

ASSEMBLY BILL

No. 1754

Introduced by Assembly Member Mendoza

February 17, 2012

An act to amend Sections 7301, 7316, 7319, 7332, and 7334 of, and to add Sections 7325 and 7364.5 to, the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1754, as introduced, Mendoza. Voluntary certification: makeup artists.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practice of barbering and cosmetology, including the practice of skin care by licensed estheticians. Existing law requires the State Board of Barbering and Cosmetology to administer the act. A violation of the act is a crime. Existing law requires an applicant for an esthetician license to practice skin care, defined as, among other things, giving facials, applying makeup, and beautifying and massaging the face and neck using specified substances and certain devices, to complete an application, pass an examination, pay an application and examination fee, and meet other educational requirements. Existing law also authorizes an applicant for an esthetician license to satisfy those other educational requirements by, among other things, completing an apprenticeship program in which a licensed apprentice learns and acquires knowledge about skin care under the supervision of a board-approved licensee. Existing law generally makes licenses issued by the board subject to biennial renewal and imposes a specified renewal fee.

This bill would provide for the voluntary certification of makeup artists. The bill would define the practice of makeup artistry to include applying makeup, as defined, applying prosthetics, lash and brow tinting, the application of false eyelashes, and skin analysis. The bill would require applicants for a certificate to pay a fee in a specified amount, and would further require that applicants satisfy certain educational requirements, or, alternatively, submit documentation of prior experience or education, as specified. The bill would make other conforming changes.

Because a violation of the act by a makeup artist would constitute a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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, *makeup*
- 4 *artistry*, nail care, and electrolysis and may be known and cited as
- 5 the Barbering and Cosmetology Act.
- 6 SEC. 2. Section 7316 of the Business and Professions Code is
- 7 amended to read:
- 8 7316. (a) The practice of barbering is all or any combination
- 9 of the following practices:
- 10 (1) Shaving or trimming the beard or cutting the hair.
- 11 (2) Giving facial and scalp massages or treatments with oils,
- 12 creams, lotions, or other preparations either by hand or mechanical
- 13 appliances.
- 14 (3) Singeing, shampooing, arranging, dressing, curling, waving,
- 15 chemical waving, hair relaxing, or dyeing the hair or applying hair
- 16 tonics.
- 17 (4) Applying cosmetic preparations, antiseptics, powders, oils,
- 18 clays, or lotions to scalp, face, or neck.

1 (5) Hairstyling of all textures of hair by standard methods that
2 are current at the time of the hairstyling.

3 (b) The practice of cosmetology is all or any combination of
4 the following practices:

5 (1) Arranging, dressing, curling, waving, machineless permanent
6 waving, permanent waving, cleansing, cutting, shampooing,
7 relaxing, singeing, bleaching, tinting, coloring, straightening,
8 dyeing, applying hair tonics to, beautifying, or otherwise treating
9 by any means, the hair of any person.

10 (2) Massaging, cleaning, or stimulating the scalp, face, neck,
11 arms, or upper part of the human body, by means of the hands,
12 devices, apparatus or appliances, with or without the use of
13 cosmetic preparations, antiseptics, tonics, lotions, or creams.

14 (3) Beautifying the face, neck, arms, or upper part of the human
15 body, by use of cosmetic preparations, antiseptics, tonics, lotions,
16 or creams.

17 (4) Removing superfluous hair from the body of any person by
18 the use of depilatories or by the use of tweezers, chemicals, or
19 preparations or by the use of devices or appliances of any kind or
20 description, except by the use of light waves, commonly known
21 as rays.

22 (5) Cutting, trimming, polishing, tinting, coloring, cleansing,
23 or manicuring the nails of any person.

24 (6) Massaging, cleansing, treating, or beautifying the hands or
25 feet of any person.

26 (c) Within the practice of cosmetology there exist the specialty
27 branches of skin care ~~and~~, nail care, *and makeup artistry*.

28 (1) Skin care is any one or more of the following practices:

29 (A) Giving facials, applying makeup, giving skin care, removing
30 superfluous hair from the body of any person by the use of
31 depilatories, tweezers or waxing, or applying eyelashes to any
32 person.

33 (B) Beautifying the face, neck, arms, or upper part of the human
34 body, by use of cosmetic preparations, antiseptics, tonics, lotions,
35 or creams.

36 (C) Massaging, cleaning, or stimulating the face, neck, arms,
37 or upper part of the human body, by means of the hands, devices,
38 apparatus, or appliances, with the use of cosmetic preparations,
39 antiseptics, tonics, lotions, or creams.

1 (2) Nail care is the practice of cutting, trimming, polishing,
2 coloring, tinting, cleansing, manicuring, or pedicuring the nails of
3 any person or massaging, cleansing, or beautifying from the elbow
4 to the fingertips or the knee to the toes of any person.

5 (3) (A) *The practice of makeup artistry includes applying*
6 *makeup and prosthetics, lash and brow tinting, the application of*
7 *false eyelashes, and skin analysis.*

8 (B) *For the purposes of this chapter, “makeup” is defined as a*
9 *cosmetic substance such as, but not limited to, a cream, lotion, or*
10 *powder used to color and beautify the face and other parts of the*
11 *body in order to improve, alter, or enhance appearance and*
12 *includes fashion makeup, theatrical makeup, special effects*
13 *makeup, airbrushing, high-definition makeup, and corrective*
14 *makeup.*

15 (d) The practice of barbering and the practice of cosmetology
16 do not include any of the following:

17 (1) The mere sale, fitting, or styling of wigs or hairpieces.

18 (2) Natural hair braiding. Natural hair braiding is a service that
19 results in tension on hair strands or roots by twisting, wrapping,
20 weaving, extending, locking, or braiding by hand or mechanical
21 device, provided that the service does not include haircutting or
22 the application of dyes, reactive chemicals, or other preparations
23 to alter the color of the hair or to straighten, curl, or alter the
24 structure of the hair.

25 (3) Threading. Threading is a technique that results in removing
26 hair by twisting thread around unwanted hair and pulling it from
27 the skin and the incidental trimming of eyebrow hair.

28 (e) Notwithstanding paragraph (2) of subdivision (d), a person
29 who engages in natural hairstyling, which is defined as the
30 provision of natural hair braiding services together with any of the
31 services or procedures defined within the regulated practices of
32 barbering or cosmetology, is subject to regulation pursuant to this
33 chapter and shall obtain and maintain a barbering or cosmetology
34 license as applicable to the services respectively offered or
35 performed.

36 (f) Electrolysis is the practice of removing hair from, or
37 destroying hair on, the human body by the use of an electric needle
38 only.

39 “Electrolysis” as used in this chapter includes electrolysis or
40 thermolysis.

1 SEC. 3. Section 7319 of the Business and Professions Code is
2 amended to read:

3 7319. The following persons are exempt from this chapter:

4 (a) All persons authorized by the laws of this state to practice
5 medicine, surgery, dentistry, pharmacy, osteopathic medicine,
6 chiropractic, naturopathy, podiatry, or nursing and acting within
7 the scope of practice for which they are licensed.

8 (b) Commissioned officers of the United States Army, Navy,
9 Air Force, Marine Corps, members of the United States Public
10 Health Service, and attendants attached to those services when
11 engaged in the actual performance of their official duties.

12 (c) Persons employed to render barbering, cosmetology, or
13 electrolysis services in the course of and incidental to the business
14 of employers engaged in the theatrical, radio, television or motion
15 picture production industry.

16 (d) Persons engaged in any practice within its scope when done
17 outside of a licensed establishment, without compensation.

18 (e) Persons engaged in the administration of hair, skin, *makeup*,
19 or nail products for the exclusive purpose of recommending,
20 demonstrating, or selling those products.

21 (f) Persons who render barbering or cosmetology services in an
22 institutional program during the course of and incidental to the
23 incarceration or confinement of inmates, prisoners, or persons
24 charged with a crime. However, all of the following conditions
25 shall apply:

26 (1) Those persons shall complete a barbering training course,
27 developed by the Department of Corrections *and Rehabilitation*
28 and approved by the Department of Consumer Affairs, in the proper
29 care of instruments and the prevention of infectious diseases.

30 (2) Those persons shall successfully pass an examination,
31 developed and administered by the Department of Corrections *and*
32 *Rehabilitation*, on the proper care of instruments and the prevention
33 of infectious diseases.

34 (3) All barbering facilities located in correctional institutions
35 shall be subject to all appropriate health and safety sanitation
36 standards, as determined by the Department of Corrections *and*
37 *Rehabilitation*.

38 SEC. 4. Section 7325 is added to the Business and Professions
39 Code, to read:

1 7325. (a) It is the intent of this section to create a voluntary
2 certification for makeup artists by the board in order to provide
3 consumers with public health and safety protection from unsanitary
4 practices and better employment opportunities for makeup artists.
5 (b) The board shall issue a certificate to an applicant who
6 satisfies the requirements of subdivision (c) and pays the initial
7 certificate fee of not more than forty-five dollars (\$45).
8 (c) In order to obtain voluntary certification as a makeup artist,
9 an applicant shall submit an application, in proper form, pay the
10 application fee, and provide the board with satisfactory evidence
11 of the following:
12 (1) That he or she is not less than 17 years of age.
13 (2) That he or she has completed the 10th grade in the public
14 schools of this state or its equivalent.
15 (3) That he or she is not subject to denial pursuant to Section
16 480.
17 (4) That he or she meets any of the following requirements:
18 (A) Completed a course in makeup artistry from a school
19 approved by the board.
20 (B) Completed the apprenticeship program in makeup artistry
21 specified in Article 4 (commencing with Section 7332).
22 (C) Belongs to a makeup artist union.
23 (D) Can provide documentation of at least three years of
24 experience practicing makeup artistry. For the purposes of this
25 subdivision, documentation includes dated tear sheets with the
26 makeup artist's name credited, a valid dated membership with an
27 industry organization, a license from the Bureau for Private
28 Postsecondary Education as a makeup artist instructor, a diploma
29 from a board-approved makeup school, or a certificate of
30 experience from a licensed establishment. This subparagraph shall
31 become inoperative on January 1, 2015.
32 (E) Can provide documentation of less than three years of
33 experience practicing makeup artistry and completed 80 hours of
34 practical training and technical instruction from a board-approved
35 makeup artistry school. This subparagraph shall become inoperative
36 on January 1, 2015.
37 (d) A certificate shall be valid for a two-year period and
38 thereafter shall be renewable upon the payment of a renewal fee
39 of not more than forty-five dollars (\$45).

1 (e) Nothing in this section shall be construed to prohibit a
2 cosmetologist licensed pursuant to Section 7321 or an esthetician
3 licensed pursuant to Section 7324 from applying makeup without
4 a certificate. However, a makeup artist desiring to practice
5 cosmetology or skin care shall be subject to the licensure
6 requirements of Section 7324.

7 SEC. 5. Section 7332 of the Business and Professions Code is
8 amended to read:

9 7332. An apprentice is any person who is licensed by the board
10 to engage in learning or acquiring a knowledge of barbering,
11 cosmetology, skin care, *makeup artistry*, nail care, or electrology,
12 in a licensed establishment under the supervision of a licensee
13 approved by the board.

14 SEC. 6. Section 7334 of the Business and Professions Code is
15 amended to read:

16 7334. (a) The board may license as an apprentice in barbering,
17 cosmetology, skin care, ~~or~~ nail care, *or makeup artistry* any person
18 who has made application to the board upon the proper form, has
19 paid the fee required by this chapter, and who is qualified as
20 follows:

- 21 (1) Is over 16 years of age.
- 22 (2) Has completed the 10th grade in the public schools of this
23 state or its equivalent.
- 24 (3) Is not subject to denial pursuant to Section 480.
- 25 (4) Has submitted evidence acceptable to the board that any
26 training the apprentice is required by law to obtain shall be
27 conducted in a licensed establishment and under the supervision
28 of a licensee approved by the board.

29 (b) The board may license as an apprentice in electrolysis any
30 person who has made application to the board upon the proper
31 form, has paid the fee required by this chapter, and who is qualified
32 as follows:

- 33 (1) Is not less than 17 years of age.
- 34 (2) Has completed the 12th grade or an accredited senior high
35 school course of study in schools of this state or its equivalent.
- 36 (3) Is not subject to denial pursuant to Section 480.
- 37 (4) Has submitted evidence acceptable to the board that any
38 training the apprentice is required by law to obtain shall be
39 conducted in a licensed establishment and under the supervision
40 of a licensee approved by the board.

1 (c) All persons making application as an apprentice in barbering
2 shall also complete a minimum of 39 hours of preapprentice
3 training in a facility approved by the board prior to serving the
4 general public.

5 (d) All persons making application as an apprentice in
6 cosmetology, skin care, nail care, *makeup artistry*, or electrology
7 shall also complete minimum preapprentice training for the length
8 of time established by the board in a facility approved by the board
9 prior to serving the general public.

10 (e) Apprentices may only perform services on the general public
11 for which they have received technical training.

12 (f) Apprentices shall be required to obtain at least the minimum
13 hours of technical instruction and minimum number of practical
14 operations for each subject as specified in board regulations for
15 courses taught in schools approved by the board, in accordance
16 with Sections 3074 and 3078 of the Labor Code.

17 SEC. 7. Section 7364.5 is added to the Business and Professions
18 Code, to read:

19 7364.5. A makeup artistry course established by a school shall
20 consist of not less than 680 hours of practical training and technical
21 instruction in accordance with a curriculum established by board
22 regulation.

23 SEC. 8. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.