST
13 LICENSE; REVISING THE COMPOSITION OF THE BOARD OF BARBERS AND
14 COSMETOLOGISTS TO INCLUDE A HAIRSTYLIST.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. A new section of the Barbers and
18 Cosmetologists Act is enacted to read:

19 "[NEW MATERIAL] HAIRSTYLING DEFINED.--Hairstyling includes
20 any one or any combination of the following practices when done
21 upon the upper part of the male or female human body for
22 cosmetic purposes for the public generally, using the hands or
23 manual, mechanical or electrical implements or appliances:

24 A. cleansing, massaging or stimulating the scalp
25 with oils, creams, lotions or other cosmetic or chemical

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1 preparations;

2 B. applying cosmetic or chemical preparations,
3 antiseptics, powders, oils, clays or lotions to the scalp;

4 C. cutting, arranging, applying hair extensions to
5 or styling the hair by any means;

6 D. cleansing, coloring, lightening, waving or
7 straightening the hair with cosmetic or chemical preparations;

8 or

9 E. trimming a person's beard."

10 SECTION 2. A new section of the Barbers and
11 Cosmetologists Act is enacted to read:

12 "[NEW MATERIAL] LICENSURE REQUIREMENTS--HAIRSTYLISTS.--

13 A. Except as provided in Subsection B of this
14 section, a hairstylist license shall be issued to a person who
15 files a completed application, accompanied by the required fees
16 and documentation, and who:

17 (1) has an education equivalent to the
18 completion of the second year of high school;

19 (2) is at least seventeen years of age;

20 (3) has completed a course in hairstyling of
21 at least one thousand two hundred hours in a school or
22 apprenticeship approved by the board; and

23 (4) has passed an examination approved by the
24 board.

25 B. A hairstylist license shall be issued to a

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1 person who files a completed application, accompanied by the
2 required fees and documentation, meets the requirements of
3 Paragraphs (1) through (4) of Subsection A of this section and
4 shows proof of having successfully completed a registered
5 hairstyling apprenticeship approved by the state apprenticeship
6 agency and the board.

7 C. The holder of a hairstylist license has the
8 right and privilege to use the title "hairstylist".

9 SECTION 3. Section 61-17A-2 NMSA 1978 (being Laws 1993,
10 Chapter 171, Section 2, as amended) is amended to read:

11 "61-17A-2. DEFINITIONS.--As used in the Barbers and
12 Cosmetologists Act:

13 A. "barber" means a person, other than a student,
14 who for compensation engages in barbering;

15 B. "board" means the board of barbers and
16 cosmetologists;

17 C. "cosmetologist" means a person, other than a
18 student, who for compensation engages in cosmetology;

19 D. "electrologist" means a person, other than a
20 student, who for compensation removes hair from or destroys
21 hair on the human body through the use of an electric current
22 applied to the body with a needle-shaped electrode or probe;

23 E. "enterprise" means a business venture, firm or
24 organization;

25 F. "establishment" means an immobile beauty shop,

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1 barber shop, electrology clinic, salon or similar place of
2 business in which cosmetology, barbering, hairstyling or
3 electrolysis is performed;

4 G. "esthetician" means a person, other than a
5 student, who for compensation:

6 (1) uses cosmetic preparations, including
7 makeup applications, antiseptics, powders, oils, clays or
8 creams, for the purpose of preserving the health and beauty of
9 the skin and body;

10 (2) massages, cleans, stimulates or
11 manipulates the skin for the purpose of preserving the health
12 and beauty of the skin and body; or

13 (3) performs activities similar to the
14 activities described in Paragraph (1) or (2) of this subsection
15 on any part of the body of a person;

16 H. "hairstylist" means a person, other than a
17 student, who for compensation engages in hairstyling;

18 [~~H.~~] I. "manicurist-pedicurist" means a person,
19 other than a student, who for compensation performs work on the
20 nails of a person and applies nail extensions or products to
21 the nails for the purpose of strengthening or preserving the
22 health and beauty of the hands or feet;

23 [~~H.~~] J. "sanitation" means the maintenance of
24 sanitary conditions to promote hygiene and the prevention of
25 disease through the use of chemical agents or products;

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1 ~~[J-]~~ K. "school" means a public or private
2 instructional facility approved by the board that teaches
3 cosmetology ~~[ø-]~~, barbering or hairstyling; and

4 ~~[K-]~~ L. "student" means a person enrolled in a
5 school to learn or be trained in cosmetology, barbering,
6 hairstyling or electrolysis."

7 **SECTION 4.** Section 61-17A-5 NMSA 1978 (being Laws 1993,
8 Chapter 171, Section 5, as amended) is amended to read:

9 "61-17A-5. LICENSE REQUIRED.--

10 A. Unless licensed pursuant to the Barbers and
11 Cosmetologists Act or exempted from the provisions of that act,
12 no person shall practice barbering, hairstyling or cosmetology
13 for compensation either directly or indirectly.

14 B. Unless licensed pursuant to the Barbers and
15 Cosmetologists Act, no person shall operate a school or
16 establishment for compensation.

17 C. Unless licensed pursuant to the Barbers and
18 Cosmetologists Act or exempted from the provisions of that act,
19 no person shall teach barbering, hairstyling, cosmetology or
20 electrology for compensation.

21 D. Unless licensed by the board pursuant to the
22 Barbers and Cosmetologists Act, no person shall practice as a
23 manicurist-pedicurist, esthetician or electrologist for
24 compensation."

25 **SECTION 5.** Section 61-17A-6 NMSA 1978 (being Laws 1993,

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1 Chapter 171, Section 6, as amended) is amended to read:

2 "61-17A-6. BOARD CREATED--MEMBERSHIP.--

3 A. The "board of barbers and cosmetologists" is
4 created. The board is administratively attached to the
5 regulation and licensing department. The board consists of
6 seven members appointed by the governor. Members shall serve
7 three-year terms; provided that at the time of initial
8 appointment, the governor shall appoint members to abbreviated
9 terms to allow staggering of subsequent appointments.
10 Vacancies shall be filled in the manner of the original
11 appointment.

12 B. Of the seven members of the board, five shall be
13 licensed pursuant to the Barbers and Cosmetologists Act and
14 shall have at least five years' practical experience in their
15 respective occupations. Of those five, [~~two members~~] one
16 member shall be a licensed [~~barbers~~] barber, one member shall
17 be a licensed hairstylist, two members shall be licensed
18 cosmetologists and one member shall represent school owners.
19 The remaining two members shall be public members. Neither the
20 public members nor their spouses shall have ever been licensed
21 pursuant to the provisions of the Barbers and Cosmetologists
22 Act or similar prior legislation or have a financial interest
23 in a school or establishment.

24 C. Members of the board shall be reimbursed
25 pursuant to the Per Diem and Mileage Act and shall receive no

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1 other compensation, perquisite or allowance.

2 D. The board shall elect from among its members a
3 chair and such other officers as it deems necessary. The board
4 shall meet at the call of the chair, not less than four times
5 each year. A majority of members currently serving shall
6 constitute a quorum for the conduct of business.

7 E. No board member shall serve more than two full
8 consecutive terms and any member who fails to attend, after
9 proper notice, three meetings shall automatically be
10 recommended for removal unless excused for reasons set forth by
11 board rule."

12 SECTION 6. Section 61-17A-7 NMSA 1978 (being Laws 1993,
13 Chapter 171, Section 7, as amended) is amended to read:

14 "61-17A-7. BOARD POWERS AND DUTIES.--

15 A. The board shall:

16 (1) adopt and file, in accordance with the
17 State Rules Act, rules necessary to carry out the provisions of
18 the Barbers and Cosmetologists Act;

19 (2) establish fees;

20 (3) provide for the examination, licensure and
21 license renewal of applicants for licensure;

22 (4) establish standards for and provide for
23 the examination, licensure and license renewal of manicurists-
24 pedicurists, estheticians and electrologists;

25 (5) adopt a seal;

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1 (6) furnish copies of rules and sanitary
2 requirements adopted by the board to each owner or manager of
3 an establishment, enterprise or school;

4 (7) keep a record of its proceedings and a
5 register of applicants for licensure;

6 (8) provide for the licensure of barbers,
7 hairstylists, cosmetologists, manicurists-pedicurists,
8 estheticians, electrologists, instructors, schools, enterprises
9 and establishments;

10 (9) establish administrative penalties and
11 fines;

12 (10) create and establish standards and fees
13 for special licenses;

14 (11) establish guidelines for schools to
15 calculate tuition refunds for withdrawing students; and

16 (12) issue cease and desist orders to persons
17 violating the provisions of the Barbers and Cosmetologists Act
18 and rules promulgated in accordance with that act.

19 B. The board may establish continuing education
20 requirements as requirements for licensure.

21 C. A member of the board, its employees or agents
22 may enter and inspect a school, enterprise or establishment at
23 any time during regular business hours for the purpose of
24 determining compliance with the Barbers and Cosmetologists
25 Act."

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1 SECTION 7. Section 61-17A-16 NMSA 1978 (being Laws 1993,
2 Chapter 171, Section 16, as amended) is amended to read:

3 "61-17A-16. FEES.--The board may, by [~~regulation~~] rule,
4 establish initial license and renewal fees not to exceed the
5 following:

- 6 establishment license. \$200
- 7 school license \$600
- 8 relocation of a school \$300
- 9 cosmetologist license \$ 50.00
- 10 barber license \$ 50.00
- 11 hairstylist license \$ 50.00
- 12 specialty license. \$ 50.00
- 13 instructor license \$ 50.00
- 14 duplicate license. \$ 50.00
- 15 temporary license. \$ 25.00
- 16 administrative fee. \$100
- 17 limited license fee. \$100
- 18 licensure through reciprocity. \$200
- 19 transcript \$ 50.00
- 20 examinations \$100."

21 SECTION 8. Section 61-17A-20 NMSA 1978 (being Laws 1993,
22 Chapter 171, Section 20, as amended) is amended to read:

23 "61-17A-20. DURATION, RESTORATION AND RENEWAL OF
24 LICENSES.--

25 A. The original issuance and renewal of licenses to

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1 practice as a barber, hairstylist, cosmetologist, instructor,
2 esthetician, manicurist-pedicurist or electrologist shall be
3 for a period of one year or less from the date of issuance. If
4 the licensee fails to renew the license for the next year, the
5 license is void; provided the license may be restored at any
6 time during the year following expiration upon the payment of
7 the appropriate fee and a late charge not to exceed one hundred
8 dollars (\$100) as set forth by board rules. If the licensee
9 fails to restore the license within one year following its
10 expiration, the licensee may request restoration of the license
11 pursuant to rules promulgated by the board.

12 B. The original issuance and annual renewal of
13 licenses to operate an establishment or school shall be for a
14 period of twelve months or less following the issuance of the
15 license. If the licensee fails to renew the license within
16 thirty days after its expiration, the license is void, and, to
17 again obtain a license, an application, required documentation,
18 payment of the renewal fee and a late fee not to exceed one
19 hundred dollars (\$100) as established by board rules is
20 required.

21 C. The board may establish a staggered system of
22 license expiration."