

IN THE SENATE

SENATE BILL NO. 1295

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO THE BARBER AND COSMETOLOGY SERVICES ACT; AMENDING SECTION  
2 54-5802, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE A CORRECT CODE  
3 REFERENCE; AMENDING SECTION 54-5805, IDAHO CODE, TO PROVIDE A CERTAIN  
4 EXEMPTION FROM LICENSURE, TO PROVIDE A CORRECT CODE REFERENCE, AND TO  
5 MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 54-5802, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 54-5802. DEFINITIONS. As used in this chapter:

11 (1) "Apprentice" means a person registered with the barber and cosme-  
12 tology services licensing board to learn an occupation in a licensed estab-  
13 lishment who, while so learning, performs or assists in performing any prac-  
14 tices of barbering, barber-styling, cosmetology, or electrology.

15 (2) "Barber" means a person licensed to practice barbering as defined  
16 in this section.

17 (3) "Barbering" means any one (1) or any combination of the following  
18 practices when performed on the upper part of the human body for cosmetic  
19 purposes and not for the treatment of disease or physical or mental ailments:

20 (a) Shaving the face or cutting, trimming, arranging, dressing, curl-  
21 ing, cleansing, singeing or performing similar work on the hair;

22 (b) Fitting, cutting or dressing hairpieces or toupees;

23 (c) Giving facial and scalp massages or treatments with oils, creams,  
24 lotions or other preparations, either by hand or by a mechanical appli-  
25 ance; and

26 (d) Applying cosmetic preparations, antiseptics, powders, oils, clays  
27 or lotions to the scalp, face, and neck.

28 (4) "Barber-styling" means any one (1) or any combination of the fol-  
29 lowing practices when performed on the upper part of the human body for cos-  
30 metic purposes and not for the treatment of disease or physical or mental  
31 ailments:

32 (a) Shaving the face or cutting, trimming, arranging, dressing, curl-  
33 ing, waving by any method, straightening, cleansing, singeing, bleach-  
34 ing, coloring or performing similar work on the hair;

35 (b) Fitting, cutting or dressing hairpieces or toupees;

36 (c) Giving facial and scalp massages or treatments with oils, creams,  
37 lotions or other preparations, either by hand or by a mechanical appli-  
38 ance; and

39 (d) Applying cosmetic preparations, antiseptics, powders, oils, clays  
40 or lotions to the scalp, face, and neck.

41 (5) "Barber-stylist" means a person licensed to practice bar-  
42 ber-styling as defined in this section.

1 (6) "Board" means the barber and cosmetology services licensing board  
2 established by section 54-5806, Idaho Code.

3 (7) "Cosmetologist" means a person licensed to practice cosmetology as  
4 defined in this section.

5 (8) "Cosmetology" means any one (1) or any combination of the following  
6 practices when performed on the human body for cosmetic purposes and not for  
7 the treatment of disease or physical or mental ailments:

8 (a) Cutting, trimming, arranging, dressing, curling, waving by any  
9 method, cleansing, singeing, bleaching, coloring or performing similar  
10 work on the hair, except as provided for in subsection ~~(25)~~ (26) of this  
11 section;

12 (b) Fitting, cutting or dressing hairpieces or toupees;

13 (c) Noninvasive care of the skin by application of cosmetic prepa-  
14 rations, antiseptics, tonics, lotions, creams and essential oils  
15 to cleanse, massage, exfoliate, hydrate and stimulate; makeup ap-  
16 plication; pore extraction; use of chemical exfoliants approved for  
17 professional esthetic use; particle exfoliation; use of any class I  
18 medical device, as classified by the United States food and drug admin-  
19 istration, designed for care of the skin, except that a class II medical  
20 device designed for care of the skin may be used as directed and super-  
21 vised by an authorized and licensed health care practitioner; temporary  
22 removal of superfluous hair by lotions, creams, waxing, tweezing, de-  
23 pilatories or other means; and tinting or perming the eyebrows and  
24 eyelashes; and

25 (d) Manicuring and pedicuring nails and applying artificial nails.

26 (9) "Division" means the division of occupational and professional li-  
27 censes.

28 (10) "Electrologist" means a person licensed to practice electrology,  
29 as defined in this section, and skilled in the permanent removal of unwanted  
30 hair.

31 (11) "Electrology" or "electrolysis" means the permanent removal of  
32 hair by destroying the hair-producing cells of the skin and vascular system  
33 through the use of equipment and devices approved by and registered with the  
34 United States food and drug administration.

35 (12) "Establishment" means a place licensed under this chapter, other  
36 than a licensed school, where barbering, barber-styling, cosmetology or  
37 electrology is practiced.

38 (13) "Esthetician" means a person licensed to practice esthetics as de-  
39 fined in this section.

40 (14) "Esthetics" means noninvasive care of the skin by application of  
41 cosmetic preparations, antiseptics, tonics, lotions, creams and essential  
42 oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup applica-  
43 tion; pore extraction; use of chemical exfoliants approved for professional  
44 esthetic use; particle exfoliation; use of any class I medical device, as  
45 classified by the United States food and drug administration, designed for  
46 care of the skin, except that a class II medical device designed for care  
47 of the skin may be used as directed and supervised by an authorized and li-  
48 censed health care practitioner; temporary removal of superfluous hair by  
49 lotions, creams, waxing, tweezing, depilatories or other means; and tinting  
50 or perming the eyebrows and eyelashes.

1 (15) "Haircutting" means cutting, trimming, arranging, dressing, curl-  
2 ing, cleansing, singeing or performing similar work on the hair and fitting,  
3 cutting or dressing hairpieces or toupees.

4 (16) "Hairpieces or toupees" means a full or partial head covering that  
5 is made from natural or synthetic hair that is affixed to a person's scalp,  
6 hair, or head with an adhesive agent such as glue, tape, keratin bonds, fu-  
7 sion bonds, or other bonding agent, and is worn during activities such as  
8 sleep, exercise, and bathing.

9 ~~(16)~~ (17) "High school student" means a person who has completed the  
10 first two (2) years of high school and is enrolled in a high school or sec-  
11 ondary school licensed under this chapter.

12 ~~(17)~~ (18) "Instructor" means a person licensed under this chapter to  
13 practice and teach any practice defined in this section.

14 ~~(18)~~ (19) "Instructor trainee" means a barber, barber-stylist or cosme-  
15 tologist attending a licensed school to receive training to teach barbering,  
16 barber-styling or cosmetology.

17 ~~(19)~~ (20) "Licensed school" means a secondary or postsecondary barber,  
18 cosmetology, or electrology school that:

19 (a) Is licensed under its official name by the barber and cosmetology  
20 services licensing board; and

21 (b) Admits as students only those individuals who meet the requirements  
22 of section 54-5810(1)(b), Idaho Code.

23 ~~(20)~~ (21) "Makeover or glamour photography business" means a business  
24 offering photographic services to the general public in which the business's  
25 employees apply cosmetic products to customers' faces or arrange the hair of  
26 customers in connection with the sale or attempted sale of photographic ser-  
27 vices.

28 ~~(21)~~ (22) "Makeup artist" means a person certificated to practice  
29 makeup artistry as defined in this section.

30 ~~(22)~~ (23) "Makeup artistry" means noninvasive care of the skin by appli-  
31 cation of cosmetic preparations for cleansing and the application of makeup,  
32 which includes the application of cosmetics or any pigment product that is  
33 used to cover, camouflage or decorate the skin.

34 ~~(23)~~ (24) "Nail technician" means a person licensed to practice nail  
35 technology as defined in this section.

36 ~~(24)~~ (25) "Nail technology" means any one (1) or more of the following  
37 practices when performed on the human body:

38 (a) Manicuring and pedicuring nails;

39 (b) Applying artificial nails; and

40 (c) Massaging the hands and feet.

41 ~~(25)~~ (26) "Natural hair braiding" means the service of twisting, wrap-  
42 ping, weaving, extending, locking, or braiding hair by hand or with a mechan-  
43 ical device.

44 (a) "Natural hair braiding" includes:

45 (i) The use of natural or synthetic hair extensions, natural or  
46 synthetic hair and fibers, and decorative beads and other hair ac-  
47 cessories;

48 (ii) Minor trimming of natural hair or hair extensions incidental  
49 to twisting, wrapping, weaving, extending, locking, or braiding  
50 hair;

1 (iii) The making of wigs from natural hair, natural fibers, syn-  
2 thetic fibers, and hair extensions; and

3 (iv) The use of topical agents, such as conditioners, gels,  
4 moisturizers, oils, pomades, and shampoos, in conjunction with  
5 performing services under subparagraphs (i) or (ii) of this para-  
6 graph.

7 (b) "Natural hair braiding" does not include:

8 (i) The application of dyes, reactive chemicals, or other prepa-  
9 rations to alter the color of the hair or to straighten, curl, or  
10 alter the structure of the hair; or

11 (ii) The use of chemical hair joining agents, such as synthetic  
12 tape, keratin bonds, or fusion bonds.

13 ~~(26)~~ (27) "Retail cosmetics dealer" means a stationary business offer-  
14 ing cosmetic products for sale at retail to the general public in which the  
15 business's employees apply cosmetic products to customers' faces in connec-  
16 tion with the sale or attempted sale of the products without compensation  
17 from the customer other than the regular price of the products.

18 ~~(27)~~ (28) "Retail thermal styling equipment dealer" means a retail  
19 business that offers thermal styling equipment, such as curling irons, curl-  
20 ing wands, flat irons, heated hair rollers, blow-dryers or other devices  
21 using heat to style hair, for sale at retail to members of the general public  
22 and whose employees engage in the limited use of thermal styling equipment  
23 on customers in connection with the sale or attempted sale of the equipment  
24 without compensation from the customer other than the regular price of the  
25 equipment.

26 ~~(28)~~ (29) "Student" means a person learning barbering, barber-styling,  
27 cosmetology or electrology at a licensed school who, while so learning, per-  
28 forms or assists in performing any practices of barbering, barber-styling,  
29 cosmetology or electrology.

30 (30) "Wig" means a removable head covering that is made from natural  
31 hair, natural fibers that resemble hair, or synthetic fibers that resemble  
32 hair. A wig is not affixed to a person's scalp or hair using an adhesive agent  
33 such as glue, tape, keratin bonds, fusion bonds, or other bonding agent.

34 SECTION 2. That Section 54-5805, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 54-5805. EXEMPTIONS FROM LICENSURE. The licensing, certification and  
37 registration provisions of this chapter shall not apply to the following:

38 (1) Persons authorized by the laws of this state to practice as a nurse  
39 or to practice any of the healing arts while in the proper discharge or dele-  
40 gation of their professional duties.

41 (2) Persons who provide on-site personal care or hygiene services, in-  
42 cluding shaving; trimming of hair, beard, or mustache; washing, brushing, or  
43 combing hair; and basic skin care and nail care, to residents at facilities  
44 licensed under the department of health and welfare, division of licensing  
45 and certification.

46 (3) Persons practicing in their own home without compensation who are  
47 not practicing on the public in general.

48 (4) Persons practicing on a relative without compensation.

1 (5) Persons whose practice is limited to the facial application of cos-  
2 metic products to customers in connection with the sale or attempted sale of  
3 cosmetic products on the premises of a retail cosmetics dealer without com-  
4 pensation from the customer other than the price of the products.

5 (6) Persons whose practice is limited to the demonstration of thermal  
6 styling equipment on customers in connection with the sale or attempted sale  
7 of thermal styling equipment on the premises of a registered thermal styling  
8 equipment dealer without compensation from the customer other than the price  
9 of the equipment.

10 (7) Currently enrolled students or actively registered apprentices  
11 practicing or demonstrating outside of a licensed school or establishment  
12 when that practice or demonstration is under the direct supervision of a  
13 licensed instructor. Members of the public may not be charged for any ser-  
14 vices performed by a student or an apprentice practicing pursuant to this  
15 subsection.

16 (8) Persons who are licensed or qualified through proper documentation  
17 to practice or teach barbering, barber-styling or cosmetology in a state,  
18 territory or possession of the United States or in a foreign country and  
19 whose practice and activities are limited to education or demonstration  
20 of no more than fourteen (14) consecutive days, provided that such persons  
21 shall observe and comply with sanitation requirements established by rule.  
22 Members of the public may not be charged for any services performed as part of  
23 the demonstration or education.

24 (9) Persons who are employed, participating in, or contracted to per-  
25 form barber-styling or cosmetology services in the course of and incidental  
26 to the production of a theatrical or other visual arts production, includ-  
27 ing, but not limited to, stage productions, television and motion pictures.

28 (10) Persons whose practice is limited to natural hair braiding as de-  
29 fined in section 54-5802(25), Idaho Code.

30 (11) Persons or businesses selling, offering for sale, or fitting wigs  
31 as defined in this chapter, as long as such persons or businesses do not use  
32 adhesive agents such as glue, tape, keratin bonds, fusion bonds, or other  
33 bonding agents to attach a hairpiece or toupee to a person's scalp, hair, or  
34 head.

35 SECTION 3. An emergency existing therefor, which emergency is hereby  
36 declared to exist, this act shall be in full force and effect on and after its  
37 passage and approval.