

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2025

Introduced by Assembly Member Gonzalez
(Coauthors: Assembly Members Chiu and Ting)
(Coauthor: Senator Nguyen)

February 16, 2016

An act to amend Sections 7312, 7314, 7362, and 7401 of, to add Section 7396.1 to, and to repeal Section 7347-~~of~~ of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2025, as amended, Gonzalez. Barbering and ~~cosmetology~~.
cosmetology: labor law education requirements.

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices. Existing law requires the board to carry out a list of duties including making rules and regulations, conducting and administering license examinations, issuing licenses to qualified applicants, and disciplining persons who violate the act.

This bill would require that the board offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

Existing law requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board. Existing law requires a separate license for each location where the establishment operates. Existing law requires applicants to submit an application, accompanied by a prescribed fee. Existing law prohibits

the board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted.

This bill would require the board to require as a condition of licensure to operate an establishment that the applicant has the knowledge of basic labor laws, as defined, that pertain to the types of licensees who may work in the establishment. The bill would require the board, in consultation with the Department of Industrial Relations, to develop and add questions on basic labor law to the application for a license to operate an establishment. The bill would require the board, in consultation with the Department of Industrial Relations and stakeholders, to select or create informational materials on basic labor law that the board determines to be practical and accessible to applicants. The bill would require the board to require, as part of a complete application, a signed acknowledgment that the applicant understands the informational materials on basic labor laws and that establishments are responsible for obeying the labor laws of the State of California.

Existing law requires the board to keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure.

This bill would require the board, beginning January 1, 2018, to collect, through optional questions on the application to operate an establishment, demographic information of each applicant, including her or his preferred language preference.

Existing law requires the board to admit to a licensing examination an applicant who meets certain qualifications, including having completed one or more courses, as specified, offered by a school approved by the board. Existing law requires the board to determine by regulation the required subjects of instruction to be completed in all approved courses.

This bill would require the labor laws that pertain to the types of licensees who may work in establishments to be among these required subjects.

~~The Barbering and Cosmetology Act establishes the State Board of Barbering and Cosmetology and requires, among other duties, that the board issue licenses to qualified applicants, as specified, who submit an application, accompanied by a prescribed fee, to operate an establishment engaged in the practice of barbering, cosmetology, natural~~

~~hairstyling for compensation, or electrolysis, as those terms are defined. The act authorizes the board to reduce the amount of the fee for an applicant obtaining ownership of an existing establishment. The act requires a separate license for each location where the establishment operates.~~

~~This bill would make a nonsubstantive change to this provision.~~

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

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

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

22 (f) Offer and make available all written materials provided to
23 licensees and applicants in English, Spanish, and Vietnamese.

24 SEC. 2. Section 7314 of the Business and Professions Code is
25 amended to read:

26 7314. The board shall keep a record of its proceedings relating
27 to its public meetings, meetings of committees, and records relating
28 to the issuance, refusal, renewal, suspension and revocation of
29 licenses.

1 The board shall keep a registration record of each licensee
2 containing the name, address, license number and date issued. This
3 record shall also contain any facts that the applicants may have
4 stated in their application for examination for licensure. *Beginning*
5 *January 1, 2018, the board shall collect, through optional questions*
6 *on the applications for a license issued pursuant to Section 7396.1,*
7 *the demographic information of each applicant including, but not*
8 *limited to, her or his spoken and written language preference.*

9 *SEC. 3. Section 7347 of the Business and Professions Code is*
10 *repealed.*

11 ~~7347. Any person, firm, or corporation desiring to operate an~~
12 ~~establishment shall make an application to the bureau for a license~~
13 ~~accompanied by the fee prescribed by this chapter. The application~~
14 ~~shall be required whether the person, firm, or corporation is~~
15 ~~operating a new establishment or obtaining ownership of an~~
16 ~~existing establishment. If the applicant is obtaining ownership of~~
17 ~~an existing establishment, the bureau may establish the fee in an~~
18 ~~amount less than the fee prescribed by this chapter. The applicant,~~
19 ~~if an individual, or each officer, director, and partner, if the~~
20 ~~applicant is other than an individual, shall not have committed acts~~
21 ~~or crimes which are grounds for denial of licensure in effect at the~~
22 ~~time the new application is submitted pursuant to Section 480. A~~
23 ~~license issued pursuant to this section shall authorize the operation~~
24 ~~of the establishment only at the location for which the license is~~
25 ~~issued. Operation of the establishment at any other location shall~~
26 ~~be unlawful unless a license for the new location has been obtained~~
27 ~~upon compliance with this section, applicable to the issuance of a~~
28 ~~license in the first instance.~~

29 *SEC. 4. Section 7362 of the Business and Professions Code is*
30 *amended to read:*

31 7362. (a) A school approved by the board is one that is first
32 approved by the board and subsequently approved by the Bureau
33 for Private Postsecondary Education or is a public school in this
34 state, and provides a course of instruction approved by the board.
35 However, notwithstanding any other law, both the board and the
36 Bureau for Private Postsecondary Education may simultaneously
37 process a school's application for approval.

38 (b) The board shall determine by regulation the required subjects
39 of instruction to be completed in all approved courses, including
40 the minimum hours of technical minimum number of practical

1 operations for each subject, and shall determine how much training
2 is required before a student may begin performing services on
3 paying patrons. *The labor laws that pertain to the types of licensees*
4 *who may work in establishments shall be among the required*
5 *subjects to be completed.*

6 (c) Notwithstanding any other law, the board may revoke,
7 suspend, or deny approval of a school, in a proceeding that shall
8 be conducted in accordance with Chapter 5 (commencing with
9 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
10 Code, when an owner or employee of the school has engaged in
11 any of the acts specified in paragraphs (1) to (8), inclusive.

12 (1) Unprofessional conduct which includes, but is not limited
13 to, any of the following:

14 (A) Incompetence or gross negligence, including repeated failure
15 to comply with generally accepted standards for the practice of
16 barbering, cosmetology, or electrology, or disregard for the health
17 and safety of patrons.

18 (B) Repeated similar negligent acts.

19 (C) Conviction of any crime substantially related to the
20 qualifications, functions, or duties of the owner of an approved
21 school, in which case, the records of conviction or a certified copy
22 thereof shall be conclusive evidence of the conviction.

23 (2) Repeated failure to comply with the rules governing health
24 and safety adopted by the board and approved by the State
25 Department of Public Health, for the regulation of board-approved
26 schools.

27 (3) Repeated failure to comply with the rules adopted by the
28 board for the regulation of board-approved schools.

29 (4) Continued practice by a person knowingly having an
30 infectious or contagious disease.

31 (5) Habitual drunkenness, or habitual use of, or addiction to the
32 use of, any controlled substance.

33 (6) Obtaining or attempting to obtain practice in any occupation
34 licensed and regulated under this chapter, or money, or
35 compensation in any form, by fraudulent misrepresentation.

36 (7) Refusal to permit or interference with an inspection
37 authorized under this chapter.

38 (8) Any action or conduct that would have warranted the denial
39 of a school approval.

1 *SEC. 5. Section 7396.1 is added to the Business and Professions*
2 *Code, to read:*

3 7396.1. (a) Any person, firm, or corporation desiring to
4 operate an establishment shall make an application to the board
5 for an establishment license accompanied by the fee prescribed
6 by this chapter. The application shall be required whether the
7 person, firm, or corporation is operating a new establishment or
8 obtaining ownership of an existing establishment. If the applicant
9 is obtaining ownership of an existing establishment, the board
10 may establish the fee in an amount less than the fee prescribed by
11 this chapter. A license issued pursuant to this section shall
12 authorize the operation of the establishment only at the location
13 for which the license is issued. Operation of the establishment at
14 any other location shall be unlawful unless a license for the new
15 location has been obtained upon compliance with this section,
16 applicable to the issuance of a license in the first instance.

17 (b) The board shall require as a condition of licensure pursuant
18 to subdivision (a) that the applicant meets the following
19 requirements:

20 (1) The applicant, if an individual, or each officer, director, and
21 partner, if the applicant is other than an individual, shall not have
22 committed acts or crimes that are grounds for denial of licensure
23 in effect at the time the new application is submitted pursuant to
24 Section 480.

25 (2) The applicant has knowledge of basic labor laws that pertain
26 to the types of licensees who may work in the establishment. For
27 purposes of this section, the definition of the term “basic labor
28 laws” shall include, but not be limited to:

29 (A) Key differences between the legal rights, benefits, and
30 obligations of an employee and an independent contractor.

31 (B) Wage and hour rights for hourly employees.

32 (C) Antidiscrimination laws relating to the use of a particular
33 language in the workplace.

34 (D) Antiretaliation laws relating to a worker’s right to file
35 complaints with the Department of Industrial Relations.

36 (E) How to obtain more information about labor law from the
37 Department of Industrial Relations.

38 (c) To ensure that applicants for an establishment license have
39 the knowledge of basic labor laws pursuant to paragraph (2) of
40 subdivision (b) the board shall do all of the following:

1 (1) *In consultation with the Department of Industrial Relations,*
2 *the board shall develop and add questions on basic labor laws to*
3 *the application.*

4 (2) *In consultation with the Department of Industrial Relations*
5 *and stakeholders, the board shall select or create informational*
6 *materials on basic labor laws that the board determines to be*
7 *practical and accessible to applicants.*

8 (3) *As part of a complete application, the board shall require*
9 *a signed acknowledgment that the applicant understands both of*
10 *the following:*

11 (A) *Establishments are responsible for obeying the labor laws*
12 *of the State of California.*

13 (B) *The informational materials on basic labor laws selected*
14 *or created by the board pursuant to paragraph (2) of subdivision*
15 *(c).*

16 *SEC. 6. Section 7401 of the Business and Professions Code is*
17 *amended to read:*

18 7401. (a) An individual licensed pursuant to Section 7396
19 shall report to the board at the time of license renewal, his or her
20 practice status, designated as one of the following:

- 21 (1) Full-time practice in California.
- 22 (2) Full-time practice outside of California.
- 23 (3) Part-time practice in California.
- 24 (4) Not working in the industry.
- 25 (5) Retired.
- 26 (6) Other practice status, as may be further defined by the board.

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

- 30 (1) Employee.
- 31 (2) Independent contractor or booth renter.
- 32 (3) Salon owner.

33 (c) An individual licensed pursuant to ~~Section 7347~~ 7396.1 shall
34 report to the board at the time of license renewal, whether either
35 of the following is applicable to him or her:

- 36 (1) He or she has a booth renter operating in the establishment.
- 37 (2) He or she has an independent contractor operating in the
38 establishment.

39 ~~SECTION 1. Section 7347 of the Business and Professions~~
40 ~~Code is amended to read:~~

1 ~~7347. Any person, firm, or corporation desiring to operate an~~
2 ~~establishment shall make an application to the board for a license~~
3 ~~accompanied by the fee prescribed by this chapter. The application~~
4 ~~shall be required whether the person, firm, or corporation is~~
5 ~~operating a new establishment or obtaining ownership of an~~
6 ~~existing establishment. If the applicant is obtaining ownership of~~
7 ~~an existing establishment, the board may establish the fee in an~~
8 ~~amount less than the fee prescribed by this chapter. The applicant,~~
9 ~~if an individual, or each officer, director, and partner, if the~~
10 ~~applicant is other than an individual, shall not have committed acts~~
11 ~~or crimes that are grounds for denial of licensure in effect at the~~
12 ~~time the new application is submitted pursuant to Section 480. A~~
13 ~~license issued pursuant to this section shall authorize the operation~~
14 ~~of the establishment only at the location for which the license is~~
15 ~~issued. Operation of the establishment at any other location shall~~
16 ~~be unlawful unless a license for the new location has been obtained~~
17 ~~upon compliance with this section, applicable to the issuance of a~~
18 ~~license in the first instance.~~