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AMENDED IN ASSEMBLY APRIL 18, 2016
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, 7314.3, 7337, 7347, and 7389 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2025, as amended, Gonzalez. Barbering and 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 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.

This bill would specify that the health and safety issues are those that impact licensees, including how to ensure licensees are aware of basic labor laws, as specified.

Existing law requires every application for admission to examination and licensure to be verified by the oath of the applicant.

This bill would additionally require every application for admission to examination and licensure to include a signed acknowledgment that the applicant understands his or her rights as a licensee as outlined in informational materials on basic labor laws that the applicant is provided by the board with the application.

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 that, on or before January 1, 2018, the board 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 to operate an establishment, a signed acknowledgment that the applicant understands the informational materials on basic labor laws the applicant is provided by the board with the application and that establishments are responsible for obeying the compliance with any applicable labor laws of the State of California. state.~~

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.~~ *develop or adopt a health and safety course on hazardous substances that is required to be taught in schools approved by the board. Existing law requires course development to include pilot testing of the course and training classes to prepare instructors to effectively use the course.*

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.~~ *health and safety course that the board is required to develop or adopt to additionally cover basic labor laws, as specified.*

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 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.

1 The rules shall be adopted in accordance with the Administrative
 2 Procedure Act, Chapter 3.5 (commencing with Section 11340) of
 3 Title 2 of the Government Code, and shall be submitted to the
 4 State Department of Health Care Services and approved by that
 5 department prior to filing with the Secretary of State. A written
 6 copy of all those rules shall be furnished to each licensee.

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

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

11 7314. The board shall keep a record of its proceedings relating
 12 to its public meetings, meetings of committees, and records relating
 13 to the issuance, refusal, renewal, suspension, and revocation of
 14 licenses.

15 The board shall keep a registration record of each licensee
 16 containing the name, address, license number and date issued. This
 17 record shall also contain any facts that the applicants may have
 18 stated in their application for examination for licensure. Beginning
 19 January 1, 2018, the board shall collect, through optional questions
 20 on the ~~applications~~ *application* for a license issued pursuant to
 21 Section ~~7396.1, 7347,~~ the demographic information of each
 22 ~~applicant~~ *applicant*, including, but not limited to, her or his spoken
 23 and written language preference.

24 SEC. 3. Section 7314.3 of the Business and Professions Code
 25 is amended to read:

26 7314.3. The board shall establish a Health and Safety Advisory
 27 Committee to provide the board with advice and recommendations
 28 on health and safety issues before the ~~board:~~ *board that impact*
 29 *licensees, including how to ensure licensees are aware of basic*
 30 *labor laws. Basic labor laws include, but are not limited to, all of*
 31 *the following:*

32 (a) *Key differences between the legal rights, benefits, and*
 33 *obligations of an employee and an independent contractor.*

34 (b) *Wage and hour rights for hourly employees.*

35 (c) *Antidiscrimination laws relating to the use of a particular*
 36 *language in the workplace.*

37 (d) *Antiretaliation laws relating to a worker's right to file*
 38 *complaints with the Department of Industrial Relations.*

39 (e) *How to obtain more information about state and federal*
 40 *labor laws.*

1 *SEC. 4. Section 7337 of the Business and Professions Code is*
2 *amended to read:*

3 7337. Every application for admission to examination and
4 licensure shall be in writing, on forms prepared and furnished by
5 the board.

6 Each application shall be accompanied by the required fee, and
7 shall contain proof of the qualifications of the applicant for
8 examination and licensure. It shall be verified by the oath of the
9 ~~applicant.~~ *applicant and shall include a signed acknowledgment*
10 *that the applicant understands his or her rights as a licensee as*
11 *outlined in informational materials on basic labor laws as specified*
12 *in Section 7314.3 that the applicant is provided by the board with*
13 *the application.* Every applicant shall, as a condition of admittance
14 to the examination facility, present satisfactory proof of
15 identification. Satisfactory proof of identification shall be in the
16 form of a valid, unexpired driver's license or identification card,
17 containing the photograph of the person to whom it was issued,
18 issued by any state, federal, or other government entity.

19 *SEC. 5. Section 7347 of the Business and Professions Code is*
20 *amended to read:*

21 7347. Any person, firm, or corporation desiring to operate an
22 establishment shall make an application to the bureau for a license
23 accompanied by the fee prescribed by this chapter. The application
24 shall be required whether the person, firm, or corporation is
25 operating a new establishment or obtaining ownership of an
26 existing establishment. *The application shall include a signed*
27 *acknowledgment that the applicant understands that establishments*
28 *are responsible for compliance with any applicable labor laws of*
29 *the state and that the applicant understands the informational*
30 *materials on basic labor laws as specified in Section 7314.3 the*
31 *applicant is provided by the board with the application.* If the
32 applicant is obtaining ownership of an existing establishment, the
33 ~~bureau~~ *board* may establish the fee in an amount less than the fee
34 prescribed by this chapter. The applicant, if an individual, or each
35 officer, director, and partner, if the applicant is other than an
36 individual, shall not have committed acts or crimes which are
37 grounds for denial of licensure in effect at the time the new
38 application is submitted pursuant to Section 480. A license issued
39 pursuant to this section shall authorize the operation of the
40 establishment only at the location for which the license is issued.

1 Operation of the establishment at any other location shall be
2 unlawful unless a license for the new location has been obtained
3 upon compliance with this section, applicable to the issuance of a
4 license in the first instance.

5 *SEC. 6. Section 7389 of the Business and Professions Code is*
6 *amended to read:*

7 7389. The board shall develop or adopt a health and safety
8 course on hazardous substances *and basic labor laws as specified*
9 *in Section 7314.3* which shall be taught in schools approved by
10 the board. Course development shall include pilot testing of the
11 course and training classes to prepare instructors to effectively use
12 the course.

13 ~~SEC. 3. Section 7347 of the Business and Professions Code is~~
14 ~~repealed.~~

15 ~~SEC. 4. Section 7362 of the Business and Professions Code is~~
16 ~~amended to read:~~

17 ~~7362. (a) A school approved by the board is one that is first~~
18 ~~approved by the board and subsequently approved by the Bureau~~
19 ~~for Private Postsecondary Education or is a public school in this~~
20 ~~state, and provides a course of instruction approved by the board.~~
21 ~~However, notwithstanding any other law, both the board and the~~
22 ~~Bureau for Private Postsecondary Education may simultaneously~~
23 ~~process a school's application for approval.~~

24 ~~(b) The board shall determine by regulation the required subjects~~
25 ~~of instruction to be completed in all approved courses, including~~
26 ~~the minimum hours of technical instruction and minimum number~~
27 ~~of practical operations for each subject, and shall determine how~~
28 ~~much training is required before a student may begin performing~~
29 ~~services on paying patrons. The labor laws that pertain to the types~~
30 ~~of licensees who may work in establishments shall be among the~~
31 ~~required subjects to be completed.~~

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

38 ~~(1) Unprofessional conduct which includes, but is not limited~~
39 ~~to, any of the following:~~

1 (A) Incompetence or gross negligence, including repeated failure
2 to comply with generally accepted standards for the practice of
3 barbering, cosmetology, or electrology, or disregard for the health
4 and safety of patrons.

5 (B) Repeated similar negligent acts.

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

10 (2) Repeated failure to comply with the rules governing health
11 and safety adopted by the board and approved by the State
12 Department of Public Health, for the regulation of board-approved
13 schools.

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

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

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

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

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

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

27 SEC. 5. Section 7396.1 is added to the Business and Professions
28 Code, to read:

29 7396.1. (a) Any person, firm, or corporation desiring to operate
30 an establishment shall make an application to the board for an
31 establishment license accompanied by the fee prescribed by this
32 chapter. The application shall be required whether the person, firm,
33 or corporation is operating a new establishment or obtaining
34 ownership of an existing establishment. If the applicant is obtaining
35 ownership of an existing establishment, the board may establish
36 the fee in an amount less than the fee prescribed by this chapter.
37 A license issued pursuant to this section shall authorize the
38 operation of the establishment only at the location for which the
39 license is issued. Operation of the establishment at any other
40 location shall be unlawful unless a license for the new location

1 has been obtained upon compliance with this section, applicable
2 to the issuance of a license in the first instance.

3 ~~(b) On or before January 1, 2018, the board shall require as a~~
4 ~~condition of licensure pursuant to subdivision (a) that the applicant~~
5 ~~meets the following requirements:~~

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

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

15 ~~(A) Key differences between the legal rights, benefits, and~~
16 ~~obligations of an employee and an independent contractor.~~

17 ~~(B) Wage and hour rights for hourly employees.~~

18 ~~(C) Antidiscrimination laws relating to the use of a particular~~
19 ~~language in the workplace.~~

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

22 ~~(E) How to obtain more information about labor law from the~~
23 ~~Department of Industrial Relations.~~

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

27 ~~(1) In consultation with the Department of Industrial Relations,~~
28 ~~the board shall develop and add questions on basic labor laws to~~
29 ~~the application.~~

30 ~~(2) In consultation with the Department of Industrial Relations~~
31 ~~and stakeholders, the board shall select or create informational~~
32 ~~materials on basic labor laws that the board determines to be~~
33 ~~practical and accessible to applicants.~~

34 ~~(3) As part of a complete application, the board shall require a~~
35 ~~signed acknowledgment that the applicant understands both of the~~
36 ~~following:~~

37 ~~(A) Establishments are responsible for obeying the labor laws~~
38 ~~of the State of California.~~

39 ~~(B) The informational materials on basic labor laws selected or~~
40 ~~created by the board pursuant to paragraph (2) of subdivision (c).~~

1 ~~SEC. 6.— Section 7401 of the Business and Professions Code is~~
2 ~~amended to read:~~

3 ~~7401. (a) An individual licensed pursuant to Section 7396~~
4 ~~shall report to the board at the time of license renewal, his or her~~
5 ~~practice status, designated as one of the following:~~

6 ~~(1) Full-time practice in California.~~

7 ~~(2) Full-time practice outside of California.~~

8 ~~(3) Part-time practice in California.~~

9 ~~(4) Not working in the industry.~~

10 ~~(5) Retired.~~

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

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

15 ~~(1) Employee.~~

16 ~~(2) Independent contractor or booth renter.~~

17 ~~(3) Salon owner.~~

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

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

22 ~~(2) He or she has an independent contractor operating in the~~
23 ~~establishment.~~