

AMENDED IN SENATE APRIL 4, 2002

SENATE BILL

No. 1957

Introduced by Senator Polanco

February 22, 2002

An act to amend Sections 7301, 7313, 7335, 7349, 7353, 7362, 7400, 7408, 7410, 7411, 7424, and 7426.5 of, to add ~~Sections 7403.5 and 7425.5~~ Section 7403.5 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 amended, Polanco. Barbering and cosmetology.

The Barbering and Cosmetology Act establishes the Bureau of Barbering and Cosmetology in the Department of Consumer Affairs. Existing law requires the licensure of a person by the bureau to practice barbering, cosmetology, or electrolysis. Existing law provides that an apprentice shall not work more than 3 months after completing the required training without applying for and taking the examination for licensure.

The bill would prohibit an apprentice from working more than 3 months without applying for and scheduling the examination.

Existing law 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.

This bill would delete the provisions that exempt the use of a student extern.

Existing law requires the bureau to inspect an establishment within 90 days after the bureau issues an establishment license.

The bill would also authorize the bureau to inspect the premises prior to the issuance of the license.

Existing law requires a licensed barber, cosmetologist, or electrologist to notify the bureau within 30 days of a change of address.

The bill would authorize a licensee to provide the bureau with an alternate address if the bureau's address of record is the licensee's residence address.

Existing law authorizes an administrative law judge to order a person to pay the bureau reasonable costs for the investigation and adjudication in a proceeding to revoke, suspend, or deny a license.

The bill would provide that a person who fails to pay costs would not be issued a license or allowed to renew a license until the costs are paid.

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

8 7313. (a) (1) To ensure compliance with the laws and
9 regulations of this chapter, the bureau chief and authorized
10 representatives shall, except as provided by Section 159.5, have
11 access to, and shall inspect, any establishment or mobile unit
12 *during business hours or* at any time in which barbering,
13 cosmetology, or electrolysis are being performed. It is the intent
14 of the Legislature that inspections be conducted on Saturdays and
15 Sundays as well as weekdays, if collective bargaining agreements
16 and civil service provisions permit.

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

30 (b) To ensure compliance with health and safety requirements
31 adopted by the bureau, the bureau chief and authorized
32 representatives shall, except as provided in Section 159.5, have
33 access to, and shall inspect the premises of, all schools in which the
34 practice of barbering, cosmetology, or electrolysis is performed on
35 the public. ~~Notices of violation~~ Citations shall be issued to schools
36 for violations of regulations governing conditions related to the
37 health and safety of patrons. ~~Each notice shall specify the section~~
38 ~~violated and a timespan within which the violation must be~~



1 ~~corrected.~~ A copy of the ~~notice of violation~~ *citation* shall be
2 provided to the Bureau for Private Postsecondary and Vocational
3 Education.

4 SEC. 3. Section 7315 of the Business and Professions Code
5 is repealed.

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

8 7335. (a) The license of an apprentice shall expire two years
9 from the date the license was issued, or on the date the apprentice
10 is issued a license following the license examination, or if the
11 apprentice fails the license examination twice, on the date the
12 results of the second examination are issued, whichever occurs
13 first.

14 ~~(b) No person holding a valid, unexpired license as an~~
15 ~~apprentice shall work more than three months after completing the~~
16 ~~required training without applying for and taking the examination~~
17 ~~for licensure.~~

18 *(b) An apprentice holding a valid, unexpired license may work*
19 *not more than three months after completing the required training*
20 *without applying for and scheduling the examination for licensure.*

21 (c) The bureau may extend the two-year or three-month period
22 described in subdivisions (a) and (b) upon a showing of good cause
23 which shall include, but not be limited to, delays in applying for
24 and taking the examination caused by the illness of, or accident to,
25 the apprentice, or service in the Armed Forces of the United States.

26 SEC. 5. Section 7349 of the Business and Professions Code
27 ~~is repealed.~~ *is amended to read:*

28 7349. It is unlawful for any person, firm, or corporation to
29 hire, employ, or allow to be employed, or permit to work, in or
30 about an establishment, any person who performs or practices any
31 occupation regulated under this chapter and is not duly licensed by
32 the bureau, ~~except that a licensed cosmetology establishment may~~
33 ~~utilize a student extern, as described in Section 7395.1.~~

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

36 SEC. 6. *Section 7353 of the Business and Professions Code is*
37 *amended to read:*

38 7353. (a) (1) Within 90 days after issuance of the
39 establishment license, the bureau or its agents or assistants shall
40 inspect the establishment for compliance with the applicable



1 requirements of this chapter and the applicable rules and
2 regulations of the bureau adopted pursuant to this chapter. ~~The~~

3 *(2) The bureau may inspect the establishment for which a*
4 *license application has been made prior to the issuance of the*
5 *license.*

6 *(b) The bureau shall maintain a program of random and*
7 *targeted inspections of establishments to ensure compliance with*
8 *applicable laws relating to the public health and safety and the*
9 *conduct and operation of establishments.* ~~The~~

10 *(c) The bureau or its authorized representatives shall inspect*
11 *establishments to reasonably determine compliance levels and to*
12 *identify market conditions that require targeted enforcement.* ~~The~~

13 *(d) The bureau shall not reduce the number of employees*
14 *assigned to perform random inspections, targeted inspections, and*
15 *investigations relating to field operations below the level funded*
16 *by the annual Budget Act and described in supporting budget*
17 *documents, and shall not redirect funds or personnel-years*
18 *allocated to those inspection and investigation purposes to other*
19 *purposes.*

20 *SEC. 7.* Section 7362 of the Business and Professions Code is
21 amended to read:

22 7362. (a) A school approved by the bureau is one which is
23 licensed by the Bureau for Private Postsecondary and Vocational
24 Education, or a public school in this state, and provides a course
25 of instruction approved by the bureau.

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

32 ~~SEC. 7.~~

33 *SEC. 8.* Section 7395.1 of the Business and Professions Code
34 is repealed.

35 ~~SEC. 8.~~

36 *SEC. 9.* Section 7400 of the Business and Professions Code is
37 amended to read:

38 7400. Every licensee of the bureau, except establishments
39 shall, within 30 days after a change of address, notify the bureau
40 of the new address, and, upon receipt of the notification, the bureau



1 shall make the necessary changes in the register. If the address of
2 record is the licensee's residence address, the licensee may provide
3 the bureau with an alternate address to disclose to the public.

4 ~~SEC. 9.~~

5 *SEC. 10. Section 7403 of the Business and Professions Code*
6 *is amended to read:*

7 7403. (a) The bureau may revoke, suspend, or deny at any
8 time any license required by this chapter on any of the grounds for
9 disciplinary action provided in this article. The proceedings under
10 this article shall be conducted in accordance with Chapter 5
11 (commencing with Section 11500) of Part 1 of Division 3 of Title
12 2 of the Government Code, and the bureau shall have all the
13 powers granted therein.

14 (b) In any case in which the administrative law judge
15 recommends that the bureau revoke, suspend or deny a license, the
16 administrative law judge may, upon presentation of suitable proof,
17 order the licensee to pay the bureau the reasonable costs of the
18 investigation and adjudication of the case. For purposes of this
19 section, "costs" include charges by the bureau for investigating
20 the case, charges incurred by the office of the Attorney General for
21 investigating and presenting the case, and charges incurred by the
22 Office of Administrative Hearings for hearing the case and issuing
23 a proposed decision.

24 (c) The costs to be assessed shall be fixed by the administrative
25 law judge and shall not, in any event, be increased by the bureau.
26 When the bureau does not adopt a proposed decision and remands
27 the case to an administrative law judge, the administrative law
28 judge shall not increase the amount of any costs assessed in the
29 proposed decision.

30 (d) *Persons who fail to pay costs shall not be issued a license*
31 *or allowed to renew a license issued to them until all costs are paid.*

32 (e) The bureau may enforce the order for payment in the
33 superior court in the county where the administrative hearing was
34 held. This right of enforcement shall be in addition to any other
35 rights the bureau may have as to any licensee directed to pay costs.

36 ~~(e)~~

37 (f) In any judicial action for the recovery of costs, proof of the
38 bureau's decision shall be conclusive proof of the validity of the
39 order of payment and the terms for payment.

40 ~~(f)~~



1 (g) Notwithstanding any other provision of law, all costs
2 recovered under this section shall be deposited in the bureau's
3 contingent fund as a scheduled reimbursement in the fiscal year in
4 which the costs are actually recovered.

5 *SEC. 11.* Section 7403.5 is added to the Business and
6 Professions Code, to read:

7 7403.5. (a) In addition to the authority provided by Sections
8 495 and 7403, the bureau chief, in his or her discretion, may upon
9 written notice immediately close any establishment which, upon
10 completion of an inspection, is found to have health and safety
11 violations of such a severe nature as to pose an immediate threat
12 to public health and safety.

13 (b) The bureau chief shall issue a written notice of suspension
14 of the establishment license including the grounds therefor and a
15 notice of closure. The notice of closure shall be posted at the
16 establishment so as to be clearly visible to the general public and
17 to patrons.

18 (c) Upon issuance of the written notice of suspension of the
19 establishment license, the establishment shall immediately close
20 to the general public and to patrons and shall discontinue all
21 operations until the suspension has been vacated by the bureau
22 chief, the suspension expires, is superseded by an order issued
23 under the authority of Section 494, or until the establishment no
24 longer operates under this chapter.

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

30 (2) Notice and hearing under this section may be oral or
31 written, including notice and hearing by telephone, facsimile
32 transmission, or other electronic means as the circumstances
33 permit.

34 (e) Upon correction of violations the establishment may
35 request that the written notice of suspension be terminated. The
36 bureau chief shall conduct an inspection within 48 hours to
37 determine whether the written notice of suspension may be
38 terminated. If the written notice of suspension is not terminated
39 upon inspection for failure of the establishment to correct



1 violations, a charge of one hundred dollars (\$100) shall be imposed
2 for each subsequent inspection under this section.

3 (f) The notice of suspension shall remain posted until removed
4 by the bureau chief, but shall be in effect for no longer than 30
5 days. Removal of the notice of suspension by any person other than
6 the bureau chief or designated representative, or the refusal of an
7 establishment to close upon issuance of the written notice of
8 suspension of the establishment license is a violation of this
9 chapter and may result in any sanctions authorized by this chapter.

10 ~~SEC. 10.~~

11 *SEC. 12. Section 7408 of the Business and Professions Code*
12 *is amended to read:*

13 7408. The bureau, through its duly authorized
14 representatives, shall issue a citation with respect to any violation
15 for which an administrative fine may be assessed. Each citation
16 shall be in writing and shall describe with particularity the nature
17 of the violation, including a reference to the specific provision
18 alleged to have been violated. The administrative fine, if any, shall
19 attach at the time the citation is written. The citation shall include
20 an order to correct any condition or violation which lends itself to
21 correction, as determined by the bureau pursuant to Section ~~7406~~
22 *7409.*

23 *SEC. 13. Section 7410 of the Business and Professions Code*
24 *is amended to read:*

25 7410. Persons to whom ~~a notice of violation or~~ a citation is
26 issued and an administrative fine assessed may appeal the citation
27 to a disciplinary review committee established by regulation by the
28 director. All appeals shall be submitted in writing to the bureau
29 within 30 days of the date the citation was issued. Appeals of
30 citations that are not submitted in a timely manner shall be
31 rejected.

32 After a timely appeal has been filed with the bureau, the
33 administrative fine, if any, shall be stayed until the appeal has been
34 adjudicated.

35 Persons appealing a citation, or their appointed representatives,
36 shall appear in person before the disciplinary review committee.
37 The appellant may present written or oral evidence relating to the
38 facts and circumstances relating to the citation that was issued.
39 Following an appeal before a disciplinary review committee, the
40 disciplinary review committee shall issue a decision, based on



1 findings of fact, which may affirm, reduce, dismiss, or alter any
2 charges filed in the citation. In no event shall the administrative
3 fine be increased. The appellant shall be provided with a written
4 copy of the disciplinary review committee's decision relating to
5 the appeal.

6 ~~SEC. 11.~~

7 *SEC. 14.* Section 7411 of the Business and Professions Code
8 is amended to read:

9 7411. Persons receiving a decision from a disciplinary review
10 committee may appeal the decision by filing a written request,
11 within 30 days after receipt of the decision, to the bureau chief.
12 Following a hearing to appeal the decision of a disciplinary review
13 committee, the director shall thereafter issue a decision, based on
14 findings of fact, affirming, modifying or vacating the citation or
15 penalty, or directing other appropriate relief. In no event shall the
16 administrative fine be increased. The hearing to contest the
17 decision of a disciplinary review committee shall be conducted in
18 accordance with Chapter 5 (commencing with Section 11500) of
19 Part 1 of Division 3 of Title 2 of the Government Code, and the
20 director shall have all powers granted therein.

21 ~~SEC. 12.~~

22 *SEC. 15.* Section 7424 of the Business and Professions Code
23 is amended to read:

24 7424. The amounts of the fees payable under this chapter
25 relating to licenses to operate an establishment are as follows:

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

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

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

31 (d) Any application and initial license fee for the change of
32 ownership of an existing establishment may be established by the
33 bureau in an amount less than the fee prescribed for a new
34 establishment, but sufficient to cover the costs of processing the
35 application and issuing the license.

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

38 ~~7425.5. The fee for approval as a provider of continuing~~
39 ~~education shall not be more than three hundred dollars (\$300). The~~



1 ~~fee for approval of a continuing education course shall not be more~~
2 ~~than one hundred dollars (\$100).~~

3 ~~SEC. 14.~~

4 *SEC. 16.* Section 7426.5 of the Business and Professions
5 Code is amended to read:

6 7426.5. The bureau may, by regulation, divide the fees
7 payable under this chapter relating to licenses into separate
8 categories based upon processing functions, such as application
9 review, examination administration, or license issuance, provided
10 that the combined fees for those processing functions do not
11 exceed the maximum amount prescribed by the license category.

12 The bureau may, by regulation, establish procedures whereby
13 some or all of a fee submitted in connection with an application for
14 licensure would be forfeited by an applicant who has withdrawn
15 his or her application, fails to appear for an examination, or is
16 required to retake an examination.

