

HOUSE BILL No. 2125

AN ACT concerning health and healthcare; relating to the practice of cosmetology and barbering; powers, duties and functions of the Kansas state board of cosmetology; requiring certain administrative actions to be in accordance with the Kansas administrative procedure act and reviewable under the Kansas judicial review act; providing for charitable event permits and demonstration permits to provide tattooing, cosmetic tattooing or body piercing services; authorizing cease and desist orders against unlicensed providers of tattooing, cosmetic tattooing or body piercing services; requiring tattoo artists, cosmetic tattoo artists and body piercers to keep case history cards for three years instead of five years; exempting adult care homes from statutes governing cosmetology and barbering facilities; amending K.S.A. 65-1904a, 65-1941, 65-1946 and 74-1807 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) For all professions regulated by the Kansas state board of cosmetology pursuant to K.S.A. 65-1940 through 65-1954, and amendments thereto, the board shall conduct any action in any administrative proceeding in accordance with the Kansas administrative procedure act. Such actions shall be reviewable in accordance with the Kansas judicial review act. Judicial review shall be taken if the petitioner files with the clerk of the reviewing court a bond with a sufficient surety, conditioned on the payment of all assessed costs, if the decision of the board is sustained. If appellate review of the district court's decision is sought in accordance with K.S.A. 77-623, and amendments thereto, then the board shall not be required to give a bond on such review.

(b) For all professions regulated by the board pursuant to K.S.A. 65-1940 through 65-1954, and amendments thereto, if the board's order in any administrative proceeding under K.S.A. 65-1940 through 65-1954, and amendments thereto, is adverse to the applicant, apprentice or licensee, then the costs incurred by the board in conducting any investigation or proceeding under the Kansas administrative procedure act may be assessed against the parties to the proceeding in such proportion as the board may determine upon consideration of all relevant circumstances, including the nature of the proceeding and the level of participation by the parties. If the board is not the prevailing party in any such action, then such costs shall be paid from the cosmetology fee fund.

(c) The board shall include any assessment of costs incurred as part of a final order rendered in a proceeding. The order shall include findings and conclusions in support of the assessment of costs.

(d) For purposes of this section, "costs incurred" includes, but is not limited to:

(1) Presiding officer fees and expenses, only if the board has designated or retained the services of an independent contractor or the office of administrative hearings to perform presiding officer functions;

(2) costs of preparing any transcripts;

(3) reasonable investigative costs;

(4) witness fees and expenses; and

(5) mileage, travel expenses and subsistence allowances of board employees and fees and expenses of agents of the board who provide services under K.S.A. 74-2702, and amendments thereto.

(e) All moneys collected by the board following or arising from board proceedings shall be remitted to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the cosmetology fee fund.

(f) This section shall be a part of and supplemental to K.S.A. 65-1940 through 65-1954, and amendments thereto.

New Sec. 2. (a) Any person may apply to the Kansas state board of cosmetology for a charitable event permit. Any such application shall be on a form and in a manner approved by the board and accompanied by the fee established under K.S.A. 65-1950, and amendments thereto.

(b) The board may grant a charitable event permit for any event at any location in the state of Kansas where persons licensed by the board to practice any profession regulated under K.S.A. 65-1940 through 65-

1954, and amendments thereto, will provide services authorized under K.S.A. 65-1940 through 65-1954, and amendments thereto, at no cost to recipients. Any charitable event permit granted under this section shall expire not later than 30 days after issuance by the board.

(c) The board shall adopt rules and regulations as necessary to implement and administer this section. Such rules and regulations shall be adopted on or before December 31, 2023.

(d) As used in this section:

(1) "Charitable event" means an event conducted for a charitable purpose, whether indoors or outdoors, that is held at a specified time and location where services are provided by licensed practitioners at no cost to recipients, as a charity to recipients, or charitable causes approved by the board.

(2) "Charitable purpose" means any purpose that promotes, or purports to promote, directly or indirectly, the well-being, in general or limited to certain activities, endeavors or projects, of the public at large, any number of persons or any humane purpose.

(e) This section shall be a part of and supplemental to K.S.A. 65-1940 through 65-1954, and amendments thereto.

New Sec. 3. (a) Any person may apply to the Kansas state board of cosmetology for a demonstration permit. Any such application shall be on a form and in a manner approved by the board and accompanied by the fee established under K.S.A. 65-1950, and amendments thereto.

(b) (1) The board may grant a demonstration permit to a person to provide services authorized under K.S.A. 65-1940 through 65-1954, and amendments thereto, at a state or national convention, an establishment licensed by the Kansas state board of cosmetology or any other event location approved by the board. If a person who applies for a demonstration permit to provide such services is not licensed in this state, the board may grant a demonstration permit if:

(A) Such person is licensed to practice such profession regulated under K.S.A. 65-1940 through 65-1954, and amendments thereto, in another state or jurisdiction; and

(B) such license has not been revoked, suspended or conditioned from the practice of such profession.

(2) If an application for a demonstration permit is submitted by a citizen of a foreign country who has not been issued a social security number and who has not been licensed by any other state, the board shall not require the applicant to submit a social security number and shall instead accept a valid visa or passport identification number.

(3) Any demonstration permit issued under this section shall expire not later than 14 days after issuance of the board.

(c) The board shall adopt rules and regulations as necessary to implement and administer this section. Such rules and regulations shall be adopted on or before December 31, 2023.

(d) This section shall be a part of and supplemental to K.S.A. 65-1940 through 65-1954, and amendments thereto.

Sec. 4. K.S.A. 65-1904a is hereby amended to read as follows: 65-1904a. (a) Any licensed cosmetologist, esthetician, electrologist, manicurist, or person desiring to establish a salon or clinic shall make application, on a form provided, to the Kansas state board of cosmetology, accompanied by the new salon or clinic license fee established under K.S.A. 65-1904, and amendments thereto. Upon filing of the application, the board shall inspect the equipment as to safety and sanitary condition of the premises and if the equipment and premises are found to comply with the rules and regulations of the secretary of health and environment and the rules and regulations of the Kansas state board of cosmetology, the board shall issue a new salon or clinic license. *An adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a long-term care unit of a medical care facility, as defined in K.S.A. 65-425, and amendments thereto, shall be exempted from the provisions of this section.*

(b) ~~Nothing herein contained~~ *in this section* shall be construed as preventing any licensed cosmetologist, manicurist, esthetician or

electrologist from practicing in the field for which licensed in such licensee's private home or residence if the home or residence complies with rules and regulations of the secretary and the state board. A licensed cosmetologist, manicurist, esthetician or electrologist may provide services in the field in which licensed in a place other than the licensed salon or clinic or a private home or residence of the licensed cosmetologist, manicurist, esthetician or electrologist. Excluding services provided by a licensed cosmetologist, manicurist, esthetician or electrologist in a ~~health-care~~ *healthcare* facility, hospital or ~~nursing home~~ *adult care home* or in the residence of a person requiring home care arising from physical or mental disabilities, in order to provide such services, such licensed cosmetologist, manicurist, esthetician or electrologist shall:

(1) Be employed in a salon or clinic or in the licensed cosmetologist's, manicurist's, esthetician's or electrologist's private home or residence for at least 51% of the total hours per week employed; and ~~shall~~

(2) attest by affidavit that such cosmetology, manicuring, esthetics or electrology services shall be provided only in the residence or office of the person receiving services.

(c) Licensed salons and clinics may be reinspected in accordance with a schedule determined by the board by rules and regulations or upon a complaint made to the board that such salon or clinic is not being maintained in compliance with rules and regulations of the board. The license shall expire one year from the last day of the month of its issuance. Any such license may be renewed upon application accompanied by the salon or clinic license renewal fee made to the board prior to the expiration date of the license. Any license may be renewed by the applicant within 60 days after the date of expiration of the last license upon payment of the annual renewal fee plus the delinquent renewal fee.

(d) ~~On or after July 1, 2014,~~ Salon and clinic renewal application fees ~~will~~ *shall* be prorated to reflect an expiration date one year from the last day of the month of the initial issuance of the license.

Sec. 5. K.S.A. 65-1941 is hereby amended to read as follows: 65-1941. (a) No person, including a tattoo artist, cosmetic tattoo artist or body piercer, shall perform tattooing, cosmetic tattooing or body piercing on another person, display a sign or in any other way advertise or purport to be a tattoo artist, cosmetic tattoo artist or body piercer unless that person holds a valid license issued by the board. This act does not prevent or affect the use of tattooing, cosmetic tattooing or body piercing by a physician, a person under the control and supervision of a physician, a licensed dentist, a person under the control and supervision of a licensed dentist; *or* an individual performing tattooing, cosmetic tattooing or body piercing solely on such individual's body.

(b) Violation of subsection (a) is a class A nonperson misdemeanor.

(c) The board may bring an action to enjoin any person required to be licensed under K.S.A. 65-1940 through 65-1954, and amendments thereto, from practicing body piercing, tattooing or cosmetic tattooing if such person does not hold a currently valid license authorizing the person to engage in such practice. The board may bring an action to enjoin any person from operating an establishment required to be licensed under K.S.A. 65-1940 through 65-1954, and amendments thereto, if such person does not hold a currently valid establishment license.

(d) The board may order the remedying of any violations of rules and regulations of the board or any provision of this act, and the board may issue a cease and desist order upon board determination that ~~the holder of a license~~ *a person* has violated any order of the board, any rules and regulations of the board or any provision of K.S.A. 65-1940 through 65-1954, and amendments thereto.

Sec. 6. K.S.A. 65-1946 is hereby amended to read as follows: 65-

1946. Licensed practicing tattoo artists, cosmetic tattoo artists and body piercers shall meet the following standards and any others the board may adopt by rules and regulations:

(a) Tattoo artists, cosmetic tattoo artists and body piercers, and their establishments shall comply with all applicable sanitation standards adopted by the secretary pursuant to K.S.A. 65-1,148, and amendments thereto;

(b) practicing tattoo artists, cosmetic tattoo artists and body piercers shall be equipped with appropriate sterilizing equipment, with availability of hot and cold running water and a covered waste receptacle; and

(c) case history cards shall be kept for each client for a period of ~~five~~ three years.

Sec. 7. K.S.A. 74-1807 is hereby amended to read as follows: 74-1807. (a) Upon presentation of proper credentials, any member of the board, the administrative officer or the board's inspectors shall have the authority to enter, inspect and enforce rules and regulations pertaining to barber shops, barber schools or barber colleges at any time during business hours.

(b) *The provisions of this section shall not include or apply to an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a long-term care unit of a medical care facility, as defined in K.S.A. 65-425, and amendments thereto.*

Sec. 8. K.S.A. 65-1904a, 65-1941, 65-1946 and 74-1807 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the House, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.