

AMENDED IN ASSEMBLY SEPTEMBER 11, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1153

Introduced by Assembly Member Eggman
(Coauthor: Senator Wyland)

February 22, 2013

An act to amend Sections 7316, 7320, 7324, ~~7364~~, 7396, and 7423 of, and to add Sections 7320.6 ~~and~~, 7324.5, *and* 7364.5 to, the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1153, as amended, Eggman. Master esthetician: license.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers and cosmetologists, including the practice of skin care by licensed estheticians, by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. The act *defines skin care and* requires an applicant for an esthetician license to complete an application, pay an application and examination fee, pass the examination, and meet other educational and practice qualifications such as the completion of an approved skin care course of instruction that includes no less than 600 hours of practical training and technical instruction that accords with the curriculum established by the board. A violation of the act is a crime, unless otherwise provided.

This bill would *modify the practice of skin care, including defining "facial" for these purposes. The bill would provide for the licensure and regulation of master estheticians, as defined.* The bill would require an applicant for a master esthetician license to complete an application,

pay an application and examination fee, pass the examination, and meet other educational and practice qualifications, such as the completion of a 1,200-hour advanced skin care course approved by the board. The bill would provide that an advanced skin care course ~~shall~~ *is required* to consist of not less than 1,200 hours of practical training and technical instruction in accordance with a curriculum established by board regulation. ~~This~~ *The* bill would also prohibit a person who is not licensed as a master esthetician from representing himself or herself as a master esthetician. *The bill would also clarify that the prohibition on those licensed to engage in barbering, cosmetology, skin care, nail care, and electrolysis to practice medicine or surgery extends to diagnosing injury, illness, or disease.* Because a violation of these provisions would be 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 7316 of the Business and Professions
- 2 Code is amended to read:
- 3 7316. (a) The practice of barbering is all or any combination
- 4 of the following practices:
- 5 (1) Shaving or trimming the beard or cutting the hair.
- 6 (2) Giving facial and scalp massages or treatments with oils,
- 7 creams, lotions, or other preparations either by hand or mechanical
- 8 appliances.
- 9 (3) Singeing, shampooing, arranging, dressing, curling, waving,
- 10 chemical waving, hair relaxing, ~~or~~ dyeing the hair, or applying
- 11 hair tonics.
- 12 (4) Applying cosmetic preparations, antiseptics, powders, oils,
- 13 clays, or lotions to *the* scalp, face, or neck.
- 14 (5) Hairstyling of all textures of hair by standard methods that
- 15 are current at the time of the hairstyling.
- 16 (b) The practice of cosmetology is all or any combination of
- 17 the following practices:

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

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

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

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

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

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

22 (c) Within the practice of cosmetology there exist the specialty
23 branches of skin care and nail care.

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

25 ~~(A) Giving facials, applying makeup, giving skin care, removing~~
26 ~~superfluous hair from the body of any person by the use of~~
27 ~~depilatories, tweezers or waxing, or applying eyelashes to any~~
28 ~~person.~~

29 (A) *Giving facials, which is defined as superficial exfoliation*
30 *procedures on the top layer of the skin (stratum corneum) using*
31 *commercially available products, in accordance with the*
32 *manufacturer's written instructions, including, but not limited to,*
33 *all of the following:*

34 (i) *Manual scrubs, including mechanical brush use.*

35 (ii) *Superficial chemical exfoliation.*

36 (iii) *Enzymes or herbal exfoliators, or both.*

37 (iv) *Extraction with a nonneedle extraction tool.*

38 (B) *Removing superfluous hair from the body of any person by*
39 *the use of depilatories, tweezers, sugaring, chemicals, waxing, or*
40 *mechanical means.*

1 (C) Applying makeup or eyelashes to any person.

2 ~~(B)~~

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

6 ~~(C)~~

7 (E) Massaging, cleaning, or stimulating the face, neck, arms,
8 or upper part of the human body, by means of the hands, devices,
9 apparatus, or appliances, with the use of cosmetic preparations,
10 antiseptics, tonics, lotions, or creams.

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

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. 2. Section 7320 of the Business and Professions Code is*
2 *amended to read:*

3 7320. This chapter ~~confers no~~ *does not confer* authority to
4 practice medicine or surgery, *including diagnosing injury, illness,*
5 *or disease.*

6 ~~SECTION 1.~~

7 *SEC. 3.* Section 7320.6 is added to the Business and Professions
8 Code, to read:

9 7320.6. ~~Persons~~ *A person who* ~~are~~ *is* not licensed as a master
10 esthetician ~~estheticians~~ *esthetician* in this state shall not represent ~~themselves~~
11 *himself or herself* as a master esthetician.

12 ~~SEC. 2.~~

13 *SEC. 4.* Section 7324 of the Business and Professions Code is
14 amended to read:

15 7324. The board shall admit to examination for a license as an
16 esthetician to practice skin care any person who has made
17 application to the board in proper form and paid the application
18 and examination fee required by this chapter, and who is qualified
19 as follows:

- 20 (a) Is not less than 17 years of age.
- 21 (b) Has completed the 10th grade or its equivalent.
- 22 (c) Is not subject to denial pursuant to Section 480.
- 23 (d) Has done any of the following:
 - 24 (1) Completed a course in skin care, as described in ~~subdivision~~
25 ~~(a) of~~ Section 7364, from a school approved by the board.
 - 26 (2) Practiced skin care, as defined in this chapter, outside of this
27 state for a period of time equivalent to the study and training of a
28 qualified person who has completed a course in skin care from a
29 school the curriculum of which complied with requirements
30 adopted by the board. Each three months of practice shall be
31 deemed the equivalent of 100 hours of training for qualification
32 under paragraph (1).
 - 33 (3) Completed the apprenticeship program in skin care specified
34 in Article 4 (commencing with Section 7332).

35 ~~SEC. 3.~~

36 *SEC. 5.* Section 7324.5 is added to the Business and Professions
37 Code, to read:

38 7324.5. (a) The board shall admit to examination for a license
39 as a master esthetician to practice advanced skin care any person
40 who has made application to the board in proper form and paid

- 1 the application and examination fee required by this chapter, and
2 who is qualified as follows:
- 3 (a)
 - 4 (1) Is not less than 17 years of age.
 - 5 (b)
 - 6 (2) Has completed the 10th grade or its equivalent.
 - 7 (c)
 - 8 (3) Is not subject to denial pursuant to Section 480.
 - 9 (d)
 - 10 (4) Has done at least one of the following:
 - 11 (1)
 - 12 (A) Completed a course in advanced skin care as described in
13 ~~subdivision (b) of Section 7364~~, *Section 7364.5* from a school
14 approved by the board.
 - 15 (2)
 - 16 (B) Earned a national or international diploma or certification
17 in advanced or master esthetics that is recognized by the board.
 - 18 (3)
 - 19 (C) Holds a current esthetician's license pursuant to Section
20 7324 and either:
 - 21 (A)
 - 22 (i) Provides satisfactory evidence that he or she has worked as
23 an esthetician for a minimum of 2,000 client contact hours, at least
24 500 hours of which consisted of supervised, advanced skin care
25 treatments.
 - 26 (B)
 - 27 (ii) Has completed continuing education coursework in advanced
28 skin care that complies with requirements established by the board
29 and demonstrated that he or she has worked as a master esthetician
30 for a period of time established by the board prior to the effective
31 date of the act that added this section.
 - 32 (b) *A licensed master esthetician may perform, in addition to*
33 *the practice of skin care as defined in paragraph (1) of subdivision*
34 *(c) of Section 7316, all of the following:*
 - 35 (1) *Exfoliation procedures on the face and body using*
36 *commercially available products in accordance with the*
37 *manufacturer's written instructions, including, but not limited to,*
38 *any of the following:*
 - 39 (A) *Superficial and light chemical exfoliation preparations*
40 *intended to work within the epidermal layers of the skin.*

1 (B) *The combination of cosmetic preparations intended for light*
2 *and superficial exfoliation results.*

3 (C) *Mechanical exfoliation devices such as microdermabrasion.*

4 (D) *Manual exfoliation tools intended for safe use on the top*
5 *layer of the skin (stratum corneum).*

6 (2) *Services using esthetic devices or the combination of devices*
7 *on the face and body. These devices shall be operated in*
8 *accordance with the manufacturer's written instructions. The*
9 *devices shall be intended for improving the appearance of the skin*
10 *and shall be within the following guidelines:*

11 (A) *Nonprescriptive, pursuant to United States Food and Drug*
12 *Administration guidelines.*

13 (B) *Not designed to ablate or destroy live tissue.*

14 (3) *Extraction techniques using tools, including, but not limited*
15 *to, both of the following:*

16 (A) *A needle-like metal extractor tool.*

17 (B) *A disposable lancet.*

18 (4) *Advanced facial massage techniques on the upper body,*
19 *back, scalp, hands, and feet, including, but not limited to, manual*
20 *lymphatic drainage.*

21 (5) *Body treatments that use water, appliances, devices, and*
22 *cosmetic preparations intended to improve the appearance of the*
23 *skin.*

24 ~~SEC. 4. Section 7364 of the Business and Professions Code is~~
25 ~~amended to read:~~

26 ~~7364. (a) A skin care course established by a school shall~~
27 ~~consist of not less than 600 hours of practical training and technical~~
28 ~~instruction in accordance with a curriculum established by board~~
29 ~~regulation.~~

30 ~~(b) An advanced skin care course established by a school shall~~
31 ~~consist of not less than 1,200 hours of practical training and~~
32 ~~technical instruction in accordance with a curriculum established~~
33 ~~by board regulation. The advanced skin care course is not a~~
34 ~~requirement of obtaining an esthetician license.~~

35 ~~SEC. 6. Section 7364.5 is added to the Business and Professions~~
36 ~~Code, to read:~~

37 ~~7364.5. An advanced skin care course established by a school~~
38 ~~shall consist of not less than 1,200 hours of practical training and~~
39 ~~technical instruction in accordance with a curriculum established~~

1 *by board regulation. The advanced skin care course is not a*
2 *requirement of obtaining an esthetician license.*

3 *SEC. 7. Section 7396 of the Business and Professions Code is*
4 *amended to read:*

5 7396. The form and content of a license issued by the board
6 shall be determined in accordance with Section 164.

7 The license shall prominently state that the holder is licensed as
8 a barber, cosmetologist, esthetician, *master esthetician*, manicurist,
9 electrologist, or apprentice, and shall contain a photograph of the
10 licensee.

11 ~~SEC. 5.~~

12 *SEC. 8. Section 7423 of the Business and Professions Code is*
13 *amended to read:*

14 7423. The amounts of the fees required by this chapter relating
15 to licenses for individual practitioners are as follows:

16 (a) (1) Cosmetologist application and examination fee shall be
17 the actual cost to the board for developing, purchasing, grading,
18 and administering the examination.

19 (2) A cosmetologist initial license fee shall not be more than
20 fifty dollars (\$50).

21 (b) (1) An esthetician ~~or master esthetician~~ application and
22 examination fee shall be the actual cost to the board for developing,
23 purchasing, grading, and administering the examination.

24 (2) An esthetician ~~or master esthetician~~ initial license fee shall
25 not be more than forty dollars (\$40).

26 (c) (1) *A master esthetician application and examination fee*
27 *shall be the actual cost to the board for developing, purchasing,*
28 *grading, and administering the examination.*

29 (2) *A master esthetician initial license fee shall not be more*
30 *than forty dollars (\$40).*

31 ~~(e)~~

32 (d) (1) A manicurist application and examination fee shall be
33 the actual cost to the board for developing, purchasing, grading,
34 and administering the examination.

35 (2) A manicurist initial license fee shall not be more than
36 thirty-five dollars (\$35).

37 ~~(d)~~

38 (e) (1) A barber application and examination fee shall be the
39 actual cost to the board for developing, purchasing, grading, and
40 administering the examination.

1 (2) A barber initial license fee shall be not more than fifty dollars
2 (\$50).

3 ~~(e)~~

4 (f) (1) An electrologist application and examination fee shall
5 be the actual cost to the board for developing, purchasing, grading,
6 and administering the examination.

7 (2) An electrologist initial license fee shall be not more than
8 fifty dollars (\$50).

9 ~~(f)~~

10 (g) An apprentice application and license fee shall be not more
11 than twenty-five dollars (\$25).

12 ~~(g)~~

13 (h) The license renewal fee for individual practitioner licenses
14 that are subject to renewal shall be not more than fifty dollars
15 (\$50).

16 ~~(h)~~

17 (i) Notwithstanding Section 163.5 the license renewal
18 delinquency fee shall be 50 percent of the renewal fee in effect on
19 the date of renewal.

20 ~~(i)~~

21 (j) Any preapplication fee shall be established by the board in
22 an amount sufficient to cover the costs of processing and
23 administration of the preapplication.

24 ~~SEC. 6.~~

25 *SEC. 9.* No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.