

Message from the Governor

Recent indicators show the economic recovery in Kansas is underway, yet remains fragile. As I set forth in my Roadmap for Kansas, now is the time for government to get out of the way by reducing spending, cutting taxes, and returning to its core functions. Only when the state's economic role is limited to maintaining a fair and safe playing field for all can the resourcefulness, ingenuity, and hard work of Kansans in every field of labor be fully realized. Now is not the time to add layer after layer of regulatory fees, burdensome certification requirements, barriers to entry, and bureaucracy to our economy.

While SB353 deals only with one business, it is a clear example of the steady growth of state power over economic activity. By vetoing SB353, I intend not only to prevent this small increase of government interference in the marketplace, but also to send the clear message that Kansas will not accept unnecessary government burdens on the free market. It is time to take the parking brake off of the dynamic economic engine that is the Kansas spirit, which if unleashed, will generate growth and prosperity for all.

Therefore, pursuant to Article 2, Section 14(a) of the Constitution of the State of Kansas, I hereby veto SB 353.

Signed on April 4, 2012

Sam Brownback
Governor

SENATE BILL No. 353

AN ACT concerning barbers; relating to the powers of the board; fees; licensure; amending K.S.A. 65-1819 and 65-1820a and K.S.A. 2011 Supp. 65-1817 and 65-1824 and repealing the existing sections.

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

Section 1. K.S.A. 2011 Supp. 65-1817 is hereby amended to read as follows: 65-1817. (a) In each fiscal year, the board shall determine the amount of funds which will be required during the next ensuing fiscal year to properly administer the laws which the board is directed to enforce and administer and shall fix fees in accordance with this section for such ensuing year in such reasonable sums as may be necessary for such purposes.

(b) After fixing such fees, the board may charge and collect the fees, in advance for the following purposes, subject to the following limitations:

For examination of applicant to practice barbering—not more than	\$100
For issuance of license to practice barbering—not more than.....	80
For renewal of license to practice barbering—not more than.....	80
For restoration of expired license to practice barbering, if expiration period is under three two years, the lapsed fees plus a restoration fee of not more than	100
After three two years applicant shall be reexamined upon payment of the regular examination fee—not more than.....	100
For instructors license or annual renewal thereof—not more than	90
For restoration of expired instructors license, if expiration period is under three two years, the lapsed fees plus a restoration fee of not more than	90
After three two years the instructor shall be reexamined upon payment of the regular examination fee—not more than	170
For a license to operate a barber school or barber college, annual fee—not more than	500
For shop inspection, and annual license fee—not more than.....	40
For restoration of expired shop license, if expiration period is under three two years, the lapsed fee plus a restoration fee of not more than.....	80
For a new shop, relocation or change of ownership—not more than	80
For issuance of new chair lease license or renewal thereof—not more than	25
For restoration of expired chair lease license, if expiration is under two years, the lapsed fee plus a restoration fee—not more than.....	40
For issuance of a seminar permit—not more than.....	80
For issuance of student learning license—not more than.....	55

(c) A duplicate license will be issued upon the filing of a statement covering the loss of same and the payment of a fee of \$5 for the issuance of same. Each duplicate shall have the word “duplicate” stamped across the face thereof and will bear the same number as the original.

Sec. 2. K.S.A. 65-1819 is hereby amended to read as follows: 65-1819. (a) Every licensed barber, instructor, operator of a barber shop and operator of a barber school or barber college shall annually renew the license and pay the required fee. The expiration date of each license which is issued, restored or renewed by the board shall be established by rules and regulations of the board so that licenses are renewed by the board throughout the year on a continuing basis. In each case in which a license is issued, restored or renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-1817, and amendments thereto.

(b) ~~A barber~~ Every licensed barber, instructor, operator of a barber shop and operator of a barber school or barber college whose license has been expired for a period of less than ~~three~~ two years may have the license

renewed ~~immediately~~ upon payment of the required restoration fee *and approval of the board*. Any barber whose license has been expired for a period of ~~three~~ *two* or more years, may renew the license after a successful reexamination by the board and upon the payment of the required examination and license fees.

(c) *The board, in accordance with the provisions of the Kansas administrative procedure act, may refuse to renew or restore a license.*

Sec. 3. K.S.A. 65-1820a is hereby amended to read as follows: 65-1820a. (a) ~~The board may issue orders which require the remedying of any of the violations specified in subsection (b). If the violations are not remedied in a reasonable time after the order is issued, the board shall issue an order suspending the license of the violator. The board shall follow the procedure provided in the Kansas administrative procedure act to suspend a license.~~

~~(b) The board may refuse to issue, renew, suspend or revoke a license for any one or combination of the following reasons: censure, limit, condition, suspend, revoke or refuse to issue or renew a license under this act if, after notice and an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act, the board determines that an applicant or licensee has committed any one or any combination of the following:~~

- (1) ~~Malpractice or~~ *incompetency incompetence;*
- (2) when an applicant or a licensed barber is or becomes afflicted with an infectious or communicable disease;
- (3) advertising by knowingly false or deceptive statements;
- (4) advertising, practicing or attempting to practice under a trade name other than one's own;
- (5) habitual drunkenness or habitual addiction to habit-forming drugs;
- (6) unprofessional conduct;
- (7) obtaining or attempting to obtain a license for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations;
- (8) the willful failure to display a license to practice barbering as required by K.S.A. 65-1818, and amendments thereto;
- (9) practicing or attempting to practice barbering by fraudulent misrepresentations;
- (10) the violation of any of the sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto, for the regulation of barber shops, barber schools and barber colleges; or
- (11) the violation of rules and regulations of the board concerning the operation or management of a barber shop, barber school or barber college.

~~(b) In all matters pending before the board, the board shall have the power to revoke the license of any licensee who voluntarily surrenders such person's or entity's license pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.~~

Sec. 4. K.S.A. 2011 Supp. 65-1824 is hereby amended to read as follows: 65-1824. The board is hereby authorized, empowered, and directed to administer and enforce the provisions of this act and the board is hereby granted such specific powers as are necessary for the purpose of administering and enforcing the same. In addition thereto, the board shall have power:

(a) To supervise and regulate the barbering industry in this state. Nothing contained in this act shall be construed to abrogate, affect the status, force or operation of any provision of the general laws of this state relating to public health or any lawful rule, regulation or order promulgated thereunder, the law regulating the practice of barbering or any local health ordinance or regulation.

(b) To investigate all matters pertaining to the proper supervision and control of barber shops and the practice of barbering in this state.

(c) To subpoena barber shop owners, operators, managers or employees, their books and accounts, and other persons from whom such information may be desired, to carry out the purposes and intent of this act, and may issue commissions to take depositions from witnesses absent

from the state. Any member of the board may sign and issue subpoenas and administer oaths to witnesses.

(d) To act as mediator and arbitrator in any controversy or issue that may arise among or between barbers as individuals or that may arise between them as groups. Nothing herein contained shall be construed as authorizing any interference with the authority of the state department of labor or the United States department of labor.

(e) To issue a cease and desist order against any individual, operator or licensee if the board determines that such individual, operator or licensee has practiced without a valid license or engaged, or attempted to engage, in violation of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder.

(f) To make an application to any court of competent jurisdiction for an order enjoining any person who has engaged, or attempted to engage, in any act or practice in violation of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder. Upon a showing by the board that such person has engaged, or attempted to engage in, any such act or practice, an injunction, restraining order or such other order as may be appropriate shall be granted by such court without bond.

The operation and effect of any provisions of this act which confer a general power upon the board shall not be impaired or qualified because a specific power has been granted to the board by this act.

Sec. 5. K.S.A. 65-1819 and 65-1820a and K.S.A. 2011 Supp. 65-1817 and 65-1824 are hereby repealed.

Sec. 6. 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 SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.