

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 181

Introduced by ~~Committee on Business and Professions~~ (Assembly
Members ~~Bonilla (Chair), Bloom, Dodd, Gatto, Holden, Mullin,
Ting, and Wood~~) *Assembly Member Bonilla*
(Coauthor: Senator Hill)

January 26, 2015

An act to amend ~~Section 7303~~ Sections 7303, 7303.2, 7313, 7395.1, 7401, 7404, and 7407 of, to add Section 7314.3 to, and to repeal Section 7308 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 181, as amended, ~~Committee on Business and Professions~~ *Bonilla*. Professions and vocations: barbering and cosmetology.

The Barbering and Cosmetology Act provides for the licensure and ~~regulation~~ *regulation, including inspection*, of barbers and cosmetologists by the State Board of Barbering and Cosmetology in the Department of Consumer Affairs. Existing law requires that the board consist of certain members, and authorizes the board to appoint an executive officer. Under existing law, these provisions are repealed on January 1, 2016.

This bill would extend the operation of these provisions until January 1, 2020.

Existing law also requires the board to conduct specified reviews and reports by various dates in the past.

This bill would delete those requirements and would require the board, no later than November 1, 2018, to conduct specified reviews

regarding training and examinations and report its findings to specified committees of the Legislature. The bill would require the board to adopt regulations that establish a protocol for inspecting establishments when an inspector has difficulty understanding or communicating with the owner, manager, or employees of the establishment due to language barriers. The bill would require the board to establish a Health and Safety Advisory Committee to provide the board with advice and recommendations on health and safety issues before the board. The bill would also make technical, nonsubstantive changes to these provisions.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 7303 of the Business and Professions
2 Code is amended to read:
3 7303. (a) Notwithstanding Article 8 (commencing with Section
4 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the
5 Government Code, there is in the Department of Consumer Affairs
6 the State Board of Barbering and Cosmetology in which the
7 administration of this chapter is vested.
8 (b) The board shall consist of nine members. Five members
9 shall be public members, and four members shall represent the
10 professions. The Governor shall appoint three of the public
11 members and the four professional members. The Senate
12 Committee on Rules and the Speaker of the Assembly shall each
13 appoint one public member. Members of the board shall be
14 appointed for a term of four years, except that of the members
15 appointed by the Governor, two of the public members and two
16 of the professions members shall be appointed for an initial term
17 of two years. No board member may serve longer than two
18 consecutive terms.
19 (c) The board may appoint an executive officer who is exempt
20 from civil service. The executive officer shall exercise the powers
21 and perform the duties delegated by the board and vested in him
22 or her by this chapter. The appointment of the executive officer is
23 subject to the approval of the director. In the event that a newly
24 authorized board replaces an existing or previous bureau, the
25 director may appoint an interim executive officer for the board

1 who shall serve temporarily until the new board appoints a
2 permanent executive officer.

3 (d) The executive officer shall provide examiners, inspectors,
4 and other personnel necessary to carry out the provisions of this
5 chapter.

6 (e) This section shall remain in effect only until January 1, 2020,
7 and as of that date is repealed, unless a later enacted statute, that
8 is enacted before January 1, 2020, deletes or extends that date.
9 Notwithstanding any other law, the repeal of this section renders
10 the board subject to review by the appropriate policy committees
11 of the Legislature.

12 *SEC. 2. Section 7303.2 of the Business and Professions Code*
13 *is amended to read:*

14 7303.2. The board shall conduct the following ~~studies and~~
15 ~~reviews, and shall report its findings and recommendations to the~~
16 ~~department and the Joint Committee on Boards, Commissions,~~
17 ~~and Consumer Protection no later than September 1, 2005:~~
18 *Assembly Committee on Business and Professions and the Senate*
19 *Committee on Business, Professions, and Economic Development*
20 *no later than November 1, 2018:*

21 (a) The board, pursuant to Section 139 and in conjunction with
22 the Office of Professional Examination Services of the department,
23 shall review the 1600 hour training requirement for cosmetologists.

24 ~~(b) The board, in conjunction with the Office of Professional~~
25 ~~Examination Services of the department, shall evaluate the~~
26 ~~equivalency of the national exam.~~

27 ~~(c) The board shall conduct a study to assess the costs and~~
28 ~~benefits associated with requiring all applicants to submit~~
29 ~~fingerprint cards for background investigations.~~

30 ~~(d) The board, in coordination with the Department of Industrial~~
31 ~~Relations, shall review all components of the apprenticeship~~
32 ~~program, including, but not limited to, the following:~~

33 ~~(1) Apprenticeship curriculum requirements.~~

34 ~~(2) The standards for the preapprentice trainers, program~~
35 ~~sponsors, trainers, and placement establishments. The board shall~~
36 ~~pay particular attention to ways to eliminate duplicative regulations.~~

37 ~~(e) The board shall review all components of the externship~~
38 ~~program. In addition to structural changes, the board shall address~~
39 ~~the following:~~

40 ~~(1) Whether the program should be eliminated.~~

1 ~~(2) Whether the program should be available to all students, not~~
2 ~~just cosmetology students attending private schools.~~

3 ~~(3) Whether the students should be paid.~~

4 ~~(f) The board shall assess the costs and benefits associated with~~
5 ~~same day licensing. If the board determines that the benefits of~~
6 ~~same day licensing outweigh the costs, the board shall immediately~~
7 ~~plan and implement safety measures to protect site staff and~~
8 ~~undispersed licenses.~~

9 ~~(g) The board, in conjunction with the Office of Professional~~
10 ~~Examination Services of the department, shall assess the validity~~
11 ~~of aggregate scoring for board applicants.~~

12 ~~(b) The board shall review the Spanish language examination~~
13 ~~and curriculum requirements to determine if, by January 1, 2016,~~
14 ~~the pass rate for Spanish speakers did not increase to the average~~
15 ~~pass rate for all other language examinations during the two-year~~
16 ~~period prior to January 1, 2016.~~

17 ~~SEC. 3. Section 7308 of the Business and Professions Code is~~
18 ~~repealed.~~

19 ~~7308.—(a) The board shall study the effects of current law,~~
20 ~~regulations, and policy related to the licensing functions of the~~
21 ~~board that may create unnecessary barriers to employing people~~
22 ~~with criminal records. The objective of the study shall be to identify~~
23 ~~changes in law or board policy to help remove unnecessary barriers~~
24 ~~to licensing due to criminal records while protecting the safety and~~
25 ~~security of customers and the integrity of the occupations regulated~~
26 ~~by the board. The board shall report all of its findings to the~~
27 ~~Legislature on or before September 1, 2007.~~

28 ~~(b) For each of the calendar years 2002, 2003, 2004, 2005, and~~
29 ~~2006, the study shall provide the following information:~~

30 ~~(1) The total number of applicants, by occupation.~~

31 ~~(2) The number of applicants who were denied licensure.~~

32 ~~(3) The number of applicants, by occupation, who disclosed a~~
33 ~~criminal record on their application. Of those applicants:~~

34 ~~(A) The number of applicants who were denied licensure.~~

35 ~~(B) The number of applicants who were denied licensure who~~
36 ~~requested a hearing to appeal the decision.~~

37 ~~(C) The number of applicants whose appeal resulted in reversal~~
38 ~~or modification of the decision, including the issuance of a~~
39 ~~probationary license.~~

40 ~~(D) The age and severity of each offense.~~

1 ~~(E) The number of applicants with nonviolent drug offenses.~~

2 ~~(F) The number of applicants with misdemeanor offenses.~~

3 ~~(G) The number of applicants that were asked by the board to~~
4 ~~supply additional information relating to their criminal record.~~

5 ~~(H) The number of applicants who provided evidence of~~
6 ~~rehabilitation.~~

7 ~~(4) The criteria applied by the board to determine whether an~~
8 ~~applicant's criminal record is substantially related to the requested~~
9 ~~license, including the specific categories of disqualifying offenses~~
10 ~~and any criteria related to the age and severity of the disqualifying~~
11 ~~offenses.~~

12 ~~(5) The criteria applied by the board to determine whether an~~
13 ~~applicant has been sufficiently rehabilitated, including an analysis~~
14 ~~of the factors that most often lead to a determination of~~
15 ~~rehabilitation resulting in licensing.~~

16 ~~(6) The average length of time that an appeal is pending relative~~
17 ~~to the date of the hearing request and final decision.~~

18 ~~(7) The number and percentage of appeals pending longer than~~
19 ~~30 days and longer than 100 days from the time the applicant~~
20 ~~requested the hearing.~~

21 *SEC. 4. Section 7313 of the Business and Professions Code is*
22 *amended to read:*

23 7313. (a) (1) To ensure compliance with the laws and
24 regulations of this chapter, the board's executive officer and
25 authorized representatives shall, except as provided by Section
26 159.5, have access to, and shall inspect, any establishment or
27 mobile unit during business hours or at any time in which
28 barbering, cosmetology, or electrolysis are being performed. It is
29 the intent of the Legislature that inspections be conducted on
30 Saturdays and Sundays as well as weekdays, if collective
31 bargaining agreements and civil service provisions permit.

32 (2) The board shall maintain a program of random and targeted
33 inspections of establishments to ensure compliance with applicable
34 laws relating to the public health and safety and the conduct and
35 operation of establishments. The board or its authorized
36 representatives shall inspect establishments to reasonably determine
37 compliance levels and to identify market conditions that require
38 targeted enforcement. The board shall not reduce the number of
39 employees assigned to perform random inspections, targeted
40 inspections, and investigations relating to field operations below

1 the level funded by the annual Budget Act and described in
2 supporting budget documents, and shall not redirect funds or
3 personnel-years allocated to those inspection and investigation
4 purposes to other purposes.

5 (b) To ensure compliance with health and safety requirements
6 adopted by the board, the executive officer and authorized
7 representatives shall, except as provided in Section 159.5, have
8 access to, and shall inspect the premises of, all schools in which
9 the practice of barbering, cosmetology, or electrolysis is performed
10 on the public. Notices of violation shall be issued to schools for
11 violations of regulations governing conditions related to the health
12 and safety of patrons. Each notice shall specify the section violated
13 and a timespan within which the violation must be corrected. A
14 copy of the notice of violation shall be provided to the Bureau for
15 Private Postsecondary and Vocational Education.

16 (c) With prior written authorization from the board or its
17 executive officer, any member of the board may enter and visit,
18 in his or her capacity as a board member, any establishment, during
19 business hours or at any time when barbering, cosmetology, or
20 electrolysis is being performed. The visitation by a board member
21 shall be for the purpose of conducting official board business, but
22 shall not be used as a basis for any licensing disciplinary action
23 by the board.

24 (d) *The board shall adopt regulations that establish a protocol*
25 *for inspecting establishments when an inspector has difficulty*
26 *understanding or communicating with the owner, manager, or*
27 *employees of the establishment due to language barriers.*

28 SEC. 5. *Section 7314.3 is added to the Business and Professions*
29 *Code, to read:*

30 7314.3. *The board shall establish a Health and Safety Advisory*
31 *Committee to provide the board with advice and recommendations*
32 *on health and safety issues before the board.*

33 SEC. 6. *Section 7395.1 of the Business and Professions Code*
34 *is amended to read:*

35 7395.1. (a) A student who is enrolled in a school of
36 cosmetology approved by the Bureau for Private Postsecondary
37 and Vocational Education in a course approved by the board may,
38 upon completion of a minimum of 60 percent of the clock hours
39 required for graduation in the course, work as an unpaid extern in

1 a cosmetology establishment participating in the educational
2 program of the school of cosmetology.

3 (b) A person working as an extern shall receive clock hour credit
4 toward graduation, but that credit shall not exceed eight hours per
5 week and shall not exceed 10 percent of the total clock hours
6 required for completion of the course.

7 (c) The externship program shall be conducted in cosmetology
8 establishments meeting all of the following criteria:

9 (1) The establishment is licensed by the board.

10 (2) The establishment has a minimum of four licensees working
11 at the establishment, including employees and owners or managers.

12 (3) All licensees at the establishment are in good standing with
13 the board.

14 (4) Licensees working at the establishment work for salaries or
15 commissions rather than on a space rental basis.

16 (5) No more than one extern shall work in an establishment for
17 every four licensees working in the establishment. No regularly
18 employed licensee shall be displaced or have his or her work hours
19 reduced or altered to accommodate the placement of an extern in
20 an establishment. Prior to placement of the extern, the
21 establishment shall agree in writing sent to the school and to all
22 affected licensees that no reduction or alteration of any licensee's
23 current work schedule shall occur. This shall not prevent a licensee
24 from voluntarily reducing or altering his or her work schedule.

25 (6) Externs shall wear conspicuous school identification at all
26 times while working in the establishment, and shall carry a school
27 laminated identification, that includes a picture, in a form approved
28 by the board.

29 (d) (1) A school participating in the externship program shall
30 provide the participating establishment and the extern with a
31 syllabus containing applicable information specified in Section
32 73880 of Title 5 of the California Code of Regulations. The extern,
33 the school, and the establishment shall agree to the terms of and
34 sign the syllabus prior to the extern beginning work at the
35 establishment. No less than 90 percent of the responsibilities and
36 duties of the extern shall consist of the acts included within the
37 practice of cosmetology as defined in Section 7316.

38 (2) The establishment shall consult with the assigning school
39 regarding the extern's progress during the unpaid externship. The
40 owner or manager of the establishment shall monitor and report

1 on the student's progress to the school on a regular basis, with
2 assistance from supervising licensees.

3 (3) A participating school shall assess the extern's learning
4 outcome from the externship program. The school shall maintain
5 accurate records of the extern's educational experience in the
6 externship program and records that indicate how the extern's
7 learning outcome translates into course credit.

8 (e) Participation in an externship program made available by a
9 school shall be voluntary, may be terminated by the student at any
10 time, and shall not be a prerequisite for graduation.

11 (f) The cosmetology establishment that chooses to utilize the
12 extern is liable for the extern's general liability insurance, as well
13 as cosmetology malpractice liability insurance, and shall furnish
14 proof to the participating school that the establishment is covered
15 by both forms of liability insurance and that the extern is covered
16 under that insurance.

17 (g) (1) It is the purpose of the externship program authorized
18 by this section to provide students with skills, knowledge, and
19 attitudes necessary to acquire employment in the field for which
20 they are being trained, and to extend formalized classroom
21 instruction.

22 (2) Instruction shall be based on skills, knowledge, attitudes,
23 and performance levels in the area of cosmetology for which the
24 instruction is conducted.

25 (3) An extern may perform only acts listed within the definition
26 of the practice of cosmetology as provided in Section 7316, if a
27 licensee directly supervises those acts, except that an extern may
28 not use or apply chemical treatments unless the extern has received
29 appropriate training in application of those treatments from an
30 approved cosmetology school. An extern may work on a paying
31 client only in an assisting capacity and only with the direct and
32 immediate supervision of a licensee.

33 (4) The extern shall not perform any work in a manner that
34 would violate law.

35 *SEC. 7. Section 7401 of the Business and Professions Code is*
36 *amended to read:*

37 7401. (a) An individual licensed pursuant to Section 7396
38 shall report to the board at the time of license renewal, his or her
39 practice status, designated as one of the following:

40 (1) Full-time practice in California.

1 (2) Full-time practice outside of California.

2 (3) Part-time practice in California.

3 (4) Not working in the industry.

4 (5) Retired.

5 (6) Other practice status, as may be further defined by the board.

6 (b) An individual licensed pursuant to Section 7396 shall, at the
7 time of license renewal, identify himself or herself on the
8 application as one of the following:

9 (1) Employee.

10 (2) Independent contractor or booth renter.

11 (3) Salon owner.

12 (c) An individual licensed pursuant to Section 7347 shall report
13 to the board at the time of license renewal, whether either of the
14 following is applicable to him or her:

15 (1) He or she has a booth renter operating in the establishment.

16 (2) He or she has an independent contractor operating in the
17 establishment.

18 ~~(d) The board shall report to the Senate Committee on Business~~
19 ~~and Professions and the Assembly Committee on Business and~~
20 ~~Professions within five years after the implementation of the~~
21 ~~provisions of this section on the licensee information collected,~~
22 ~~including an assessment of whether a certain type of licensee is~~
23 ~~more likely to receive complaints or citations, or to fail to pay~~
24 ~~taxes, and any recommendation on how to remedy problems found.~~

25 *SEC. 8. Section 7404 of the Business and Professions Code is*
26 *amended to read:*

27 7404. The grounds for disciplinary action are as follows:

28 (a) Unprofessional conduct which includes, but is not limited
29 to, any of the following:

30 (1) Incompetence or gross negligence, including failure to
31 comply with generally accepted standards for the practice of
32 barbering, cosmetology, or electrology or disregard for the health
33 and safety of patrons.

34 (2) Repeated similar negligent acts.

35 (3) Conviction of any crime substantially related to the
36 qualifications, functions, or duties of the licenseholder, in which
37 case, the records of conviction or a certified copy shall be
38 conclusive evidence thereof.

39 (4) Advertising by means of knowingly false or deceptive
40 statements.

1 (b) Failure to comply with the requirements of this chapter.

2 (c) Failure to comply with the rules governing health and safety
3 adopted by the board and approved by the State Department of
4 ~~Health—Services,~~ *Public Health*, for the regulation of
5 establishments, or any practice licensed and regulated under this
6 chapter.

7 (d) Failure to comply with the rules adopted by the board for
8 the regulation of establishments, or any practice licensed and
9 regulated under this chapter.

10 (e) Continued practice by a person knowingly having an
11 infectious or contagious disease.

12 (f) Habitual drunkenness, habitual use of or addiction to the use
13 of any controlled substance.

14 (g) Obtaining or attempting to obtain practice in any occupation
15 licensed and regulated under this chapter, or money, or
16 compensation in any form, by fraudulent misrepresentation.

17 (h) Failure to display the license or health and safety rules and
18 regulations in a conspicuous place.

19 (i) Engaging, outside of a licensed establishment and for
20 compensation in any form whatever, in any practice for which a
21 license is required under this chapter, except that when the service
22 is provided because of illness or other physical or mental
23 incapacitation of the recipient of the service and when performed
24 by a licensee obtained for the purpose from a licensed
25 establishment.

26 (j) Permitting a license to be used where the holder is not
27 personally, actively, and continuously engaged in business.

28 (k) The making of any false statement as to a material matter
29 in any oath or affidavit, which is required by the provisions of this
30 chapter.

31 (l) Refusal to permit or interference with an inspection
32 authorized under this chapter.

33 (m) Any action or conduct which would have warranted the
34 denial of a license.

35 (n) Failure to surrender a license that was issued in error or by
36 mistake.

37 *SEC. 9. Section 7407 of the Business and Professions Code is*
38 *amended to read:*

39 7407. The board shall establish by regulation a schedule of
40 administrative fines for violations of this chapter. All moneys

1 collected under this section shall be deposited in the board's
2 contingent fund.

3 The schedule shall indicate for each type of violation whether,
4 in the board's discretion, the violation can be corrected. ~~The board~~
5 ~~shall review and revise the schedule of administrative fines for~~
6 ~~violations by January 1, 2005.~~ The board shall ensure that it and
7 the Bureau for Private Postsecondary and Vocational Education
8 do not issue citations for the same violation.

O