

Introduced by Senator Polanco

February 22, 2002

An act to amend Sections 7301, 7313, 7335, 7362, 7400, 7410, 7411, 7424, and 7426.5 of, to add Sections 7403.5 and 7425.5 to, and to repeal Sections 7315, 7349, and 7395.1 of, the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

SB 1957, as introduced, Polanco. Barbering and cosmetology.

The Barbering and Cosmetology Act establishes the Bureau of Barbering and Cosmetology in the Department of Consumer Affairs. The act authorizes the Director of Consumer Affairs to appoint a bureau chief to administer the provisions of the act. The act requires the licensure of a person by the bureau to practice barbering, cosmetology, or electrolysis. The act prohibits employing or permitting an unlicensed person to work in an establishment to provide barbering, cosmetology, or electrolysis services unless the unlicensed person is a student extern that meets certain requirements. The act also requires a licensed barber, cosmetologist, or electrologist to notify the bureau within 30 days of a change of address.

This bill would delete the provisions authorizing an establishment to utilize a student extern. The bill would authorize a licensed barber, cosmetologist or electrologist to provide the bureau with an alternate address to disclose to the public after changing an address if the bureau's address of record is the licensee's residence address. The bill would authorize the bureau chief to close an establishment upon making certain findings indicating an immediate threat to public health and safety. The bill would provide that fees for approval of providers of continuing education and continuing education courses could not

exceed specified amounts. The bill would also make various other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7301 of the Business and Professions
2 Code is amended to read:

3 7301. This chapter constitutes the chapter on hair, skin, nail
4 care, and electrolysis and may be known and cited as the Barbering
5 and Cosmetology Act.

6 ~~The term “board” as used in this chapter refers to the Director
7 of the Department of Consumer Affairs, or his or her designee, as
8 provided in this chapter.~~

9 SEC. 2. Section 7313 of the Business and Professions Code
10 is amended to read:

11 7313. (a) (1) To ensure compliance with the laws and
12 regulations of this chapter, the ~~board’s executive officer~~ *bureau*
13 *chief* and authorized representatives shall, except as provided by
14 Section 159.5, have access to, and shall inspect, any establishment
15 or mobile unit at any time in which barbering, cosmetology, or
16 electrolysis are being performed. It is the intent of the Legislature
17 that inspections be conducted on Saturdays and Sundays as well
18 as weekdays, if collective bargaining agreements and civil service
19 provisions permit.

20 (2) The ~~board~~ *bureau* shall maintain a program of random and
21 targeted inspections of establishments to ensure compliance with
22 applicable laws relating to the public health and safety and the
23 conduct and operation of establishments. The ~~board~~ *bureau* or its
24 authorized representatives shall inspect establishments to
25 reasonably determine compliance levels and to identify market
26 conditions that require targeted enforcement. The ~~board~~ *bureau*
27 shall not reduce the number of employees assigned to perform
28 random inspections, targeted inspections, and investigations
29 relating to field operations below the level funded by the annual
30 Budget Act and described in supporting budget documents, and
31 shall not redirect funds or personnel-years allocated to those
32 inspection and investigation purposes to other purposes.



1 (b) To ensure compliance with health and safety requirements
2 adopted by the ~~board~~ *bureau*, the ~~executive officer~~ *bureau chief*
3 and authorized representatives shall, except as provided in Section
4 159.5, have access to, and shall inspect the premises of, all schools
5 in which the practice of barbering, cosmetology, or electrolysis is
6 performed on the public. Notices of violation shall be issued to
7 schools for violations of regulations governing conditions related
8 to the health and safety of patrons. Each notice shall specify the
9 section violated and a timespan within which the violation must be
10 corrected. A copy of the notice of violation shall be provided to the
11 ~~Council~~ *Bureau* for Private Postsecondary and Vocational
12 Education.

13 ~~(c) With prior written authorization from the board or its~~
14 ~~executive officer, any member of the board may enter and visit, in~~
15 ~~his or her capacity as a board member, any establishment, during~~
16 ~~business hours or at any time when barbering, cosmetology, or~~
17 ~~electrolysis is being performed. The visitation by a board member~~
18 ~~shall be for the purpose of conducting official board business, but~~
19 ~~shall not be used as a basis for any licensing disciplinary action by~~
20 ~~the board.~~

21 SEC. 3. Section 7315 of the Business and Professions Code
22 is repealed.

23 ~~7315. A majority of the board may, in any meeting properly~~
24 ~~noticed in accordance with the Bagley-Keene Open Meeting Act,~~
25 ~~exercise all the duties and powers devolving upon the board.~~

26 SEC. 4. Section 7335 of the Business and Professions Code
27 is amended to read:

28 7335. (a) The license of an apprentice shall expire two years
29 from the date the license was issued, or on the date the apprentice
30 is issued a license following the license examination, or if the
31 apprentice fails the license examination twice, on the date the
32 results of the second examination are issued, whichever occurs
33 first.

34 (b) No person holding a *valid, unexpired* license as an
35 apprentice shall work more than three months after completing the
36 required training without applying for and taking the examination
37 for licensure.

38 (c) The bureau may extend the two-year or three-month period
39 described in subdivisions (a) and (b) upon a showing of good cause
40 which shall include, but not be limited to, delays in applying for



1 and taking the examination caused by the illness of, or accident to,
2 the apprentice, or service in the armed forces of the United States.

3 SEC. 5. Section 7349 of the Business and Professions Code
4 is repealed.

5 ~~7349. It is unlawful for any person, firm, or corporation to~~
6 ~~hire, employ, or allow to be employed, or permit to work, in or~~
7 ~~about an establishment, any person who performs or practices any~~
8 ~~occupation regulated under this chapter and is not duly licensed by~~
9 ~~the bureau, except that a licensed cosmetology establishment may~~
10 ~~utilize a student extern, as described in Section 7395.1.~~

11 ~~Any person violating this section is subject to citation and fine~~
12 ~~pursuant to Section 7406 and is also guilty of a misdemeanor.~~

13 SEC. 6. Section 7362 of the Business and Professions Code
14 is amended to read:

15 7362. (a) A school approved by the bureau is one which is
16 licensed by the ~~Council~~ Bureau for Private Postsecondary and
17 Vocational Education, or a public school in this state, and provides
18 a course of instruction approved by the bureau.

19 (b) The bureau shall determine by regulation the required
20 subjects of instruction to be completed in all approved courses,
21 including the minimum hours of technical instruction and
22 minimum number of practical operations for each subject, and
23 shall determine how much training is required before a student
24 may begin performing services on paying patrons.

25 SEC. 7. Section 7395.1 of the Business and Professions Code
26 is repealed.

27 ~~7395.1. (a) A student who is enrolled in a school of~~
28 ~~cosmetology approved by the Council for Private Postsecondary~~
29 ~~and Vocational Education in a course approved by the bureau may,~~
30 ~~upon completion of a minimum of 60 percent of the clock hours~~
31 ~~required for graduation in the course, work as an unpaid extern in~~
32 ~~a cosmetology establishment participating in the educational~~
33 ~~program of the school of cosmetology.~~

34 ~~(b) A person working as an extern shall receive clock hour~~
35 ~~credit toward graduation, but that credit shall not exceed eight~~
36 ~~hours per week and shall not exceed 10 percent of the total clock~~
37 ~~hours required for completion of the course.~~

38 ~~(c) The externship program shall be conducted in cosmetology~~
39 ~~establishments meeting all of the following criteria:~~

40 ~~(1) The establishment is licensed by the bureau.~~



1 ~~(2) The establishment has a minimum of four licensees~~
2 ~~working at the establishment, including employees and owners or~~
3 ~~managers.~~

4 ~~(3) All licensees at the establishment are in good standing with~~
5 ~~the bureau.~~

6 ~~(4) Licensees working at the establishment work for salaries or~~
7 ~~commissions rather than on a space rental basis.~~

8 ~~(5) No more than one extern shall work in an establishment for~~
9 ~~every four licensees working in the establishment. No regularly~~
10 ~~employed licensee shall be displaced or have his or her work hours~~
11 ~~reduced or altered to accommodate the placement of an extern in~~
12 ~~an establishment. Prior to placement of the extern, the~~
13 ~~establishment shall agree in writing sent to the school and to all~~
14 ~~affected licensees that no reduction or alteration of any licensee's~~
15 ~~current work schedule shall occur. This shall not prevent a licensee~~
16 ~~from voluntarily reducing or altering his or her work schedule.~~

17 ~~(6) Externs shall wear conspicuous school identification at all~~
18 ~~times while working in the establishment, and shall carry a school~~
19 ~~laminated identification, that includes a picture, in a form~~
20 ~~approved by the bureau.~~

21 ~~(d) (1) A school participating in the externship program shall~~
22 ~~provide the participating establishment and the extern with a~~
23 ~~syllabus containing applicable information specified in Section~~
24 ~~73880 of Title 5 of the California Code of Regulations. The extern,~~
25 ~~the school, and the establishment shall agree to the terms of and~~
26 ~~sign the syllabus prior to the extern beginning work at the~~
27 ~~establishment. No less than 90 percent of the responsibilities and~~
28 ~~duties of the extern shall consist of the acts included within the~~
29 ~~practice of cosmetology as defined in Section 7316.~~

30 ~~(2) The establishment shall consult with the assigning school~~
31 ~~regarding the extern's progress during the unpaid externship. The~~
32 ~~owner or manager of the establishment shall monitor and report on~~
33 ~~the student's progress to the school on a regular basis, with~~
34 ~~assistance from supervising licensees.~~

35 ~~(3) A participating school shall assess the extern's learning~~
36 ~~outcome from the externship program. The school shall maintain~~
37 ~~accurate records of the extern's educational experience in the~~
38 ~~externship program and records that indicate how the extern's~~
39 ~~learning outcome translates into course credit.~~



1 ~~(e) Participation in an externship program made available by a~~
2 ~~school shall be voluntary, may be terminated by the student at any~~
3 ~~time, and shall not be a prerequisite for graduation.~~

4 ~~(f) The cosmetology establishment that chooses to utilize the~~
5 ~~extern is liable for the extern’s general liability insurance, as well~~
6 ~~as cosmetology malpractice liability insurance, and shall furnish~~
7 ~~proof to the participating school that the establishment is covered~~
8 ~~by both forms of liability insurance and that the extern is covered~~
9 ~~under that insurance.~~

10 ~~(g) (1) It is the purpose of the externship program authorized~~
11 ~~by this section to provide students with skills, knowledge, and~~
12 ~~attitudes necessary to acquire employment in the field for which~~
13 ~~they are being trained, and to extend formalized classroom~~
14 ~~instruction.~~

15 ~~(2) Instruction shall be based on skills, knowledge, attitudes,~~
16 ~~and performance levels in the area of cosmetology for which the~~
17 ~~instruction is conducted.~~

18 ~~(3) An extern may perform only acts listed within the definition~~
19 ~~of the practice of cosmetology as provided in Section 7316, if a~~
20 ~~licensee directly supervises those acts, except that an extern may~~
21 ~~not use or apply chemical treatments unless the extern has received~~
22 ~~appropriate training in application of those treatments from an~~
23 ~~approved cosmetology school. An extern may work on a paying~~
24 ~~client only in an assisting capacity and only with the direct and~~
25 ~~immediate supervision of a licensee.~~

26 ~~(4) The extern shall not perform any work in a manner that~~
27 ~~would violate law.~~

28 SEC. 8. Section 7400 of the Business and Professions Code
29 is amended to read:

30 7400. Every licensee of the bureau, except establishments
31 shall, within 30 days after a change of address, notify the bureau
32 of the new address, and, upon receipt of the notification, the bureau
33 shall make the necessary changes in the register. *If the address of*
34 *record is the licensee’s residence address, the licensee may provide*
35 *the bureau with an alternate address to disclose to the public.*

36 SEC. 9. Section 7403.5 is added to the Business and
37 Professions Code, to read:

38 7403.5. (a) In addition to the authority provided by Sections
39 495 and 7403, the bureau chief, in his or her discretion, may upon
40 written notice immediately close any establishment which, upon



1 completion of an inspection, is found to have health and safety
2 violations of such a severe nature as to pose an immediate threat
3 to public health and safety.

4 (b) The bureau chief shall issue a written notice of suspension
5 of the establishment license including the grounds therefor and a
6 notice of closure. The notice of closure shall be posted at the
7 establishment so as to be clearly visible to the general public and
8 to patrons.

9 (c) Upon issuance of the written notice of suspension of the
10 establishment license, the establishment shall immediately close
11 to the general public and to patrons and shall discontinue all
12 operations until the suspension has been vacated by the bureau
13 chief, the suspension expires, is superseded by an order issued
14 under the authority of Section 494, or until the establishment no
15 longer operates under this chapter.

16 (d) (1) Before issuing a suspension order under this section,
17 the bureau chief shall, if practical, give the establishment notice
18 and an opportunity to be heard. If no hearing is provided prior to
19 the issuance of the suspension order, the establishment may
20 request one after the suspension has been issued.

21 (2) Notice and hearing under this section may be oral or
22 written, including notice and hearing by telephone, facsimile
23 transmission, or other electronic means as the circumstances
24 permit.

25 (e) Upon correction of violations the establishment may
26 request that the written notice of suspension be terminated. The
27 bureau chief shall conduct an inspection within 48 hours to
28 determine whether the written notice of suspension may be
29 terminated. If the written notice of suspension is not terminated
30 upon inspection for failure of the establishment to correct
31 violations, a charge of one hundred dollars (\$100) shall be imposed
32 for each subsequent inspection under this section.

33 (f) The notice of suspension shall remain posted until removed
34 by the bureau chief, but shall be in effect for no longer than 30
35 days. Removal of the notice of suspension by any person other than
36 the bureau chief or designated representative, or the refusal of an
37 establishment to close upon issuance of the written notice of
38 suspension of the establishment license is a violation of this
39 chapter and may result in any sanctions authorized by this chapter.



1 SEC. 10. Section 7410 of the Business and Professions Code
2 is amended to read:

3 7410. Persons to whom a notice of violation or a citation is
4 issued and an administrative fine assessed may appeal the citation
5 to a disciplinary review committee established by regulation by the
6 director. All appeals shall be submitted in writing to the ~~program~~
7 *bureau* within 30 days of the date the citation was issued. Appeals
8 of citations that are not submitted in a timely manner shall be
9 rejected.

10 After a timely appeal has been filed with the ~~program~~ *bureau*,
11 the administrative fine, if any, shall be stayed until the appeal has
12 been adjudicated.

13 Persons appealing a citation, or their appointed representatives,
14 shall appear in person before the disciplinary review committee.
15 The appellant may present written or oral evidence relating to the
16 facts and circumstances relating to the citation that was issued.
17 Following an appeal before a disciplinary review committee, the
18 disciplinary review committee shall issue a decision, based on
19 findings of fact, which may affirm, reduce, dismiss, or alter any
20 charges filed in the citation. In no event shall the administrative
21 fine be increased. The appellant shall be provided with a written
22 copy of the disciplinary review committee’s decision relating to
23 the appeal.

24 SEC. 11. Section 7411 of the Business and Professions Code
25 is amended to read:

26 7411. Persons receiving a decision from a disciplinary review
27 committee may appeal the decision by filing a written request,
28 within 30 days after receipt of the decision, to the ~~program~~
29 ~~administrator~~ *bureau chief*. Following a hearing to appeal the
30 decision of a disciplinary review committee, the director shall
31 thereafter issue a decision, based on findings of fact, affirming,
32 modifying or vacating the citation or penalty, or directing other
33 appropriate relief. In no event shall the administrative fine be
34 increased. The hearing to contest the decision of a disciplinary
35 review committee shall be conducted in accordance with Chapter
36 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
37 2 of the Government Code, and the director shall have all powers
38 granted therein.

39 SEC. 12. Section 7424 of the Business and Professions Code
40 is amended to read:



1 7424. The amounts of the fees payable under this chapter
2 relating to licenses to operate an establishment are as follows:

3 (a) The application and initial license fee shall be not more than
4 eighty dollars (\$80).

5 (b) The renewal fee shall be not more than forty dollars (\$40).

6 (c) The delinquency fee is 50 percent of the renewal fee in
7 effect on the date of renewal.

8 (d) Any application and initial license fee for the change of
9 ownership of an existing establishment may be established by the
10 ~~board~~ *bureau* in an amount less than the fee prescribed for a new
11 establishment, but sufficient to cover the costs of processing the
12 application and issuing the license.

13 SEC. 13. Section 7425.5 is added to the Business and
14 Professions Code, to read:

15 7425.5. The fee for approval as a provider of continuing
16 education shall not be more than three hundred dollars (\$300). The
17 fee for approval of a continuing education course shall not be more
18 than one hundred dollars (\$100).

19 SEC. 14. Section 7426.5 of the Business and Professions
20 Code is amended to read:

21 7426.5. The ~~board~~ *bureau* may, by regulation, divide the fees
22 payable under this chapter relating to licenses into separate
23 categories based upon processing functions, such as application
24 review, examination administration, or license issuance, provided
25 that the combined fees for those processing functions do not
26 exceed the maximum amount prescribed by the license category.

27 The ~~board~~ *bureau* may, by regulation, establish procedures
28 whereby some or all of a fee submitted in connection with an
29 application for licensure would be forfeited by an applicant who
30 has withdrawn his or her application, fails to appear for an
31 examination, or is required to retake an examination.

