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AN ACT

RELATING TO LICENSING; AMENDING AND ENACTING SECTIONS OF THE
BARBERS AND COSMETOLOGISTS ACT TO PROVIDE FOR A HAIRSTYLIST
LICENSE; REVISING THE COMPOSITION OF THE BOARD OF BARBERS AND
COSMETOLOGISTS TO INCLUDE A HAIRSTYLIST.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Barbers and
Cosmetologists Act is enacted to read:

"HAIRSTYLING DEFINED.--Hairstyling includes any one or
any combination of the following practices when done upon the
upper part of the male or female human body for cosmetic
purposes for the public generally, using the hands or manual,
mechanical or electrical implements or appliances:

A. cleansing, massaging or stimulating the scalp
with oils, creams, lotions or other cosmetic or chemical
preparations;

B. applying cosmetic or chemical preparations,
antiseptics, powders, oils, clays or lotions to the scalp;

C. cutting, arranging, applying hair extensions to
or styling the hair by any means;

D. cleansing, coloring, lightening, waving or
straightening the hair with cosmetic or chemical
preparations; or

E. trimming a person's beard."

1 **SECTION 2.** A new section of the Barbers and
2 Cosmetologists Act is enacted to read:

3 "LICENSURE REQUIREMENTS--HAIRSTYLISTS.--

4 A. Except as provided in Subsection B of this
5 section, a hairstylist license shall be issued to a person
6 who files a completed application, accompanied by the
7 required fees and documentation, and who:

8 (1) has an education equivalent to the
9 completion of the second year of high school;

10 (2) is at least seventeen years of age;

11 (3) has completed a course in hairstyling of
12 at least one thousand two hundred hours in a school; and

13 (4) has passed an examination approved by
14 the board.

15 B. A hairstylist license shall be issued to a
16 person who files a completed application, accompanied by the
17 required fees and documentation, and meets the requirements
18 of Paragraphs (1) through (4) of Subsection A of this
19 section.

20 C. The holder of a hairstylist license has the
21 right and privilege to use the title "hairstylist".

22 **SECTION 3.** Section 61-17A-2 NMSA 1978 (being Laws 1993,
23 Chapter 171, Section 2, as amended) is amended to read:

24 "61-17A-2. DEFINITIONS.--As used in the Barbers and
25 Cosmetologists Act:

1 A. "barber" means a person, other than a student,
2 who for compensation engages in barbering;

3 B. "board" means the board of barbers and
4 cosmetologists;

5 C. "cosmetologist" means a person, other than a
6 student, who for compensation engages in cosmetology;

7 D. "electrologist" means a person, other than a
8 student, who for compensation removes hair from or destroys
9 hair on the human body through the use of an electric current
10 applied to the body with a needle-shaped electrode or probe;

11 E. "enterprise" means a business venture, firm or
12 organization;

13 F. "establishment" means an immobile beauty shop,
14 barber shop, electrology clinic, salon or similar place of
15 business in which cosmetology, barbering, hairstyling or
16 electrolysis is performed;

17 G. "esthetician" means a person, other than a
18 student, who for compensation:

19 (1) uses cosmetic preparations, including
20 makeup applications, antiseptics, powders, oils, clays or
21 creams, for the purpose of preserving the health and beauty
22 of the skin and body;

23 (2) massages, cleans, stimulates or
24 manipulates the skin for the purpose of preserving the health
25 and beauty of the skin and body; or

1 (3) performs activities similar to the
2 activities described in Paragraph (1) or (2) of this
3 subsection on any part of the body of a person;

4 H. "hairstylist" means a person, other than a
5 student, who for compensation engages in hairstyling;

6 I. "manicurist-pedicurist" means a person, other
7 than a student, who for compensation performs work on the
8 nails of a person and applies nail extensions or products to
9 the nails for the purpose of strengthening or preserving the
10 health and beauty of the hands or feet;

11 J. "sanitation" means the maintenance of sanitary
12 conditions to promote hygiene and the prevention of disease
13 through the use of chemical agents or products;

14 K. "school" means a public or private
15 instructional facility approved by the board that teaches
16 cosmetology, barbering or hairstyling; and

17 L. "student" means a person enrolled in a school
18 to learn or be trained in cosmetology, barbering, hairstyling
19 or electrolysis."

20 **SECTION 4.** Section 61-17A-5 NMSA 1978 (being Laws 1993,
21 Chapter 171, Section 5, as amended) is amended to read:

22 "61-17A-5. LICENSE REQUIRED.--

23 A. Unless licensed pursuant to the Barbers and
24 Cosmetologists Act or exempted from the provisions of that
25 act, no person shall practice barbering, hairstyling or

1 cosmetology for compensation either directly or indirectly.

2 B. Unless licensed pursuant to the Barbers and
3 Cosmetologists Act, no person shall operate a school or
4 establishment for compensation.

5 C. Unless licensed pursuant to the Barbers and
6 Cosmetologists Act or exempted from the provisions of that
7 act, no person shall teach barbering, hairstyling,
8 cosmetology or electrology for compensation.

9 D. Unless licensed by the board pursuant to the
10 Barbers and Cosmetologists Act, no person shall practice as a
11 manicurist-pedicurist, esthetician or electrologist for
12 compensation."

13 SECTION 5. Section 61-17A-6 NMSA 1978 (being Laws 1993,
14 Chapter 171, Section 6, as amended) is amended to read:

15 "61-17A-6. BOARD CREATED--MEMBERSHIP.--

16 A. The "board of barbers and cosmetologists" is
17 created. The board is administratively attached to the
18 regulation and licensing department. The board consists of
19 seven members appointed by the governor. Members shall serve
20 three-year terms; provided that at the time of initial
21 appointment, the governor shall appoint members to
22 abbreviated terms to allow staggering of subsequent
23 appointments. Vacancies shall be filled in the manner of the
24 original appointment.

25 B. Of the seven members of the board, five shall

1 be licensed pursuant to the Barbers and Cosmetologists Act
2 and shall have at least five years' practical experience in
3 their respective occupations. Of those five, one member
4 shall be a licensed barber, one member shall be a licensed
5 hairstylist, two members shall be licensed cosmetologists and
6 one member shall represent school owners. The remaining two
7 members shall be public members. Neither the public members
8 nor their spouses shall have ever been licensed pursuant to
9 the provisions of the Barbers and Cosmetologists Act or
10 similar prior legislation or have a financial interest in a
11 school or establishment.

12 C. Members of the board shall be reimbursed
13 pursuant to the Per Diem and Mileage Act and shall receive no
14 other compensation, perquisite or allowance.

15 D. The board shall elect from among its members a
16 chair and such other officers as it deems necessary. The
17 board shall meet at the call of the chair, not less than four
18 times each year. A majority of members currently serving
19 shall constitute a quorum for the conduct of business.

20 E. No board member shall serve more than two full
21 consecutive terms and any member who fails to attend, after
22 proper notice, three meetings shall automatically be
23 recommended for removal unless excused for reasons set forth
24 by board rule."

1 Chapter 171, Section 7, as amended) is amended to read:

2 "61-17A-7. BOARD POWERS AND DUTIES.--

3 A. The board shall:

4 (1) adopt and file, in accordance with the
5 State Rules Act, rules necessary to carry out the provisions
6 of the Barbers and Cosmetologists Act;

7 (2) establish fees;

8 (3) provide for the examination, licensure
9 and license renewal of applicants for licensure;

10 (4) establish standards for and provide for
11 the examination, licensure and license renewal of
12 manicurists-pedicurists, estheticians and electrologists;

13 (5) adopt a seal;

14 (6) furnish copies of rules and sanitary
15 requirements adopted by the board to each owner or manager of
16 an establishment, enterprise or school;

17 (7) keep a record of its proceedings and a
18 register of applicants for licensure;

19 (8) provide for the licensure of barbers,
20 hairstylists, cosmetologists, manicurists-pedicurists,
21 estheticians, electrologists, instructors, schools,
22 enterprises and establishments;

23 (9) establish administrative penalties and
24 fines;

25 (10) create and establish standards and fees

1 for special licenses;

2 (11) establish guidelines for schools to
3 calculate tuition refunds for withdrawing students; and

4 (12) issue cease and desist orders to
5 persons violating the provisions of the Barbers and
6 Cosmetologists Act and rules promulgated in accordance with
7 that act.

8 B. The board may establish continuing education
9 requirements as requirements for licensure.

10 C. A member of the board, its employees or agents
11 may enter and inspect a school, enterprise or establishment
12 at any time during regular business hours for the purpose of
13 determining compliance with the Barbers and Cosmetologists
14 Act."

15 SECTION 7. Section 61-17A-16 NMSA 1978 (being Laws
16 1993, Chapter 171, Section 16, as amended) is amended to
17 read:

18 "61-17A-16. FEES.--The board may, by rule, establish
19 initial license and renewal fees not to exceed the following:

- 20 establishment license \$200
- 21 school license \$600
- 22 relocation of a school \$300
- 23 cosmetologist license \$ 50.00
- 24 barber license \$ 50.00
- 25 hairstylist license \$ 50.00

1 specialty license. \$ 50.00
 2 instructor license \$ 50.00
 3 duplicate license. \$ 50.00
 4 temporary license. \$ 25.00
 5 administrative fee. \$100
 6 limited license fee. \$100
 7 licensure through reciprocity. \$200
 8 transcript \$ 50.00
 9 examinations \$100."

10 **SECTION 8.** Section 61-17A-20 NMSA 1978 (being Laws
 11 1993, Chapter 171, Section 20, as amended) is amended to
 12 read:

13 "61-17A-20. DURATION, RESTORATION AND RENEWAL OF
 14 LICENSES.--

15 A. The original issuance and renewal of licenses
 16 to practice as a barber, hairstylist, cosmetologist,
 17 instructor, esthetician, manicurist-pedicurist or
 18 electrologist shall be for a period of one year or less from
 19 the date of issuance. If the licensee fails to renew the
 20 license for the next year, the license is void; provided the
 21 license may be restored at any time during the year following
 22 expiration upon the payment of the appropriate fee and a late
 23 charge not to exceed one hundred dollars (\$100) as set forth
 24 by board rules. If the licensee fails to restore the license
 25 within one year following its expiration, the licensee may

1 request restoration of the license pursuant to rules
2 promulgated by the board.

3 B. The original issuance and annual renewal of
4 licenses to operate an establishment or school shall be for a
5 period of twelve months or less following the issuance of the
6 license. If the licensee fails to renew the license within
7 thirty days after its expiration, the license is void, and,
8 to again obtain a license, an application, required
9 documentation, payment of the renewal fee and a late fee not
10 to exceed one hundred dollars (\$100) as established by board
11 rules is required.

12 C. The board may establish a staggered system of
13 license expiration." _____