

CHAPTER 159

PROFESSIONS AND OCCUPATIONS

SENATE BILL 05-146

BY SENATOR(S) Kester, Anderson, and Hanna;
also REPRESENTATIVE(S) White, Berens, Butcher, Cloer, Coleman, Frangas, McFadyen, Stengel, Sullivan, and Todd.

AN ACT

**CONCERNING THE REGULATION OF PERSONS PURSUANT TO THE "BARBER AND COSMETOLOGIST ACT"
BY THE DEPARTMENT OF REGULATORY AGENCIES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-8-102, Colorado Revised Statutes, is amended to read:

12-8-102. Legislative declaration. The purpose of this article is to protect the public's health, safety, and welfare with respect to the ~~professions of barbering and cosmetology~~ PROFESSIONAL PRACTICE OF BARBERS, HAIRSTYLISTS, COSMETOLOGISTS, ESTHETICIANS, AND MANICURISTS, and, therefore, testing procedures and disciplinary actions are of the highest priority. Access of qualified professionals to these professions shall not be unduly restricted. The director of the division of registrations in the department of regulatory agencies is hereby directed to enforce this article to accomplish the purposes set forth in this section.

SECTION 2. 12-8-103 (3), (5), (7), (9), (9.5), (10.5), (11), and (13), Colorado Revised Statutes, are amended, and the said 12-8-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

12-8-103. Definitions. As used in this article, unless the context otherwise requires:

(3) "Barber school" means an establishment operated by a person for the purpose of teaching barbering THAT IS CERTIFIED BY THE PRIVATE OCCUPATIONAL SCHOOL DIVISION OR THE COLORADO COMMUNITY COLLEGE SYSTEM, OR IS AN ACCREDITED TECHNICAL SCHOOL THAT TEACHES BARBERING.

(5) "Beauty school" means an establishment operated by a person for the purpose

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

of teaching ~~cosmetology~~ COSMETOLOGISTS, ESTHETICIANS, AND MANICURISTS THAT IS CERTIFIED BY THE PRIVATE OCCUPATIONAL SCHOOL DIVISION OR THE COLORADO COMMUNITY COLLEGE SYSTEM, OR IS AN ACCREDITED TECHNICAL SCHOOL THAT TEACHES COSMETOLOGY.

(7) ~~"Cosmetician" means any person who engages in any one or more of the following practices:~~

~~(a) Giving facials, applying makeup, giving skin care, or applying eyelashes, involving physical contact, to any person;~~

~~(b) Beautifying the face, neck, arms, bust, or upper part of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;~~

~~(c) Massaging, cleaning, or stimulating the face, neck, arms, bust, or upper part of the human body by means of the hands, devices, apparatus, or appliances with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;~~

~~(d) Removing superfluous hair from the body of any person by the use of depilatories or waxing or by the use of tweezers.~~

(9) "Cosmetology" means any one act or practice, or any combination of acts or practices, when done for payment either directly or indirectly or when done without payment for the public generally, usually performed by and included in or known as the profession of beauty culturists, beauty operators, beauticians, ~~cosmeticians~~, ESTHETICIANS, cosmetologists, or hairdressers or of any other person, partnership, corporation, or other legal entity holding itself out as practicing cosmetology by whatever designation and within the meaning of this article. In particular, "cosmetology" includes, but is not limited to, any one or a combination of the following acts or practices: Arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of any person by any means and, with hands or mechanical or electrical apparatus or appliances or by the use of cosmetic or chemical preparations, ~~antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, exercising the scalp, face, neck, arms, hands, or shoulders~~ or manicuring or pedicuring the nails of any person; GIVING FACIALS, APPLYING MAKEUP, GIVING SKIN CARE, OR APPLYING EYELASHES INVOLVING PHYSICAL CONTACT WITH ANY PERSON; BEAUTIFYING THE FACE, NECK, ARMS, BUST, OR TORSO OF THE HUMAN BODY BY USE OF COSMETIC PREPARATIONS, ANTISEPTICS, TONICS, LOTIONS, OR CREAMS; MASSAGING, CLEANING, OR STIMULATING THE FACE, NECK, ARMS, BUST, OR TORSO OF THE HUMAN BODY WITH THE USE OF ANTISEPTICS, TONICS, LOTIONS, OR CREAMS; REMOVING SUPERFLUOUS HAIR FROM THE BODY OF ANY PERSON BY THE USE OF DEPILATORIES OR WAXING OR BY THE USE OF TWEEZERS; AND THE TRIMMING OF THE BEARD.

(9.4) "ESTHETICIAN" MEANS ANY PERSON WHO ENGAGES IN ANY ONE OR MORE OF THE FOLLOWING PRACTICES:

(a) GIVING FACIALS, APPLYING MAKEUP, GIVING SKIN CARE, OR APPLYING EYELASHES, INVOLVING PHYSICAL CONTACT, TO ANY PERSON;

(b) BEAUTIFYING THE FACE, NECK, ARMS, BUST, OR TORSO OF THE HUMAN BODY BY

THE USE OF COSMETIC PREPARATIONS, ANTISEPTICS, TONICS, LOTIONS, OR CREAMS;

(c) MASSAGING, CLEANING, OR STIMULATING THE FACE, NECK, ARMS, BUST, OR TORSO OF THE HUMAN BODY BY MEANS OF THE HANDS, DEVICES, APPARATUS, OR APPLIANCES WITH THE USE OF COSMETIC PREPARATIONS, ANTISEPTICS, TONICS, LOTIONS, OR CREAMS;

(d) REMOVING SUPERFLUOUS HAIR FROM THE BODY OF ANY PERSON BY THE USE OF DEPILATORIES OR WAXING OR BY THE USE OF TWEEZERS.

(9.5) "Free lance shop operator" means an individual who engages in barbering, HAIRSTYLING, or cosmetology OR PRACTICES AS AN ESTHETICIAN OR MANICURIST at locations other than fixed or mobile barbershops or beauty shops.

(10.5) "Manicuring" means any one act or practice, or combination of acts or practices, when done for direct or indirect payment or when done without payment for the public generally. "Manicuring" includes, but is not limited to, the filing, buffing, polishing, cleansing, extending, protecting, wrapping, covering, building, pushing, or trimming of nails or any other similar work upon the nails of any person by any means, including the softening of the hands, arms, ankles, or feet of any person by use of hands, mechanical or electrical apparatus or appliances, cosmetic or chemical preparations, antiseptics, lotions, or creams or by massaging, cleansing, stimulating, manipulating, or exercising the arms, hands, feet, or ankles of any person. MANICURING ALSO INCLUDES WAXING OR THE USE OF DEPILATORIES ON THE LEG UP TO THE KNEE, AND THE WAXING OR THE USE OF DEPILATORIES ON THE ARM UP TO THE ELBOW.

(11) "Manicurist" means a person who engages in the limited practices of cosmetology known as manicuring. Unless otherwise licensed under this article, a manicurist shall not engage in the ~~other practices~~ PRACTICE of cosmetology, ~~or~~ barbering, ~~as defined in this section,~~ HAIRSTYLING OR PRACTICE AS AN ESTHETICIAN.

(13) "Place of business" means a fixed establishment, temporary location, or place, including any mobile barber shop or beauty salon, in which one or more persons engage in the practice of barbering, HAIRSTYLING, or cosmetology OR PRACTICE AS A MANICURIST OR AN ESTHETICIAN. The term "temporary location" includes a motor home as defined in section 42-1-102 (57), C.R.S.

SECTION 3. 12-8-103 (9.7), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-8-103. Definitions. As used in this article, unless the context otherwise requires:

(9.7) "Hairstyling" means providing one or more of the following hair care services upon the upper part of the human body for cosmetic purposes for payment either directly or indirectly, or when done without payment for the public generally:

(e) TRIMMING THE BEARD.

SECTION 4. Repeal. 12-8-107 (2), Colorado Revised Statutes, is repealed as

follows:

12-8-107. Books and records - report - publications. (2) ~~The director may prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S., a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the director.~~

SECTION 5. 12-8-108 (1) (d), (1) (f) (I), and (2), Colorado Revised Statutes, are amended to read:

12-8-108. Powers and duties of the director - advisory committee - rules - repeal. (1) The director has the following powers and duties:

(d) To supervise and regulate the industries of barbering, HAIRSTYLING, and cosmetology AND THE PRACTICES OF ESTHETICIANS AND MANICURISTS of this state in accordance with this article, but nothing contained in this article shall be construed to abrogate the status, force, or operation of any provisions of any public health law of this state or any local health ordinance or regulation;

(f) (I) To investigate ~~upon written complaint~~, UPON HIS OR HER OWN INITIATIVE OR UPON RECEIVING A COMPLAINT all suspected or alleged violations of this article, UNLESS THE DIRECTOR OR HIS OR HER DESIGNEE DETERMINES THAT A COMPLAINT OR ALLEGED VIOLATION IS WITHOUT MERIT, and to enter premises in which violations are alleged to have occurred during business hours.

(2) (a) The director shall appoint a five member advisory committee to assist in the performance of the director's duties. The advisory committee shall consist of at least three licensees who have expertise in the area under review, A REPRESENTATIVE FROM A COLORADO LICENSED SCHOOL THAT PROVIDES TRAINING FOR LICENSEES IN THE INDUSTRY, AND A MEMBER OF THE PUBLIC. Members of the advisory committee shall be compensated for their services in accordance with the provisions of section 24-34-102 (13), C.R.S. THE ADVISORY COMMITTEE SHALL MEET AT LEAST FOUR TIMES A YEAR AND PRIOR TO THE ADOPTION OF RULES, AND AT THE REQUEST OF THE DIRECTOR.

(b) This subsection (2) is repealed, effective July 1, ~~2005~~ 2015. Prior to such repeal, the advisory committee shall be reviewed as provided for in section 2-3-1203, C.R.S.

SECTION 6. 12-8-110 (3), Colorado Revised Statutes, is amended to read:

12-8-110. Examinations. (3) Such examinations shall be consistent with the practical and theoretical requirements of the practices of barbering, hairstyling, ~~or~~ cosmetology, MANICURIST SERVICES, OR ESTHETICIAN SERVICES as provided by this article, and such examinations shall be reviewed, revised, and updated periodically on a reasonable basis by the director IN CONSULTATION WITH THE ADVISORY COMMITTEE CREATED PURSUANT TO SECTION 12-8-108. Examinations shall be graded promptly, and the results of the examinations shall be made available to the applicants promptly. The examination shall emphasize health and safety issues. ~~Such examinations shall be developed and graded within the state of Colorado.~~

SECTION 7. 12-8-114 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

12-8-114. Qualifications of applicants - requirements. (1) An applicant for any license provided in this article or for examination shall be at least sixteen years of age. ~~and shall not have committed any act which would be grounds for disciplinary action pursuant to section 12-8-132.~~

(3) An applicant for examination shall furnish proof of training of not less than the number of hours of course completion in the subject area in which the applicant seeks licensure as follows:

- (a) ~~One thousand~~ SIXTY CREDIT hours for a cosmetologist;
- (b) ~~One thousand~~ FIFTY CREDIT hours for a barber;
- (c) ~~Five hundred fifty~~ TWENTY CREDIT hours for ~~a cosmetician~~ AN ESTHETICIAN;
- (d) ~~Three hundred fifty~~ TWENTY CREDIT hours for a manicurist; ~~except that in order to allow those manicurists who exclusively practiced in the service of applying artificial nails prior to the requirement of licensure for such service sufficient time to obtain the education necessary to qualify for licensure, such persons may practice this limited service without a license until January 1, 1991.~~
- (e) ~~One thousand~~ FORTY CREDIT hours for a hairstylist.

(4) Every person desiring to obtain a license to practice the occupation of a barber, cosmetologist, ~~cosmetician~~ ESTHETICIAN, hairstylist, or manicurist in this state shall apply therefor and pay to the director an examination fee. Applicants who successfully pass such examination and who otherwise qualify shall be issued a license upon the payment of the required fee.

SECTION 8. Repeal. 12-8-114.5, Colorado Revised Statutes, is repealed.

SECTION 9. 12-8-118, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

12-8-118. Licensure by endorsement. (1) THE DIRECTOR SHALL ISSUE A LICENSE BY ENDORSEMENT TO ENGAGE IN THE PRACTICE OF BARBERING, COSMETOLOGY, HAIRSTYLING, MANICURING, OR ESTHETICIAN SERVICES IN THIS STATE TO AN INDIVIDUAL WHO POSSESSES AN ACTIVE LICENSE IN GOOD STANDING TO PRACTICE IN THAT PROFESSION IN ANOTHER STATE OR TERRITORY OF THE UNITED STATES OR IN A FOREIGN COUNTRY IF THE APPLICANT PRESENTS PROOF THAT IS SATISFACTORY TO THE DIRECTOR, THAT THE APPLICANT:

- (a) POSSESSES A VALID LICENSE FROM ANOTHER STATE OR JURISDICTION THAT IS SUBSTANTIALLY EQUIVALENT TO THE REQUIREMENTS IN COLORADO FOR LICENSURE AND MEETS ALL OTHER REQUIREMENTS FOR LICENSURE PURSUANT TO THIS ARTICLE. THE DIRECTOR MAY SPECIFY BY RULE WHAT SHALL CONSTITUTE SUBSTANTIALLY EQUIVALENT LICENSURE AND QUALIFICATIONS; AND

(b) HAS PAID THE PRESCRIBED LICENSURE FEES.

SECTION 10. 12-8-119, Colorado Revised Statutes, is amended to read:

12-8-119. Issuance of license - display. If an applicant for examination to practice barbering, HAIRSTYLING, or cosmetology OR TO PROVIDE ESTHETICIAN OR MANICURIST SERVICES passes such examination and has paid the required fee and complies with the requirements of this article, the director shall issue a license to that effect. Such license shall be evidence that the person to whom it is issued is entitled to engage in the practices, occupation, or occupations stipulated therein. Such license shall be conspicuously displayed in such licensee's principal office or place of business or employment.

SECTION 11. 12-8-120, Colorado Revised Statutes, is amended to read:

12-8-120. License required. It is unlawful for any person to engage in, or attempt to engage in, the occupation of barbering, HAIRSTYLING, or cosmetology OR TO PROVIDE ESTHETICIAN OR MANICURIST services in this state unless such person first obtains a license as provided in this article.

SECTION 12. 12-8-121 (1) (d), Colorado Revised Statutes, is amended to read:

12-8-121. Exemptions. (1) Nothing in this article shall prohibit services by:

(d) A student of a barbering, HAIRSTYLING, or cosmetology school OR OF ESTHETICIAN OR MANICURIST SERVICES who has received more than twenty percent of the hours of instruction required in section 12-8-114 (3) and who is rendering services at such school under supervision of a licensee within the school setting.

SECTION 13. 12-8-122, Colorado Revised Statutes, is amended to read:

12-8-122. Director may employ aid - compensation. The director may employ any person licensed pursuant to this article for the purpose of conducting examinations. Such persons shall not be connected with any school teaching barbering, HAIRSTYLING, or cosmetology OR ESTHETICIAN OR MANICURIST STUDENTS. Any person so employed by the director may receive compensation for services for each day employed in the actual discharge of such person's official duties and actual and necessary expenses incurred, to be set by the director upon the approval of the executive director of the department of regulatory agencies.

SECTION 14. 12-8-127 (1), Colorado Revised Statutes, is amended to read:

12-8-127. Penalty. (1) Any person practicing barbering, HAIRSTYLING, or cosmetology, or any of the practices thereof, or PROVIDING ESTHETICIAN OR MANICURIST SERVICES acting in any capacity wherein a license is required without a license provided for in this article; any person knowingly employing a barber, ~~or~~ HAIRSTYLIST, cosmetologist, ESTHETICIAN, OR MANICURIST who has not obtained such license; any person who falsely pretends to be qualified to practice such occupation; any person who permits anyone in such person's employ or under his or her supervision or control to practice barbering, HAIRSTYLING, or cosmetology OR TO PRACTICE AS AN ESTHETICIAN OR A MANICURIST without a license issued by the

director; any person who obtains or attempts to obtain a license for money other than the required fee or other thing of value commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

SECTION 15. 12-8-132 (1) (b) and (1) (d), Colorado Revised Statutes, are amended to read:

12-8-132. Grounds for denial, revocation, or suspension of license. (1) The director may deny, revoke, suspend, or make probationary any license issued under the director's authority pursuant to this article upon proof that the licensee:

(b) Has made any misstatement on his OR HER application for licensure to practice ~~barbering or cosmetology~~ AS A BARBER, HAIRSTYLIST, COSMETOLOGIST, ESTHETICIAN, OR MANICURIST;

(d) ~~Is addicted to or dependent on alcohol or habit-forming drugs or is an habitual user of controlled substances, as defined in section 12-22-303 (7), or other drugs having similar effects, if the use, addiction, or dependency is a danger to the public~~ EXCESSIVELY OR HABITUALLY USES OR ABUSES ALCOHOL OR CONTROLLED SUBSTANCES;

SECTION 16. 2-3-1203 (3) (r) (III), Colorado Revised Statutes, is amended, and the said 2-3-1203 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(r) July 1, 2005:

(III) ~~The advisory committee appointed pursuant to section 12-8-108 (2), C.R.S., by the director of the division of registrations in the department of regulatory agencies;~~

(bb) JULY 1, 2015: THE ADVISORY COMMITTEE APPOINTED PURSUANT TO SECTION 12-8-108 (2), C.R.S., BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 17. 12-8-133, Colorado Revised Statutes, is amended to read:

12-8-133. Repeal of article. This article is repealed, effective July 1, ~~2005~~ 2015. Prior to such repeal, the licensing functions of the director shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 18. Repeal. 24-34-104 (36) (c), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (36) The following agencies, functions, or both, shall terminate on July 1, 2005:

~~(c) The licensing of barbers and cosmetologists by the director of the division of registrations pursuant to article 8 of title 12, C.R.S.;~~

SECTION 19. 24-34-104 (46), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (46) The following agencies, functions, or both, shall terminate on July 1, 2015:

(f) THE LICENSING OF BARBERS, HAIRSTYLISTS, COSMETOLOGISTS, COSMETICIANS, AND MANICURISTS BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS PURSUANT TO ARTICLE 8 OF TITLE 12, C.R.S.

SECTION 20. Effective date. This act shall take effect July 1, 2005.

SECTION 21. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 2005