

AMENDED IN SENATE AUGUST 4, 2014
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

Introduced by Assembly Member Eggman
(Coauthor: Senator Wyland)

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1153, as amended, Eggman. 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, 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 require the State Board of Barbering and Cosmetology to recognize the advanced practice of esthetic by certifying a master esthetician who has completed a 1,200-hour program in advanced esthetics, but an individual 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 make it an unfair business practice for any person to hold oneself out or use the title “master esthetician” or any other specified term that implies or suggests that the person is certified as a master esthetician without meeting the certification requirements.* The bill would also prohibit a person who is not licensed as an esthetician from representing himself or herself as an 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 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:

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

3 (b) Conduct and administer examinations of applicants for
4 licensure.

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

11 (d) Discipline persons who have been determined to be in
12 violation of this chapter or the regulations adopted pursuant to this
13 chapter.

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

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

27 7316. (a) The practice of barbering is all or any combination
28 of the following practices:

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

30 (2) Giving facial and scalp massages or treatments with oils,
31 creams, lotions, or other preparations either by hand or mechanical
32 appliances.

33 (3) Singeing, shampooing, arranging, dressing, curling, waving,
34 chemical waving, hair relaxing, dyeing the hair, or applying hair
35 tonics.

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

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

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

1 (6) Cutting, trimming, polishing, tinting, coloring, cleansing,
2 or manicuring the nails of any person.

3 (7) Massaging, cleansing, treating, or beautifying the hands or
4 feet of any person.

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

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

8 (A) Giving facials or the practice of massaging, stimulating,
9 exfoliating, cleansing, or beautifying the face, scalp, neck, or ~~upper~~
10 ~~part of the human~~ body by use of hands, esthetic devices, cosmetic
11 preparations, antiseptics, lotions, tonics, or creams that does not
12 result in ablating or destroying live tissue.

13 (i) Esthetic devices include, but are not limited to, steamers,
14 mechanical brushes, high frequency, galvanic current, vacuum and
15 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 operated
19 within the 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 (B) Performing superficial exfoliation procedures on the top
24 layer of the skin (stratum corneum) *on the face and body* using
25 commercially available products, in accordance with the
26 manufacturer's written instructions, including, but not limited to,
27 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 exfoliation of the stratum corneum.

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

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

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

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

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

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

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

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

29 “Electrolysis” as used in this chapter includes electrolysis or
30 thermolysis.

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

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

35 7320. This chapter does not confer authority to practice
36 medicine or surgery, including, but not limited to, the use of
37 radiographs, the furnishing of drugs or invasive devices,
38 supervising medical personnel, or diagnosing injury, illness, or
39 disease.

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

3 7320.6. A person who is not licensed as an esthetician in this
4 state shall not represent himself or herself as an esthetician.

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

7 7324. The board shall admit to examination for a license as an
8 esthetician to practice skin care any person who has made
9 application to the board in proper form and paid the application
10 and examination fee required by this chapter, and who is qualified
11 as follows:

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

27 SEC. 6. Section 7324.5 is added to the Business and Professions
28 Code, to read:

29 7324.5. (a) *The board shall recognize the advanced practice*
30 *of esthetics by certifying a master esthetician who has completed*
31 *a 1,200-hour program in advanced esthetics. An individual*
32 *enrolling in a 1,200-hour master esthetician course who has*
33 *completed the 600-hour esthetician course from a board-approved*
34 *school is only required to obtain the additional 600 hours of*
35 *practical and technical training not received in the initial 600-hour*
36 *esthetician course.*

37 (b) *It is an unfair business practice for any person to hold*
38 *oneself out or use the title of "master esthetician" or any other*
39 *term, such as "licensed," "registered," or "CME," that implies*

1 *or suggests that the person is certified as a master esthetician*
2 *without meeting the requirement in subdivision (a).*

3 ~~SEC. 6.~~

4 SEC. 7. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.