

1 SB8
2 163865-1
3 By Senator Whatley
4 RFD: Governmental Affairs
5 First Read: 03-MAR-15
6 PFD: 01/21/2015

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8 SYNOPSIS: Under existing law, the Alabama Board of
9 Cosmetology and Barbering is responsible for the
10 licensing and regulating of barbers,
11 cosmetologists, estheticians,
12 esthetician/manicurists, manicurists,
13 manicurist/waxers, natural hairstylists, and
14 threaders in the state.

15 This bill would change the name of the board
16 from the Alabama Board of Cosmetology and Barbering
17 to the State Board of Cosmetology.

18 This bill would exempt all barbers from
19 licensing and regulation by the board.

20 This bill would revise the membership of the
21 board to increase the number of active
22 cosmetologists serving on the board from two to
23 three, to remove, upon the expiration of their
24 current terms, the two barber members of the board,
25 and to increase the number of active estheticians
26 serving on the board from one to two.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 To amend Sections 34-7B-1, 34-7B-2, 34-7B-6,
27 34-7B-7, 34-7B-13, as amended by Act 2014-168, 2014 Regular

1 Session (Acts 2014), 34-7B-26, 34-7B-27, and 34-7B-29, Code of
2 Alabama 1975, relating to the Alabama Board of Cosmetology and
3 Barbering; to change the name of the board to the State Board
4 of Cosmetology; to exempt all barbers from licensing and
5 regulation by the board; to revise the membership of the board
6 to reflect the exemption of barbers; to repeal Section
7 34-7B-17, Code of Alabama 1975, relating to the qualifications
8 of applicants for examination or licensure as barbers; and in
9 connection therewith would have as its purpose or effect the
10 requirement of a new or increased expenditure of local funds
11 within the meaning of Amendment 621 of the Constitution of
12 Alabama of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 34-7B-1, 34-7B-2, 34-7B-6,
17 34-7B-7, 34-7B-13, as amended by Act 2014-168, 2014 Regular
18 Session (Acts 2014), 34-7B-26, 34-7B-27, and 34-7B-29 of the
19 Code of Alabama 1975, are amended to read as follows:

20 "§34-7B-1.

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

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

1 license issued by the board for at least five years, in a shop
2 licensed by the board. No apprenticeship is provided for
3 natural hairstyling.

4 "(2) BARBER. Any person, ~~other than a student or~~
5 ~~apprentice,~~ who performs barbering on the general public for
6 compensation, ~~and who shall satisfy the qualifications and~~
7 ~~licensure requirements provided in this chapter for a barber.~~

8 "(3) BARBERING. The occupation of shaving or
9 trimming the beard, cutting or dressing the hair, giving
10 facial or scalp massages, giving facial or scalp treatment
11 with oils or creams or other preparations made for that
12 purpose, either by hand or by means of mechanical appliances,
13 singeing and shampooing the hair, dyeing the hair, or
14 permanently waving or straightening the hair of any living or
15 deceased person for compensation.

16 "(4) BOARD. The ~~Alabama~~ State Board of Cosmetology
17 ~~and Barbering.~~

18 "(5) COSMETOLOGIST. Any person, other than a student
19 or apprentice, who performs cosmetology on the general public
20 for compensation, and who shall satisfy the qualifications and
21 licensure requirements provided in this chapter for a
22 cosmetologist.

23 "(6) COSMETOLOGY. Any of the practices generally
24 recognized as beauty culture, hairdressing, or any other
25 designation engaged in by any person who performs such on the
26 general public for compensation including, but not limited to,
27 cleansing, singeing, cutting, arranging, dressing, curling,

1 braiding, waxing, bleaching, weaving, coloring the hair by
2 hand or mechanical apparatus, the use of creams, lotions, or
3 cosmetic preparations, with or without massage, on the scalp,
4 face, arms, legs, feet, or hands, esthetics practices, nail
5 technology, manicure, pedicure, or desairology.

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

11 "(8) ESTHETICS. The practice of performing acts of
12 skin care including, but not limited to, facials, body waxing,
13 makeup, and general esthetics procedures on the general public
14 for compensation.

15 "(9) ESTHETICS/MANICURE. A combination of the
16 practices of esthetics and manicure.

17 "(10) ESTHETICIAN/MANICURIST. Any person, other than
18 a student or apprentice, who performs a combination of the
19 practices of esthetics and manicure on the general public for
20 compensation, and who shall satisfy the qualifications and
21 licensure requirements provided in this chapter for an
22 esthetician/manicurist.

23 "(11) INSTRUCTOR. A licensee who teaches in a
24 licensed or registered school of ~~barbering~~ or any branch of
25 cosmetology and completes any applicable requirements for
26 continuing education.

1 "(12) LICENSE. A document issued by the board which
2 entitles the holder to practice the profession listed on the
3 document.

4 "(13) LICENSEE. Any person holding a license issued
5 pursuant to this chapter.

6 "(14) MANICURE. The practice of beautifying or
7 grooming the fingernails, toenails, adding nail tips,
8 extensions, gels, or massaging the hands, forearms, feet, or
9 lower legs of the general public for compensation.

10 "(15) MANICURIST. Any person, other than a student
11 or apprentice, who performs the practice of manicure on the
12 general public for compensation, and who shall satisfy the
13 qualifications and licensure requirements provided in this
14 chapter for a manicurist.

15 "(16) MANICURE/WAXING. A combination of the
16 practices of manicure and waxing.

17 "(17) MANICURIST/WAXER. Any person, other than a
18 student or apprentice, who performs a combination of the
19 practices of manicure and waxing on the general public for
20 compensation, and who shall satisfy the qualifications and
21 licensure requirements provided in this chapter for a
22 manicurist/waxer.

23 "(18) NATURAL HAIR STYLING. The practice of
24 cleansing, weaving or interweaving, extending, locking,
25 braiding, or arranging the hair without cutting, coloring,
26 permanent waving, relaxing, removing, or chemical treatments.

1 "(19) NATURAL HAIRSTYLIST. Any person, other than a
2 student, who performs natural hair styling on the general
3 public for compensation, and who shall satisfy the
4 qualifications and licensure requirements provided in this
5 chapter for a natural hairstylist.

6 "(20) SCHOOL. An establishment licensed or
7 registered by the board to teach any or all of the practices
8 of ~~barbering or~~ cosmetology.

9 "(21) SHAMPOO ASSISTANT. Any person who is licensed
10 to perform only the practices of shampooing, cleansing, or
11 applying temporary weekly color rinses to the hair of the
12 general public for compensation, and who shall satisfy the
13 qualifications and licensure requirements provided in this
14 chapter for a shampoo assistant.

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

18 "(23) STUDENT. Any person who is engaged in learning
19 any practice regulated by this chapter in a school licensed or
20 registered pursuant to this chapter, and who, as part of the
21 learning process, performs or assists in any practice
22 regulated by this chapter under the immediate supervision of
23 an instructor who is licensed pursuant to this chapter.

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

26 "(25) THREADER. Any person engaged in the practice
27 of threading on the general public for compensation, and who

1 shall satisfy the qualifications and licensure requirements
2 provided in this chapter for a threader.

3 "§34-7B-2.

4 "(a) There is created the ~~Alabama~~ State Board of
5 Cosmetology ~~and Barbering~~ which shall consist of seven persons
6 appointed by the Governor. The membership of the board shall
7 include all of the following:

8 "(1) ~~Two~~ Three active cosmetologists, who have been
9 licensed by the board as cosmetologists for at least five
10 years before appointment.

11 "~~(2) Two actively practicing barbers, who are~~
12 ~~practicing on August 1, 2013, and have been practicing in the~~
13 ~~state for at least five years before appointment. Except for~~
14 ~~the initial barber members appointed to the board, barber~~
15 ~~members of the board shall be licensed by the board before~~
16 ~~appointment.~~

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

20 "~~(4)~~ (3) One active manicurist who has been licensed
21 by the board as a manicurist for at least five years before
22 appointment.

23 "~~(5)~~ (4) One consumer.

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

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

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

11 "(e) The terms of all board members serving on
12 August 1, 2013, shall continue until expiration pursuant to
13 original appointment. To facilitate the intent of this
14 chapter, members whose terms expire by October 30, 2013, shall
15 continue to serve until a successor is appointed pursuant to
16 this chapter. As terms expire, successor board members shall
17 be appointed by the Governor pursuant to subsection (a).

18 "(f) Members of the board shall annually elect from
19 among their members a chair, a vice chair, a secretary, and a
20 treasurer. The offices of secretary and treasurer may be
21 combined.

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

27 "§34-7B-6.

1 "(a) There is established a special fund in the
2 State Treasury to be known as the Board of Cosmetology ~~and~~
3 ~~Barbering~~ Fund. The fund shall consist of all monies received
4 by the board pursuant to this chapter. Monies in the fund
5 shall be disbursed only upon warrant of the Comptroller upon
6 itemized vouchers signed by the treasurer of the board or an
7 authorized designee. Any money remaining in the fund at the
8 end of each fiscal year shall remain on deposit in the fund
9 for the use of the board.

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

13 "§34-7B-7.

14 "(a) Any person who desires to engage in any of the
15 practices regulated by the board pursuant to this chapter
16 shall be a citizen of the United States or, if not a citizen
17 of the United States, a person who is legally present in the
18 United States with appropriate documentation from the federal
19 government, and shall file with the board a written
20 application for examination or licensure. Before a person may
21 engage in the practices regulated by this chapter, the person
22 shall be licensed by the board pursuant to this chapter. Any
23 person who practices, maintains a school or shop, or acts in
24 any capacity without a license when one is required pursuant
25 to this chapter, or who otherwise violates this chapter, shall
26 be guilty of a misdemeanor and fined five hundred dollars
27 (\$500) or imprisoned for not more than 30 days, or both. Any

1 corporation which violates this chapter shall be punished by a
2 fine of not more than one thousand dollars (\$1,000).

3 "(b) Licenses and permits issued by the board under
4 the seal of the board and signed by an authorized
5 representative of the board entitle the holder to legally
6 practice the stated profession.

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

9 "a. All legal requirements, completion of the
10 required hours as a student or apprentice, submission of the
11 appropriate examination fees, successful completion of the
12 appropriate examination, and submission of any applicable
13 license fees.

14 "b. Be currently licensed in good standing in
15 another state or jurisdiction, with documentation of having
16 passed a board-approved examination, and submission of any
17 applicable license fees.

18 "c. Be currently licensed in good standing in
19 another state or jurisdiction, with documentation of having
20 practiced as a licensee for at least five years before
21 application to the board, and submission of any applicable
22 license fees.

23 "d. Be otherwise qualified, submit any applicable
24 examination fees, successfully complete any appropriate
25 examinations, and submit any applicable license fees.

1 "(2)a. An application for examination or
2 reexamination shall include the payment of a nonrefundable
3 fee.

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

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

9 "d. An applicant who fails the prescribed
10 examination on a third attempt shall complete additional hours
11 of school training as the board may direct before being
12 allowed to repeat the examination.

13 "(3) Personal licenses for any practice ~~except~~
14 ~~barbering as~~ regulated by the board shall expire on the last
15 day of the birth month of the licensee in odd-numbered years.
16 An application for renewal that is postmarked later than the
17 license expiration date shall subject the licensee to a late
18 fee.

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

24 "~~(5)~~(4) Active personal licenses shall be displayed
25 in a conspicuous place near the work station of the licensee.

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

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

9 "~~(3) On or before December 31, 2013, the initial fee~~
10 ~~for a barber business license shall be one hundred fifty~~
11 ~~dollars (\$150) for a shop and three hundred dollars (\$300) for~~
12 ~~a school. Renewal fees shall be the same fee as the board~~
13 ~~provides for other business licenses under this chapter.~~

14 "~~(4)~~ (3) A business license shall be displayed in a
15 conspicuous place near the main entrance of the business.

16 "~~(5) The initial fee for a personal barber license~~
17 ~~shall be the same fee as is provided for other original~~
18 ~~licenses under this chapter. The renewal fee shall be the same~~
19 ~~as is provided for other licenses under this chapter.~~

20 "§34-7B-13.

21 "(a) This chapter does not apply to any of the
22 following persons, activities, or services:

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

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

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

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

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

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

14 "~~(7) The licensees of any county or municipal barber~~
15 ~~board or commission in existence on August 1, 2013, unless~~
16 ~~such board or commission elects, by resolution adopted by the~~
17 ~~governing body of the county or municipality, to come under~~
18 ~~the provisions of this chapter.~~

19 "(7)(8) Any barber or person who has been practicing
20 as a barber, as that term is defined in ~~this subdivision~~
21 subsection (b), for at least 10 years on or before August 1,
22 2013. For purposes of this subdivision, the definitions of the
23 terms "barber" and "barbering" in Section 34-7B-1 shall not
24 apply.

25 "(b) For purposes of ~~this subdivision~~ (7) of
26 subsection (a), the term "practicing as a barber" shall be
27 defined as any one or a combination of the following

1 practices, when done upon the human body above the seventh
2 cervical vertebra for cosmetic purposes and not for the
3 treatment of disease or physical or mental ailments, and when
4 done for payment, directly or indirectly or without payment
5 for the public generally: Shaving or trimming the beard or
6 trimming the hair. Any person who claims an exemption under
7 this ~~subdivision~~ subsection and performs services on the
8 public that are not permitted under the definition of
9 practicing as a barber as provided in this ~~subdivision~~
10 subsection, shall be subject to an administrative fine
11 pursuant to subsection (c) of Section 34-7B-10.

12 "§34-7B-26.

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

16 "(1) An applicant shall submit to the board all of
17 the following:

18 "a. A bond, in the amount of fifty thousand dollars
19 (\$50,000) to protect potential students in the event of
20 closure.

21 "b. Proof of sufficient liability insurance
22 coverage.

23 "c. A current financial statement prepared by a
24 reputable source and, if required by the board, a letter of
25 credit.

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

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

3 "f. Furnish affidavits from an adequate number of
4 prospective students as approved by the board stating their
5 intent to enroll when the school opens.

6 "(2) The applicant, owner, proposed dean, or proper
7 corporate executive may be required to appear before the
8 board.

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

11 "a. In compliance with all state and local zoning,
12 health, and building codes.

13 "b. Clean and well-lighted.

14 "c. Large enough to accommodate the anticipated
15 student body.

16 "d. Completely segregated from any other business.

17 "e. Contains sufficient equipment and supplies for
18 the proper and complete teaching of all subjects in its
19 proposed curriculum.

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

23 "(1) Employ one instructor and one on-call
24 instructor for the first 20 students enrolled and in
25 attendance at the school, and an additional instructor for
26 each additional 20 students enrolled and in attendance at the
27 school.

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

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

5 "(4) Maintain daily, monthly, and cumulative records
6 for each student.

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

8 "(6) Establish grades and conduct appropriate
9 examinations on a timely basis.

10 "(7) Require a school term of training for a
11 complete course with the minimum number of hours prescribed
12 for each term. Programs reporting by clock hours shall comply
13 with recording rules provided in this subsection and shall
14 also furnish the board with an official transcript for each
15 student within 30 days after the student completes the program
16 or terminates enrollment.

17 "(8) Include practical demonstrations, theoretical
18 studies, and the study of sanitation, sterilization, and other
19 safety measures and the use of antiseptics, cosmetics, and
20 electrical appliances consistent with the practical and
21 theoretical requirements applicable to any of the practices
22 regulated by this chapter which are part of the school's
23 curriculum.

24 "(c) A school engaged only in the teaching of
25 ~~barbers,~~ estheticians, or manicurists is not required to
26 provide instruction in other practices regulated by this
27 chapter. Such a school is required to satisfy all requirements

1 imposed upon a school of cosmetology ~~or a school of barbering~~
2 relating to instructors, attendance records, enrollment, and
3 other matters.

4 "(d) The sale or transfer of a school is subject to
5 prior approval by the board if the school is to continue in
6 operation after the sale or transfer. The board may deny the
7 sale or transfer of a school if the owner or operator of the
8 school is the subject of outstanding violations of this
9 chapter or the rules of the board, or both.

10 "§34-7B-27.

11 "The status of any person or entity properly
12 licensed by the Alabama Board of Cosmetology under former
13 Chapter 7A of this title, on August 1, 2013, or by the Alabama
14 Board of Cosmetology and Barbering under this chapter on the
15 effective date of the act amending this section, shall
16 continue under the ~~Alabama State~~ Board of Cosmetology and
17 Barbering on and after the effective date of the act amending
18 this section.

19 "§34-7B-29.

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

1 the Alabama Board of Cosmetology, or any other name by which
2 the board has been known, in any existing law, contract, or
3 other instrument shall constitute a reference to the Alabama
4 Board of Cosmetology and Barbering as created in this chapter.
5 All actions of the Alabama Board of Cosmetology lawfully done
6 prior to August 1, 2013, by the board or by the executive
7 director or administrative assistant are approved, ratified,
8 and confirmed. The board as constituted on August 1, 2013,
9 shall constitute the board under this chapter.

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

1 constituted on the effective date of the act adding this
2 subsection shall constitute the board under this chapter."

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 3. All laws or parts of laws which conflict
12 with this act are repealed, and specifically Section 34-7B-17,
13 Code of Alabama 1975, providing qualifications of applicants
14 for examination or licensure as barbers, is repealed.

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