

AMENDED IN ASSEMBLY JANUARY 6, 2014
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, 7396, and 7423 of, and to add Sections 7320.6, 7320.7, 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 *cosmetology* by *including the practice of giving facials and the use of esthetic devices, as defined, and modify the practice of skin care, including defining “facial” by*

including the use of esthetic devices, as defined, 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, pursuant to board regulations, 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 master esthetics course approved by the board. The bill would provide that an advanced skin care a master esthetics course 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. The bill would also prohibit a person who is not licensed as an esthetician or as a master esthetician from representing himself or herself as an esthetician or as a master esthetician, respectively. 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, dyeing the hair, or applying hair
- 11 tonics.

1 (4) Applying cosmetic preparations, antiseptics, powders, oils,
2 clays, or lotions to the scalp, face, or neck.

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

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

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

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

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

19 *(2) Giving facials or the practice of massaging, stimulating,*
20 *exfoliating, cleansing, or beautifying the face, scalp, neck, or upper*
21 *part of the human body by use of hands, esthetic devices, cosmetic*
22 *preparations, antiseptics, lotions, tonics, or creams.*

23 *(A) Esthetic devices, include, but are not limited to, steamers,*
24 *mechanical brushes, high frequency, galvanic current, vacuum*
25 *and spray, light emitting diode (LED), and skin analysis equipment.*

26 *(B) Esthetic devices shall be operated in accordance with the*
27 *manufacturer's written instructions. The devices shall be intended*
28 *for improving the appearance of the skin and shall be within the*
29 *following guidelines:*

30 *(i) Noninvasive, pursuant to United States Food and Drug*
31 *Administration guidelines.*

32 *(ii) Not designed to ablate or destroy live tissue.*

33 ~~(4)~~

34 (3) Removing superfluous hair from the body of any person by
35 the use of depilatories or by the use of tweezers, chemicals, or
36 preparations or by the use of devices or appliances of any kind or
37 description, except by the use of *lasers* or light waves, commonly
38 known as rays.

39 ~~(5)~~

- 1 (4) Cutting, trimming, polishing, tinting, coloring, cleansing,
- 2 or manicuring the nails of any person.
- 3 ~~(6)~~
- 4 (5) Massaging, cleansing, treating, or beautifying the hands or
- 5 feet of any person.
- 6 (c) Within the practice of cosmetology there exist the specialty
- 7 branches of skin care and nail care.
- 8 (1) Skin care is any one or more of the following practices:
- 9 (A) *Giving facials or the practice of massaging, stimulating,*
- 10 *exfoliating, cleansing, or beautifying the face, scalp, neck, or upper*
- 11 *part of the human body by use of hands, esthetic devices, cosmetic*
- 12 *preparations, antiseptics, lotions, tonics, or creams.*
- 13 (i) *Esthetic devices, include, but are not limited to, steamers,*
- 14 *mechanical brushes, high frequency, galvanic current, vacuum*
- 15 *and spray, light emitting diode (LED), and skin analysis equipment.*
- 16 (ii) *Esthetic devices shall be operated in accordance with the*
- 17 *manufacturer’s written instructions. The devices shall be intended*
- 18 *for improving the appearance of the skin and shall be within the*
- 19 *following guidelines:*
- 20 (I) *Noninvasive, pursuant to United States Food and Drug*
- 21 *Administration guidelines.*
- 22 (II) *Not designed to ablate or destroy live tissue.*
- 23 ~~(A) Giving facials, which is defined as superficial~~
- 24 (B) *Performing superficial exfoliation procedures on the top*
- 25 *layer of the skin (stratum corneum) using commercially available*
- 26 *products, in accordance with the manufacturer’s written*
- 27 *instructions, including, but not limited to, all of the following:*
- 28 (i) *Manual scrubs, including mechanical brush use, which*
- 29 *includes application of a cosmetic product with mild abrasive*
- 30 *ingredients that remove dead skin cells.*
- 31 (ii) *Superficial chemical exfoliation of the stratum corneum.*
- 32 (iii) *Enzymes or herbal exfoliators, or both.*
- 33 (iv) *Extraction with a nonneedle extraction tool. Extraction*
- 34 *includes the manual removal of comedones (blackheads) and other*
- 35 *surface impurities with the use of fingers or sterile swabs.*
- 36 (v) *Mechanical exfoliation devices such as microdermabrasion.*
- 37 ~~(B)~~
- 38 (C) *Removing superfluous hair from the body of any person by*
- 39 *the use of depilatories, tweezers, sugaring, chemicals, waxing, or*

1 mechanical means. *This practice does not include the use of lasers*
2 *or light waves, commonly known as rays.*

3 ~~(C)~~

4 (D) Applying makeup or eyelashes to any person.

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

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

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

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

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

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

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

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

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

1 “Electrolysis” as used in this chapter includes electrolysis or
2 thermolysis.

3 SEC. 2. Section 7320 of the Business and Professions Code is
4 amended to read:

5 7320. This chapter does not confer authority to practice
6 medicine or surgery, including diagnosing injury, illness, or
7 disease.

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

10 7320.6. A person who is not licensed as ~~a master~~ *an* esthetician
11 in this state shall not represent himself or herself as ~~a master~~ *an*
12 esthetician.

13 *SEC. 4. Section 7320.7 is added to the Business and Professions*
14 *Code, to read:*

15 *7320.7. A person who is not licensed as a master esthetician*
16 *in this state shall not represent himself or herself as a master*
17 *esthetician.*

18 ~~SEC. 4.~~

19 SEC. 5. Section 7324 of the Business and Professions Code is
20 amended to read:

21 7324. The board shall admit to examination for a license as an
22 esthetician to practice skin care any person who has made
23 application to the board in proper form and paid the application
24 and examination fee required by this chapter, and who is qualified
25 as follows:

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

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 7324.5 is added to the Business and Professions
3 Code, to read:

4 7324.5. (a) The board shall admit to examination for a license
5 as a master esthetician to practice ~~advanced~~ skin care, *in*
6 *accordance with regulations adopted by the board for this purpose,*
7 any person who has made application to the board in proper form
8 and paid the application and examination fee required by this
9 chapter, and who is qualified as follows:

- 10 (1) Is not less than 17 years of age.
11 (2) Has completed the 10th grade or its equivalent.
12 (3) Is not subject to denial pursuant to Section 480.
13 (4) Has done at least one of the following:
14 (A) Completed a course in ~~advanced~~ skin care as described in
15 Section 7364.5 from a school approved by the board.
16 (B) Earned a national or international diploma or certification
17 in advanced or master esthetics that is recognized by the board.
18 (C) Holds a current esthetician's license pursuant to Section
19 7324 and either:
20 ~~(i) Provides satisfactory evidence that he or she has worked as~~
21 ~~an esthetician for a minimum of 2,000 client contact hours, at least~~
22 ~~500 hours of which consisted of supervised, advanced skin care~~
23 ~~treatments.~~
24 *(i) On or before January 1, 2018, practiced esthetics, as defined*
25 *in this chapter, for a period of time equivalent to the study and*
26 *training of a qualified person who has completed a course in*
27 *master esthetics from a school the curriculum of which complied*
28 *with the requirements adopted by the board, during two of the last*
29 *four years. An applicant applying for the master esthetician*
30 *examination pursuant to this clause may take the examination only*
31 *twice. If the applicant fails to pass the test on the second attempt,*
32 *he or she is required to qualify for the examination after completing*
33 *the required coursework as described in subparagraph (A).*
34 (ii) Has completed continuing education coursework in ~~advanced~~
35 skin care that complies with requirements established by the board
36 ~~and demonstrated that he or she has worked as a master esthetician~~
37 ~~for a period of time established by the board prior to the effective~~
38 ~~date of the act that added this section.~~

1 (b) A licensed master esthetician may perform, in addition to
2 the practice of skin care as defined in paragraph (1) of subdivision
3 (c) of Section 7316, all of the following:

4 (1) Exfoliation procedures on the face and body using
5 commercially available products in accordance with the
6 manufacturer’s written instructions, including, but not limited to,
7 any of the following:

8 (A) Superficial and light chemical exfoliation preparations
9 intended to work within the epidermal layers of the skin.

10 (B) The combination of cosmetic preparations intended for light
11 and superficial exfoliation results.

12 ~~(C) Mechanical exfoliation devices such as microdermabrasion.~~

13 ~~(D) Manual exfoliation tools intended for safe use on the top
14 layer of the skin (stratum corneum).~~

15 (2) Services using esthetic devices or the combination of devices
16 on the face and body. These devices shall be operated in accordance
17 with the manufacturer’s written instructions. The devices shall be
18 intended for improving the appearance of the skin and shall be
19 within the following guidelines:

20 (A) ~~Nonprescriptive, Noninvasive~~, pursuant to United States
21 Food and Drug Administration guidelines.

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

23 (3) Extraction techniques using tools, including, but not limited
24 to, both of the following:

25 ~~(A) A needle-like metal extractor tool.~~

26 ~~(B) A disposable lancet that is required to be disposed of after
27 each use according to local and state requirements, and held in a
28 secure location only accessible to a licensed master esthetician.
29 Extraction techniques with a disposable lancet include follicle
30 dilation of closed comedones (blackheads) or pustules.~~

31 ~~(4) Advanced facial massage~~ Massage techniques on the face,
32 upper body, back, scalp, hands, and feet, including, but not limited
33 to, manual lymphatic drainage for the purposes of beauty. This
34 technique does not include medical lymph therapies.

35 (5) Body treatments that use water, appliances, devices, and
36 cosmetic preparations intended to improve the appearance of the
37 skin.

38 ~~SEC. 6.~~

39 ~~SEC. 7.~~ Section 7364.5 is added to the Business and Professions
40 Code, to read:

1 7364.5. ~~An advanced skin care~~ A *master esthetics* course
2 established by a school shall consist of not less than 1,200 hours
3 of practical training and technical instruction in accordance with
4 a curriculum established by board regulation. The ~~advanced skin~~
5 ~~care~~ *master esthetics* course is not a requirement of obtaining an
6 esthetician license.

7 ~~SEC. 7.~~

8 SEC. 8. Section 7396 of the Business and Professions Code is
9 amended to read:

10 7396. The form and content of a license issued by the board
11 shall be determined in accordance with Section 164.

12 The license shall prominently state that the holder is licensed as
13 a barber, cosmetologist, esthetician, master esthetician, manicurist,
14 electrologist, or apprentice, and shall contain a photograph of the
15 licensee.

16 ~~SEC. 8.~~

17 SEC. 9. Section 7423 of the Business and Professions Code is
18 amended to read:

19 7423. The amounts of the fees required by this chapter relating
20 to licenses for individual practitioners are as follows:

21 (a) (1) Cosmetologist application and examination fee shall be
22 the actual cost to the board for developing, purchasing, grading,
23 and administering the examination.

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

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

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

31 (c) (1) A master esthetician application and examination fee
32 shall be the actual cost to the board for developing, purchasing,
33 grading, and administering the examination.

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

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

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

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

4 (2) A barber initial license fee shall be not more than fifty dollars
5 (\$50).

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

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

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

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

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

22 ~~SEC. 9.~~

23 *SEC. 10.* 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.