

AMENDED IN SENATE JUNE 30, 2014

AMENDED IN SENATE JUNE 16, 2014

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**

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**Introduced by Assembly Member Eggman**  
(Coauthor: Senator Wyland)

February 22, 2013

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An act to amend Sections 7312, 7316, 7320, ~~7324, 7396, and 7423~~  
~~and 7324~~of, and to add Sections ~~7320.6, 7320.7, 7324.5, and 7364.5~~  
*Section 7320.6* to, the Business and Professions Code, relating to  
barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

AB 1153, as amended, Eggman. ~~Master esthetician: license.~~  
*Barbering and cosmetology.*

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, *as specified*. 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, the use of esthetic devices, as defined, and performing superficial exfoliation, and would modify the practice of skin care, by including the use of esthetic devices, as defined, and performing superficial exfoliation 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 master esthetics course approved by the board. The bill would provide that 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, but an applicant enrolling in a master esthetician course who has completed the 600-hour esthetician course from a board-approved school would only be required to obtain the additional 600 hours of practical and technical training not received in the initial 600-hour esthetician course. 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 would include, but not be limited to, the use of radiographs, the furnishing of drugs or invasive devices, supervising medical personnel, or 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 7312 of the Business and Professions  
2 Code is amended to read:

3 7312. The board shall do all of the following:

4 (a) Make rules and regulations in aid or furtherance of this  
5 chapter in accordance with the Administrative Procedure Act.

6 (b) Conduct and administer examinations of applicants for  
7 licensure.

8 (c) Issue licenses to those applicants that may be entitled thereto,  
9 and encourage those licensees to continue to develop their skills  
10 in the appropriate application and use of evolving industry  
11 techniques, products, and equipment by recognizing industry  
12 certifications that meet appropriate standards approved by the  
13 board.

14 (d) Discipline persons who have been determined to be in  
15 violation of this chapter or the regulations adopted pursuant to this  
16 chapter.

17 (e) Adopt rules governing sanitary conditions and precautions  
18 to be employed as are reasonably necessary to protect the public  
19 health and safety in establishments, schools approved by the board,  
20 and in the practice of any profession provided for in this chapter.  
21 The rules shall be adopted in accordance with the Administrative  
22 Procedure Act, Chapter 3.5 (commencing with Section 11340) of  
23 Part 1 of Division 3 of Title 2 of the Government Code, and shall  
24 be submitted to the State Department of Health Services and  
25 approved by that department prior to filing with the Secretary of  
26 State. A written copy of all those rules shall be furnished to each  
27 licensee.

28 SEC. 2. Section 7316 of the Business and Professions Code is  
29 amended to read:

30 7316. (a) The practice of barbering is all or any combination  
31 of the following practices:

32 (1) Shaving or trimming the beard or cutting the hair.

33 (2) Giving facial and scalp massages or treatments with oils,  
34 creams, lotions, or other preparations either by hand or mechanical  
35 appliances.

36 (3) Singeing, shampooing, arranging, dressing, curling, waving,  
37 chemical waving, hair relaxing, dyeing the hair, or applying hair  
38 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) Giving facials or the practice of massaging, stimulating,  
13 exfoliating, cleansing, or beautifying the face, scalp, neck, or upper  
14 part of the human body by use of hands, esthetic devices, cosmetic  
15 preparations, antiseptics, lotions, tonics, or creams.

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

19 (B) Esthetic devices shall be operated in accordance with the  
20 manufacturer's written instructions. The devices shall be intended  
21 for improving the appearance of the skin and shall be operated  
22 within the following guidelines:

23 (i) Noninvasive, pursuant to United States Food and Drug  
24 Administration guidelines.

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

26 (3) Performing superficial exfoliation procedures on the top  
27 layer of the skin (stratum corneum) using commercially available  
28 products, in accordance with the manufacturer's written  
29 instructions, including, but not limited to, all of the following:

30 (A) Manual scrubs, including mechanical brush use, which  
31 includes application of a cosmetic product with mild abrasive  
32 ingredients that remove dead skin cells.

33 (B) Superficial chemical exfoliation of the stratum corneum.

34 (C) Enzyme or herbal exfoliation of the stratum corneum.

35 (D) Extraction with a nonneedle extraction tool. Extraction  
36 includes the manual removal of comedones (blackheads) and other  
37 surface impurities with the use of fingers or sterile swabs.

38 (E) Mechanical exfoliation devices such as microdermabrasion.

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

1 (C) Removing superfluous hair from the body of any person by  
2 the use tweezers, sugaring, chemicals, waxing, or mechanical  
3 means.

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

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

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

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

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

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

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

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

33 "Electrolysis" as used in this chapter includes electrolysis or  
34 thermolysis.

35 (g) Nothing in this section shall be interpreted to allow a licensee  
36 to use lasers.

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

39 7320. This chapter does not confer authority to practice  
40 medicine or surgery, including, but not limited to, the use of

1 radiographs, the furnishing of drugs or invasive devices,  
2 supervising medical personnel, or diagnosing injury, illness, or  
3 disease.

4 SEC. 4. Section 7320.6 is added to the Business and Professions  
5 Code, to read:

6 7320.6. A person who is not licensed as an esthetician in this  
7 state shall not represent himself or herself as an esthetician.

8 ~~SEC. 5. Section 7320.7 is added to the Business and Professions~~  
9 ~~Code, to read:~~

10 ~~7320.7. A person who is not licensed as a master esthetician~~  
11 ~~in this state shall not represent himself or herself as a master~~  
12 ~~esthetician.~~

13 ~~SEC. 6.~~

14 ~~SEC. 5.~~ Section 7324 of the Business and Professions Code is  
15 amended to read:

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

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

36 ~~SEC. 7. 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 skin care, in accordance with~~  
40 ~~regulations adopted by the board for this purpose, any person who~~

- 1 ~~has made application to the board in proper form and paid the~~  
2 ~~application and examination fee required by this chapter, and who~~  
3 ~~is qualified as follows:~~
- 4 ~~(1) Is not less than 17 years of age.~~
  - 5 ~~(2) Has completed the 10th grade or its equivalent.~~
  - 6 ~~(3) Is not subject to denial pursuant to Section 480.~~
  - 7 ~~(4) Has done at least one of the following:~~
    - 8 ~~(A) Completed a course in skin care as described in Section~~  
9 ~~7364.5 from a school approved by the board.~~
    - 10 ~~(B) Earned a national or international diploma or certification~~  
11 ~~in advanced or master esthetics that is recognized by the board.~~
    - 12 ~~(C) On or before January 1, 2018, holds a unexpired~~  
13 ~~cosmetologist or esthetician's license pursuant to Section 7324~~  
14 ~~and meets all of the following requirements:~~
      - 15 ~~(i) The license has not been revoked, suspended, or otherwise~~  
16 ~~restricted.~~
      - 17 ~~(ii) The licensee is in good standing.~~
      - 18 ~~(iii) The license has been active for at least three of the last five~~  
19 ~~years, during which time the applicant has not been subject to~~  
20 ~~disciplinary action or a criminal conviction.~~
    - 21 ~~(D) Practiced as a master esthetician, as defined in this chapter,~~  
22 ~~outside of this state for a period of time equivalent to the study~~  
23 ~~and training of a qualified person who has completed a course in~~  
24 ~~master esthetics from a school the curriculum of which complied~~  
25 ~~with the requirements adopted by the board. Each three months of~~  
26 ~~practice shall be deemed the equivalent of 100 hours of training~~  
27 ~~for qualification under subparagraph (A).~~
    - 28 ~~(E) If the applicant who has been qualified to sit for the~~  
29 ~~examination pursuant to subparagraph (C), fails to pass the test on~~  
30 ~~the second attempt, he or she is required to qualify for the~~  
31 ~~examination after completing the required coursework as described~~  
32 ~~in subparagraph (A).~~
  - 33 ~~(b) A licensed master esthetician may perform, in addition to~~  
34 ~~the practice of skin care as defined in paragraph (1) of subdivision~~  
35 ~~(c) of Section 7316, all of the following:~~
    - 36 ~~(1) Exfoliation procedures on the face and body using~~  
37 ~~commercially available products in accordance with the~~  
38 ~~manufacturer's written instructions, including, but not limited to,~~  
39 ~~any of the following:~~

- 1     ~~(A) Superficial and chemical exfoliation preparations intended~~  
2 ~~to work within the epidermal layers of the skin.~~
- 3     ~~(B) The combination of cosmetic preparations intended for light~~  
4 ~~and superficial exfoliation results.~~
- 5     ~~(2) Services using devices or the combination of devices on the~~  
6 ~~face and body. These devices shall be operated in accordance with~~  
7 ~~the manufacturer's written instructions. The devices shall be~~  
8 ~~intended for improving the appearance of the skin and shall be~~  
9 ~~within the following guidelines:~~
- 10    ~~(A) Noninvasive, pursuant to United States Food and Drug~~  
11 ~~Administration guidelines.~~
- 12    ~~(B) Not designed to ablate or destroy live tissue.~~
- 13    ~~(3) Extraction techniques using a disposable lancet that is~~  
14 ~~required to be disposed of after each use according to local and~~  
15 ~~state requirements, and held in a secure location only accessible~~  
16 ~~to a licensed master esthetician. Extraction techniques with a~~  
17 ~~disposable lancet shall only include follicle dilation of closed~~  
18 ~~comedones (blackheads) or pustules. For the purposes of this~~  
19 ~~paragraph, the following definitions apply:~~
- 20    ~~(A) A disposable lancet is a sterile, small, pointed tool that is~~  
21 ~~used to prick the skin and sold for a single use.~~
- 22    ~~(B) An extraction is the process of removing sebum, bacteria,~~  
23 ~~dead cells, and other waste from the skin follicle.~~
- 24    ~~(4) Massage techniques on the face, upper body, back, scalp,~~  
25 ~~hands, and feet, for the purposes of beauty. This technique does~~  
26 ~~not include medical lymphodema therapies.~~
- 27    ~~(5) Body treatments that use water, appliances, devices, and~~  
28 ~~cosmetic preparations intended to improve the appearance of the~~  
29 ~~skin.~~
- 30    ~~(e) Nothing in this section shall be interpreted to allow a licensee~~  
31 ~~to use lasers.~~
- 32    ~~SEC. 8. Section 7364.5 is added to the Business and Professions~~  
33 ~~Code, to read:~~
- 34    ~~7364.5. (a) A master esthetics course established by a school~~  
35 ~~shall consist of not less than 1,200 hours of practical training and~~  
36 ~~technical instruction in accordance with a curriculum established~~  
37 ~~by board regulation. The master esthetics course is not a~~  
38 ~~requirement of obtaining an esthetician license.~~
- 39    ~~(b) An applicant enrolling in a 1,200-hour master esthetician~~  
40 ~~course who has completed the 600-hour esthetician course from~~

1 a board-approved school is only required to obtain the additional  
2 600 hours of practical and technical training not received in the  
3 initial 600-hour esthetician course.

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

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

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

12 ~~SEC. 10.~~ Section 7423 of the Business and Professions Code  
13 is 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 application and examination fee shall be~~  
22 ~~the actual cost to the board for developing, purchasing, grading,~~  
23 ~~and administering the examination.~~

24 (2) ~~An esthetician initial license fee shall not be more than forty~~  
25 ~~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 (d) (1) ~~A manicurist application and examination fee shall be~~  
32 ~~the actual cost to the board for developing, purchasing, grading,~~  
33 ~~and administering the examination.~~

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

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

39 (2) ~~A barber initial license fee shall be not more than fifty dollars~~  
40 ~~(\$50).~~

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

4 ~~(2) An electrologist initial license fee shall be not more than~~  
5 ~~fifty dollars (\$50).~~

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

8 ~~(h) The license renewal fee for individual practitioner licenses~~  
9 ~~that are subject to renewal shall be not more than fifty dollars~~  
10 ~~(\$50).~~

11 ~~(i) Notwithstanding Section 163.5 the license renewal~~  
12 ~~delinquency fee shall be 50 percent of the renewal fee in effect on~~  
13 ~~the date of renewal.~~

14 ~~(j) Any preapplication fee shall be established by the board in~~  
15 ~~an amount sufficient to cover the costs of processing and~~  
16 ~~administration of the preapplication.~~

17 ~~SEC. 11.~~

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