

AMENDED IN SENATE MAY 23, 2016
AMENDED IN SENATE APRIL 25, 2016
AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 896

Introduced by Senator Nguyen
(Coauthor: Senator Mendoza)
(Coauthor: Assembly Member Chiu)

January 21, 2016

An act to add Section 7353.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 896, as amended, Nguyen. Barbering and cosmetology: nail care establishments: credit and debit cards.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified, and requires a licensed establishment to comply with various requirements. A violation of the Barbering and Cosmetology Act is generally a misdemeanor.

Existing law declares that every gratuity, as defined, is the sole property of the employee or employees to whom it was paid, given, or left for. Existing law prohibits an employer from collecting, taking, or receiving any gratuity, or part thereof, that is paid, given to, or left for an employee by a patron, from deducting any amount from wages due an employee on account of a gratuity, or requiring an employee to

credit the amount, or any part thereof, of a gratuity against and as part of the wages due an employee. Existing law also requires an employer that permits patrons to pay gratuities by credit card to pay the employee the full amount of the gratuity without any deductions for any credit card payment processing or costs, and to pay a gratuity made by a patron using a credit card to an employee not later than the next regular payday.

This bill would require an establishment that offers nail care services, if it accepts a debit or credit card as payment for nail care services, to also accept a debit or credit card for payment of ~~a tip~~ *tip or gratuity, consistent with the above existing law regarding gratuities.* By expanding the scope of the criminal penalty provisions of the Barbering and Cosmetology Act, this 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 7353.5 is added to the Business and
- 2 Professions Code, to read:
- 3 7353.5. If an establishment that offers nail care services accepts
- 4 a debit or credit card as payment for nail care services, the
- 5 establishment shall also accept a debit or credit card for payment
- 6 of ~~a tip~~ *tip or gratuity, consistent with Section 351 of the Labor*
- 7 *Code.*
- 8 SEC. 2. No reimbursement is required by this act pursuant to
- 9 Section 6 of Article XIII B of the California Constitution because
- 10 the only costs that may be incurred by a local agency or school
- 11 district will be incurred because this act creates a new crime or
- 12 infraction, eliminates a crime or infraction, or changes the penalty
- 13 for a crime or infraction, within the meaning of Section 17556 of
- 14 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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