

1 HB344
2 174760-1
3 By Representative Martin
4 RFD: Boards, Agencies and Commissions
5 First Read: 01-MAR-16

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8 SYNOPSIS: Under existing law, certain barbers are
9 exempt from regulation by the Alabama Board of
10 Cosmetology and Barbering.

11 This bill would rename the board the Alabama
12 Board of Cosmetology and would clarify that all
13 barbers practicing barbering in the state are
14 exempt from regulation by the board.

15 This bill would phase out the membership of
16 barbers on the board and would add an additional
17 esthetician and manicurist to the membership of the
18 board.

19 This bill would also provide for the
20 transition of the powers and duties of the Alabama
21 Board of Cosmetology and Barbering to the Alabama
22 Board of Cosmetology.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Sections 34-7B-1, 34-7B-2, 34-7B-6,
2 34-7B-7, 34-7B-13, 34-7B-26, 34-7B-27, 34-7B-28, and 34-7B-29,
3 Code of Alabama 1975, as amended by Act 2015-406, 2015 Regular
4 Session, relating to the Alabama Board of Cosmetology and
5 Barbering; to rename the board the Alabama Board of
6 Cosmetology; to clarify the exemption of all barbers
7 practicing barbering in the state from regulation by the
8 board; to revise the membership of the board to phase out
9 barber members and add an additional esthetician and
10 manicurist to the membership of the board; to provide for the
11 transition of the board from the Alabama Board of Cosmetology
12 and Barbering to the Alabama Board of Cosmetology; and to
13 repeal Section 34-7B-17, Code of Alabama 1975, which provided
14 for the examination and licensing of Class 2 barbers by the
15 board.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 34-7B-1, 34-7B-2, 34-7B-6,
18 34-7B-7, 34-7B-13, 34-7B-26, 34-7B-27, 34-7B-28, and 34-7B-29,
19 Code of Alabama 1975, as amended by Act 2015-406, 2015 Regular
20 Session, are amended to read as follows:

21 "§34-7B-1.

22 "For the purposes of this chapter, the following
23 terms shall have the following meanings:

24 "(1) APPRENTICE. Any person engaged in learning the
25 practices defined in this chapter including, but not limited
26 to, assisting in the performance of any acts of ~~barbering or~~
27 cosmetology on the general public under the constant and

1 direct supervision of a person who has held a valid current
2 license issued by the board for at least five years, in a shop
3 licensed by the board. No apprenticeship is provided for
4 natural hairstyling.

5 "(2) BARBER. A person who performs barbering on the
6 general public for compensation or does any of the following
7 in the ordinary course of his or her business: Arranges,
8 cleans, cuts, or sings the hair of any person or massages,
9 cleans, stimulates, exercises, or does similar work on the
10 scalp, face, or neck of any person with the hands, or with
11 mechanical or electrical apparatus or appliance, or by the use
12 of cosmetic preparations, antiseptics, tonics, lotions, or
13 creams. Any one or a combination of the following practices,
14 when done upon the human body above the seventh cervical
15 vertebra for cosmetic purposes and not for the treatment of
16 disease or physical or mental ailments, and when done for
17 payment, directly or indirectly or without payment for the
18 public generally: Shaving or trimming the beard or trimming
19 the hair.

20 "~~(2)~~(3) BARBERING. The occupation of shaving or
21 trimming the beard, cutting or dressing the hair, giving
22 facial or scalp massages, giving facial or scalp treatment
23 with oils or creams or other preparations made for that
24 purpose, either by hand or by means of mechanical appliances,
25 singeing and shampooing the hair, dyeing the hair, or
26 permanently waving or straightening the hair of any living or

1 deceased person for compensation, ~~as performed by a Class 2~~
2 barber.

3 "~~(3)~~ (4) BOARD. The Alabama Board of Cosmetology and
4 Barbering.

5 "~~(4)~~ CLASS 1 BARBER. A person who only does the
6 following in his or her ordinary course of business: Arranges,
7 cleans, cuts, or sings the hair of any person or massages,
8 cleans, stimulates, exercises, or does similar work on the
9 scalp, face, or neck of any person with the hands, or with
10 mechanical or electrical apparatus or appliance, or by the use
11 of cosmetic preparations, antiseptics, tonics, lotions, or
12 creams. Any one or a combination of the following practices,
13 when done upon the human body above the seventh cervical
14 vertebra for cosmetic purposes and not for the treatment of
15 disease or physical or mental ailments, and when done for
16 payment, directly or indirectly or without payment for the
17 public generally: Shaving or trimming the beard or trimming
18 the hair.

19 "~~(5)~~ CLASS 2 BARBER. Any person, other than a
20 student or apprentice, who performs barbering on the general
21 public for compensation, and who shall satisfy the
22 qualifications and licensure requirements provided in this
23 chapter for a Class 2 barber. For the purposes of this
24 chapter, the term barber, standing alone, shall be deemed a
25 reference to a Class 2 barber.

26 "~~(6)~~ (5) COSMETOLOGIST. Any person, other than a
27 student or apprentice, who performs cosmetology on the general

1 public for compensation, and who shall satisfy the
2 qualifications and licensure requirements provided in this
3 chapter for a cosmetologist.

4 "~~(7)~~(6) COSMETOLOGY. Any of the practices generally
5 recognized as beauty culture, hairdressing, or any other
6 designation engaged in by any person who performs such on the
7 general public for compensation including, but not limited to,
8 cleansing, singeing, cutting, arranging, dressing, curling,
9 braiding, waxing, bleaching, weaving, coloring the hair by
10 hand or mechanical apparatus, the use of creams, lotions, or
11 cosmetic preparations, with or without massage, on the scalp,
12 face, arms, legs, feet, or hands, esthetics practices, nail
13 technology, manicure, pedicure, or desairology.

14 "~~(8)~~(7) ESTHETICIAN. Any person, other than a
15 student or apprentice, who performs esthetics on the general
16 public for compensation, and who shall satisfy the
17 qualifications and licensure requirements provided in this
18 chapter for an esthetician.

19 "~~(9)~~(8) ESTHETICS. The practice of performing acts
20 of skin care including, but not limited to, facials, body
21 waxing, makeup, and general esthetics procedures on the
22 general public for compensation.

23 "~~(10)~~(9) ESTHETICS/MANICURE. A combination of the
24 practices of esthetics and manicure.

25 "~~(11)~~(10) ESTHETICIAN/MANICURIST. Any person, other
26 than a student or apprentice, who performs a combination of
27 the practices of esthetics and manicure on the general public

1 for compensation, and who shall satisfy the qualifications and
2 licensure requirements provided in this chapter for an
3 esthetician/manicurist.

4 "~~(12)~~ (11) INSTRUCTOR. A licensee who teaches in a
5 licensed or registered school of ~~barbering~~ or any branch of
6 cosmetology and completes any applicable requirements for
7 continuing education.

8 "~~(13)~~ (12) LICENSE. A document issued by the board
9 which entitles the holder to practice the profession listed on
10 the document.

11 "~~(14)~~ (13) LICENSEE. Any person holding a license
12 issued pursuant to this chapter.

13 "~~(15)~~ (14) MANICURE. The practice of beautifying or
14 grooming the fingernails, toenails, adding nail tips,
15 extensions, gels, or massaging the hands, forearms, feet, or
16 lower legs of the general public for compensation.

17 "~~(16)~~ (15) MANICURIST. Any person, other than a
18 student or apprentice, who performs the practice of manicure
19 on the general public for compensation, and who shall satisfy
20 the qualifications and licensure requirements provided in this
21 chapter for a manicurist.

22 "~~(17)~~ (16) MANICURE/WAXING. A combination of the
23 practices of manicure and waxing.

24 "~~(18)~~ (17) MANICURIST/WAXER. Any person, other than a
25 student or apprentice, who performs a combination of the
26 practices of manicure and waxing on the general public for
27 compensation, and who shall satisfy the qualifications and

1 licensure requirements provided in this chapter for a
2 manicurist/waxer.

3 ~~"(19)~~ (18) NATURAL HAIR STYLING. The practice of
4 cleansing, weaving or interweaving, extending, locking,
5 braiding, or arranging the hair without cutting, coloring,
6 permanent waving, relaxing, removing, or chemical treatments.

7 ~~"(20)~~ (19) NATURAL HAIRSTYLIST. Any person, other
8 than a student, who performs natural hair styling on the
9 general public for compensation, and who shall satisfy the
10 qualifications and licensure requirements provided in this
11 chapter for a natural hairstylist.

12 ~~"(21)~~ (20) SCHOOL. An establishment licensed or
13 registered by the board to teach any or all of the practices
14 of ~~barbering or~~ cosmetology.

15 ~~"(22)~~ (21) SHAMPOO ASSISTANT. Any person who is
16 licensed to perform only the practices of shampooing,
17 cleansing, or applying temporary weekly color rinses to the
18 hair of the general public for compensation, and who shall
19 satisfy the qualifications and licensure requirements provided
20 in this chapter for a shampoo assistant.

21 ~~"(23)~~ (22) SHOP. Any place where ~~barbering or~~
22 cosmetology is practiced. Only a properly licensed person, who
23 is not an apprentice or a student, may operate a shop.

24 ~~"(24)~~ (23) STUDENT. Any person who is engaged in
25 learning any practice regulated by this chapter in a school
26 licensed or registered pursuant to this chapter, and who, as
27 part of the learning process, performs or assists in any

1 practice regulated by this chapter under the immediate
2 supervision of an instructor who is licensed pursuant to this
3 chapter.

4 ~~"(25)~~ (24) THREADING. The practice of eyebrow removal
5 with the use of a loop made of cotton or any other material.

6 ~~"(26)~~ (25) THREADER. Any person engaged in the
7 practice of threading on the general public for compensation,
8 and who shall satisfy the qualifications and licensure
9 requirements provided in this chapter for a threader.

10 "§34-7B-2.

11 "(a) There is created the Alabama Board of
12 Cosmetology ~~and Barbering~~ which shall consist of seven persons
13 appointed by the Governor. The membership of the board shall
14 include all of the following:

15 "(1) Two active cosmetologists, who have been
16 licensed by the board as cosmetologists for at least five
17 years before appointment.

18 ~~"(2) Two actively practicing Class 2 barbers, who
19 have been practicing in the state for at least five years
20 before appointment. Except for the initial members appointed
21 to the board, Class 2 barber members of the board shall be
22 licensed by the board before appointment.~~

23 ~~"(3) One~~ (2) ~~Two active esthetician~~ estheticians who
24 ~~has~~ have been licensed by the board as ~~an esthetician~~
25 estheticians for at least five years before appointment.

1 "~~(4) One~~ (3) Two active ~~manicurist~~ manicurists who
2 ~~has~~ have been licensed by the board as a ~~manicurist~~
3 manicurists for at least five years before appointment.

4 "~~(5)~~ (4) One consumer.

5 "(b) One member shall be appointed from each
6 congressional district, as those districts are constituted on
7 August 1, 2013, and shall reside in the district he or she
8 represents during the entire term of office.

9 "(c) The membership of the board shall be inclusive
10 and reflect the racial, gender, geographic, urban/rural, and
11 economic diversity of the state.

12 "(d) All appointments shall be for a term of four
13 years. No person shall serve for more than two terms on the
14 newly constituted board. Except as an instructor, no member of
15 the board may be affiliated with or own a school regulated by
16 this chapter or any business which sells, rents, or
17 distributes supplies to shops or schools. Any board member may
18 be removed by the Governor for just cause.

19 "(e) The terms of all board members serving on
20 ~~August 1, 2013,~~ the effective date of the act amending this
21 subsection shall continue until expiration pursuant to
22 original appointment. ~~To facilitate the intent of this~~
23 ~~chapter, members whose terms expire by October 30, 2013, shall~~
24 ~~continue to serve until a successor is appointed pursuant to~~
25 ~~this chapter.~~ As terms expire, successor board members shall
26 be appointed by the Governor pursuant to subsection (a).

1 "(f) Members of the board shall annually elect from
2 among their members a chair, a vice chair, a secretary, and a
3 treasurer. The offices of secretary and treasurer may be
4 combined.

5 "(g) Each member of the board shall be paid one
6 hundred dollars (\$100) per day for the transaction of board
7 business, not exceeding 36 days during any calendar year, and
8 shall be paid the same mileage and per diem rate as state
9 employees.

10 "§34-7B-6.

11 "(a) There is established a special fund in the
12 State Treasury to be known as the Board of Cosmetology ~~and~~
13 ~~Barbering~~ Fund. The fund shall consist of all monies received
14 by the board pursuant to this chapter. Monies in the fund
15 shall be disbursed only upon warrant of the Comptroller upon
16 itemized vouchers signed by the treasurer of the board or an
17 authorized designee. Any money remaining in the fund at the
18 end of each fiscal year shall remain on deposit in the fund
19 for the use of the board.

20 "(b) All funds and fees of any nature received by
21 the board shall be paid to the fund or a designated party on
22 behalf of the board.

23 "§34-7B-7.

24 "(a) Any person who desires to engage in any of the
25 practices regulated by the board pursuant to this chapter
26 shall be a citizen of the United States or, if not a citizen
27 of the United States, a person who is legally present in the

1 United States with appropriate documentation from the federal
2 government, and shall file with the board a written
3 application for examination or licensure. Before a person may
4 engage in the practices regulated by this chapter, the person
5 shall be licensed by the board pursuant to this chapter. Any
6 person who practices, maintains a school or shop, or acts in
7 any capacity without a license when one is required pursuant
8 to this chapter, or who otherwise violates this chapter, shall
9 be guilty of a misdemeanor and fined five hundred dollars
10 (\$500) or imprisoned for not more than 30 days, or both. Any
11 corporation which violates this chapter shall be punished by a
12 fine of not more than one thousand dollars (\$1,000).

13 "(b) Licenses and permits issued by the board under
14 the seal of the board and signed by an authorized
15 representative of the board entitle the holder to legally
16 practice the stated profession.

17 "(c) (1) To receive a personal license, an applicant
18 shall satisfy any of the following requirements:

19 "a. All legal requirements, completion of the
20 required hours as a student or apprentice, submission of the
21 appropriate examination fees, successful completion of the
22 appropriate examination, and submission of any applicable
23 license fees.

24 "b. Be currently licensed in good standing in
25 another state or jurisdiction, with documentation of having
26 passed a board-approved examination, and submission of any
27 applicable license fees.

1 "c. Be currently licensed in good standing in
2 another state or jurisdiction, with documentation of having
3 practiced as a licensee for at least five years before
4 application to the board, and submission of any applicable
5 license fees.

6 "d. Be otherwise qualified, submit any applicable
7 examination fees, successfully complete any appropriate
8 examinations, and submit any applicable license fees.

9 "(2)a. An application for examination or
10 reexamination shall include the payment of a nonrefundable
11 fee.

12 "b. Examination of an applicant for licensure shall
13 be conducted pursuant to a procedure sanctioned by the board
14 consistent with the prescribed curriculum for schools.

15 "c. An applicant who fails the prescribed
16 examination shall be entitled to two additional attempts.

17 "d. An applicant who fails the prescribed
18 examination on a third attempt shall complete additional hours
19 of school training as the board may direct before being
20 allowed to repeat the examination.

21 "(3) Personal licenses for any practice ~~except Class~~
22 ~~2-barbering as~~ regulated by the board shall expire on the last
23 day of the birth month of the licensee in odd-numbered years.
24 An application for renewal that is postmarked later than the
25 license expiration date shall subject the licensee to a late
26 fee.

1 ~~"(4) Personal licenses for Class 2 barbers shall~~
2 ~~expire on the last day of the birth month of the licensee in~~
3 ~~even-numbered years. An application for renewal that is~~
4 ~~postmarked later than the license expiration date shall~~
5 ~~subject the licensee to a late fee.~~

6 ~~"(5)(4)~~ Active personal licenses shall be displayed
7 in a conspicuous place near the work station of the licensee.

8 "(d) (1) To receive a business license, an applicant
9 shall satisfy all legal requirements and submit any applicable
10 license fees.

11 "(2) All business licenses regulated by the board
12 shall expire on the last day of September in odd-numbered
13 years. An application for renewal that is postmarked later
14 than October 31 in the year of expiration shall subject the
15 licensee to a late fee.

16 ~~"(3) On or before December 31, 2013, the initial fee~~
17 ~~for a Class 2 barber business license shall be one hundred~~
18 ~~fifty dollars (\$150) for a shop and three hundred dollars~~
19 ~~(\$300) for a school. Renewal fees shall be the same fee as the~~
20 ~~board provides for other business licenses under this chapter.~~

21 ~~"(4)(3)~~ A business license shall be displayed in a
22 conspicuous place near the main entrance of the business.

23 ~~"(5) The initial fee for a personal Class 2 barber~~
24 ~~license shall be the same fee as is provided for other~~
25 ~~original licenses under this chapter. The renewal fee shall be~~
26 ~~the same as is provided for other licenses under this chapter.~~

27 "§34-7B-13.

1 "This chapter does not apply to any of the following
2 persons, activities, or services:

3 "(1) Service in the case of emergency or domestic
4 upheaval, without compensation.

5 "(2) Licensed medical professionals operating within
6 the scope of their normal practice.

7 "(3) Personnel of the United States armed services
8 performing their ordinary duties.

9 "(4) Any public trade school or other public school
10 or school program under the purview of the State Board of
11 Education or a local board of education.

12 "(5) Any person who only occasionally dresses hair
13 and receives no compensation therefor, or does any other act
14 or thing mentioned in this chapter, without holding himself or
15 herself out to the public as a provider of any practices
16 defined in this chapter for compensation.

17 "(6) Departments in retail establishments where
18 cosmetics are demonstrated and offered for sale but where no
19 other acts of cosmetology ~~or barbering~~ are performed.

20 "(7) The licensees of any county or municipal barber
21 board or commission in existence on August 1, 2013, unless
22 such board or commission elects, by resolution adopted by the
23 governing body of the county or municipality, to come under
24 ~~the provisions of~~ this chapter.

25 "(8) Any person who practices as a ~~Class 1~~ barber.

26 "§34-7B-26.

1 "(a) Before being licensed by the board to operate a
2 school, an applicant shall satisfy all of the requirements of
3 this section.

4 "(1) An applicant shall submit to the board all of
5 the following:

6 "a. A bond, in the amount of fifty thousand dollars
7 (\$50,000) to protect potential students in the event of
8 closure.

9 "b. Proof of sufficient liability insurance
10 coverage.

11 "c. A current financial statement prepared by a
12 reputable source and, if required by the board, a letter of
13 credit.

14 "d. A list of equipment owned by the school.

15 "e. A sample of student contract agreements and
16 financial forms relating to tuition, grants, and scholarships.

17 "f. ~~Furnish affidavits~~ Affidavits from an adequate
18 number of prospective students as approved by the board
19 stating their intent to enroll when the school opens.

20 "(2) The applicant, owner, proposed dean, or proper
21 corporate executive may be required to appear before the
22 board.

23 "(3) The applicant shall satisfy the board that the
24 building proposed to house the school is all of the following:

25 "a. In compliance with all state and local zoning,
26 health, and building codes.

27 "b. Clean and well-lighted.

1 "c. Large enough to accommodate the anticipated
2 student body.

3 "d. Completely segregated from any other business.

4 "e. Contains sufficient equipment and supplies for
5 the proper and complete teaching of all subjects in its
6 proposed curriculum.

7 "(b) To maintain current and continuing licensure
8 under this chapter, the school, to the satisfaction of the
9 board, shall do all of the following:

10 "(1) Employ one instructor and one on-call
11 instructor for the first 20 students enrolled and in
12 attendance at the school, and an additional instructor for
13 each additional 20 students enrolled and in attendance at the
14 school.

15 "(2) Have no more than two instructor trainees per
16 each instructor.

17 "(3) Provide that the same person may not serve as
18 the on-call instructor for more than one school.

19 "(4) Maintain daily, monthly, and cumulative records
20 for each student.

21 "(5) Maintain regular classes and instruction hours.

22 "(6) Establish grades and conduct appropriate
23 examinations on a timely basis.

24 "(7) Require a school term of training for a
25 complete course with the minimum number of hours prescribed
26 for each term. Programs reporting by clock hours shall comply
27 with recording rules provided in this subsection and shall

1 also furnish the board with an official transcript for each
2 student within 30 days after the student completes the program
3 or terminates enrollment.

4 "(8) Include practical demonstrations, theoretical
5 studies, and the study of sanitation, sterilization, and other
6 safety measures and the use of antiseptics, cosmetics, and
7 electrical appliances consistent with the practical and
8 theoretical requirements applicable to any of the practices
9 regulated by this chapter which are part of the school's
10 curriculum.

11 "(c) A school engaged only in the teaching of ~~Class~~
12 ~~2-barbers,~~ estheticians, or manicurists is not required to
13 provide instruction in other practices regulated by this
14 chapter. Such a school is required to satisfy all requirements
15 imposed upon a school of cosmetology ~~or a school of barbering~~
16 relating to instructors, attendance records, enrollment, and
17 other matters.

18 "(d) The sale or transfer of a school is subject to
19 prior approval by the board if the school is to continue in
20 operation after the sale or transfer. The board may deny the
21 sale or transfer of a school if the owner or operator of the
22 school is the subject of outstanding violations of this
23 chapter or the rules of the board, or both.

24 "§34-7B-27.

25 "The status of any person or entity properly
26 licensed by the Alabama Board of Cosmetology under former
27 Chapter 7A of this title, on August 1, 2013, or the Alabama

1 Board of Cosmetology and Barbering under this chapter on the
2 effective date of the act amending this section, shall
3 continue under the Alabama Board of Cosmetology ~~and Barbering~~
4 under this chapter.

5 "§34-7B-28.

6 "The administrative rules of the board existing on
7 August 1, 2013, which reference Chapter 7A of this title,
8 which is repealed by Act 2013-371, shall remain in effect
9 until amended or repealed by the board. The administrative
10 rules of the board existing on the effective date of the act
11 amending this section, which reference the Alabama Board of
12 Cosmetology and Barbering, shall be interpreted as referencing
13 the Alabama Board of Cosmetology under this chapter and shall
14 remain in effect until amended or repealed by the board.

15 "§34-7B-29.

16 "(a) The existence and functioning of the Alabama
17 Board of Cosmetology, created and functioning pursuant to
18 Sections 34-7A-1 to 34-7A-25, inclusive, is continued pursuant
19 to this chapter. All rights, duties, property, real or
20 personal, and all other effects existing in the name of the
21 Alabama Board of Cosmetology, or in any other name by which
22 the board has been known, shall continue in the name of the
23 Alabama Board of Cosmetology and Barbering. Any reference to
24 the Alabama Board of Cosmetology, or any other name by which
25 the board has been known, in any existing law, contract, or
26 other instrument shall constitute a reference to the Alabama
27 Board of Cosmetology and Barbering as created in this chapter.

1 All actions of the Alabama Board of Cosmetology lawfully done
2 prior to August 1, 2013, by the board or by the executive
3 director or administrative assistant are approved, ratified,
4 and confirmed. The board as constituted on August 1, 2013,
5 shall constitute the board under this chapter.

6 "(b) The existence and functioning of the Alabama
7 Board of Cosmetology and Barbering, created and functioning
8 pursuant to this chapter, is continued pursuant to this
9 chapter. All rights, duties, property, real or personal, and
10 all other effects existing in the name of the Alabama Board of
11 Cosmetology and Barbering, or in any other name by which the
12 board has been known, shall continue in the name of the
13 Alabama Board of Cosmetology. Any reference to the Alabama
14 Board of Cosmetology and Barbering, or any other name by which
15 the board has been known, in any existing law, contract, or
16 other instrument shall constitute a reference to the Alabama
17 Board of Cosmetology as created in this chapter. All actions
18 of the Alabama Board of Cosmetology and Barbering lawfully
19 done prior to the effective date of the act adding this
20 subsection, by the board or by the executive director or
21 administrative assistant are approved, ratified, and
22 confirmed. The board as constituted on the effective date of
23 the act adding this subsection shall constitute the board
24 under this chapter."

25 Section 2. All laws or parts of laws which conflict
26 with this act are repealed, and specifically, Section

1 34-7B-17, Code of Alabama 1975, providing for the examination
2 and licensing of Class 2 barbers, is repealed.

3 Section 3. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.