

LEGISLATIVE BILL 226

Approved by the Governor March 10, 1993

Introduced by Crosby, 29

AN ACT relating to barbers; to amend sections 71-201, 71-202, 71-202.01, 71-208.02, 71-208.07, 71-216, 71-219, 71-222, 71-223, 71-223.02, 71-224, 71-238, 71-239, and 71-242, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the practice of barbering, the licensure and registration of barbers, instructors, shops, and schools, fees set by the Board of Barber Examiners, per diems of the board, advertising by a barber school, and reciprocity; to eliminate provisions relating to apprentice barbers; to harmonize provisions; and to repeal the original sections, and also section 71-249, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-201. No person shall practice or attempt to practice barbering ~~as defined in section 71-202~~, without a license issued pursuant to the ~~provisions of Chapter 71, article 2, Barber Act~~ by the ~~Board of Barber Examiners board~~. It shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a registered licensed barber.

No person, partnership, or corporation shall operate a barber shop or barber school until a license has been obtained for that purpose from the ~~Board of Barber Examiners board~~. All barber shop licenses shall be issued on or before June 30, ~~shall be~~ effective as of July 1 of each year, shall be good for one year, and shall expire on the succeeding June 30.

Any barber shop which fails to renew its license on or before the expiration date may renew such license by payment of the renewal fee and a late renewal fee established by the board within sixty days after such date or such other time period as the board establishes.

Any ~~such~~ barber shop or barber school license may be suspended, revoked, or ~~renewal denied renewal~~ by the ~~Board of Barber Examiners board~~ for violation of any provision of the statutes or any rule or regulation of the board pertaining to the operation of barber shops or barber schools; or any rule or regulation of the Department of Health pertaining to sanitation, after due notice and hearing before the board.

Sec. 2. That section 71-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-202. Any one or any combination of the following practices, when done upon the human body by the use of chemical products for cosmetic or grooming purposes and not for the treatment of disease or physical or mental ailments, on any person, other than a member of the immediate family, ~~constitutes~~ shall constitute the practice of barbering: (1) Shaving or trimming the beard or cutting the hair; (2) dressing, arranging, styling, curling, waving, straightening, and relaxing of the hair by chemical or mechanical means; (3) giving face and scalp massages or treatment with oils, creams, lotions, or other preparations either by hand, mechanical appliances, or electrical appliances, including the applying of chemical and toiletry preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, neck, or upper part of the body; (4) patterning, fitting, cleaning, styling, coloring, waving, or other similar work upon ~~male~~ hair pieces; or wigs; and (5) ~~singeing~~, shampooing, bleaching, coloring, rinsing, hair weaving, or similar work upon the hair, ~~; and (6) removing hair from the body by means of electrolysis.~~

Sec. 3. That section 71-202.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-202.01. ~~As used in Chapter 71, article 2~~ For purposes of the Barber Act, unless the context otherwise requires:

- (1) Barber shall mean any person ~~duty licensed as required by Chapter 71, article 2,~~ who engages in the practice of any act of barbering;
- (2) Barber shop shall mean an establishment or place of business properly licensed as required by ~~Chapter 71, article 2,~~ the act where one or more persons properly licensed are engaged in the practice of barbering; but ~~does~~ shall not include barber schools or colleges;
- (3) Barber school or college shall mean an establishment properly licensed and operated for the teaching and training of barber students;
- (4) Board shall mean the Board of Barber Examiners;
- (5) Manager shall mean a registered licensed barber having control of the barber shop and of the persons working or employed therein;
- (6) License shall mean a certificate of registration issued by the board;
- (7) ~~Instructor~~ Barber instructor shall mean a teacher of the barber trade as provided in ~~Chapter 71, article 2~~ the act;
- (8) Assistant barber instructor shall mean a teacher of the barbering trade licensed registered as an assistant barber instructor; as required by ~~Chapter 71, article 2~~ the act;
- (9) Registered or licensed barber shall mean a person who has completed the requirements to receive a certificate as a barber and to whom a certificate has been issued;
- (10) Secretary of the board shall mean the director appointed by the board who shall keep a record of the proceedings of the board; and
- (11) Student shall mean a person attending an approved,

licensed barber school or college, ~~and~~ duly registered with the board as a student engaged in learning and acquiring any and all of the practices of barbering, and who, while learning, performs and assists any of the practices of barbering in a school registered and approved by the board barber school or college.

Sec. 4. That section 71-208.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-208.02. (1) ~~Except as provided in subsection (2) of this section, after January 1, 1966, all~~ All instruction in barber schools shall be conducted by registered barber instructors or registered assistant barber instructors.

(2) ~~A~~ No person shall be eligible for registration as a barber instructor ~~until he is~~ if:

(a) ~~He~~ or she has completed at least ~~two years of college preparation, which shall consist of a minimum of sixty hours earned eighteen hours of college credit, or the equivalent thereof, and graduated from a school of barbering requiring not less than the number of hours required in Nebraska as established by the State Department of Education; which academic work shall be in the humanities, social and natural sciences, business administration, and general methods of education, as specified by the rules and regulations of the board, has at or above the postsecondary level, including at least three credit hours each~~ in (i) methods of teaching, (ii) curriculum development, (iii) special vocational needs, (iv) educational psychology, (v) speech communications, and (vi) introduction to business;

(b) ~~He or she has~~ been a registered licensed and actively practicing barber for the one year immediately preceding application, except that for good cause the board may waive the requirement that the applicant be an actively practicing barber for one year or that such year immediately precede application;

(c) ~~He or she has~~ and served one year as a registered assistant barber instructor under the direct inhouse supervision of an active, full-time, registered barber instructor for one year immediately preceding application for registration, except that for good cause the board may waive the requirement that such year immediately precede application;

(d) ~~He or she has~~ passed an examination prescribed by the Board of Barber Examiners ; board; and

(e) ~~He or she has~~ paid the fees prescribed by section 71-219.

(3) One registered barber instructor or assistant barber instructor shall be employed for each fifteen students, or fraction thereof, enrolled in ~~the a barber school, except ; PROVIDED,~~ that each barber school ~~or college shall have not less than two instructors, one of whom shall be a registered barber instructor, regardless of the number of students, ; one of whom must be a registered barber instructor.~~ Additional assistant barber instructors shall be permitted on ~~the a~~ working ratio of one two assistant instructor barber instructors for

every registered barber instructor, A ; ~~PROVIDED, that a~~ barber school ~~or college~~ operated by a nonprofit organization which neither charges any tuition to its students nor makes any charge to the persons upon whom work is performed shall not be required to have more than one instructor, regardless of the number of students, which instructor ~~must~~ shall be a registered barber instructor.

(4) ~~(2)~~ No student at a barber school shall be permitted to do any practical work upon any person unless ~~one of the a~~ registered ~~instructors~~ barber instructor or registered assistant ~~instructors~~ barber instructor is on the premises ~~where~~ and supervising the practical work ~~is~~ being performed. ~~The following~~

(5)(a) A person shall be eligible for registration as an assistant ~~instructors: (a) Persons who have~~ barber instructor if he or she has paid the fee prescribed by section 71-219, has been a licensed and actively practicing registered as a barber for one year, and is currently enrolled or will enroll at the first regular college enrollment date after registration under this section in an educational program leading to completion of the hours required under subsection (2) of this section.

(b) A person registered pursuant to subdivision (a) of this subsection may serve as an assistant barber instructor under indirect supervision if:

(i) ~~;~~ who are enrolled in college and are credited with not less than twelve credit hours per academic year, in courses specified by rules and regulations of the board; or

(b) ~~persons who have~~ He or she has completed sixty nine college credit hours, approved by the board, in a college, and have been registered as a barber for at least one year including three credit hours each in methods of teaching, curriculum development, and special vocational needs; and

(ii) He or she has completed one year of instructor training under the direct inhouse supervision of an active, full-time, registered barber instructor.

(c) ~~A report of college credits earned pursuant to subdivision (a) of this subsection~~ subsection (2) of this section shall be submitted to the board at the end of each academic year. Any Registration as an assistant barber instructor registered under the provisions of subdivision (a) of this subsection who fails to maintain shall be renewed annually and shall be valid for three years from the date of registration if the registrant pursues without interruption the educational advancement program described in subsection (2) of this section. A registrant who fails to so maintain such program shall have his or her assistant instructor license registration revoked. Any such registration that has been revoked shall be reinstated if all renewal fees have been paid and other registration requirements of this subsection are met. College entrance shall begin at the first regular college registration date after acceptance by the board as an assistant instructor.

(6) A person who is a registered barber instructor before the effective date of this act may continue to practice as a registered

barber instructor on and after such date without meeting the changes in the registration requirements of this section imposed by this legislative bill. A person who is a registered assistant barber instructor before the effective date of this act and who seeks to register as a barber instructor on or after the effective date of this act may meet the requirements for registration as a barber instructor either as such requirements existed before such date or as such requirements exist on or after such date.

Sec. 5. That section 71-208.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-208.07. Any barber instructor on inactive status as of April 17, 1978, may restore his or her license any time before June 30, 1979, by paying the prescribed annual renewal fee. After June 30, 1979, any barber instructor on inactive status or who withdraws from the active practice of barber instructing may renew his or her registration license within five years of its expiration date upon the payment of the required restoration fee. No fee shall be charged for the period between the expiration of the last license issued and the time of renewal. Any barber instructor who fails to renew his or her registration license for five consecutive years shall be required to successfully complete the examination for issuance of a new license registration.~~

Sec. 6. That section 71-216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~71-216. Every registered barber instructor, registered assistant barber instructor, and registered and licensed barber, who continues in active practice or service, shall on or before June 30 of each year renew his or her certificate of registration, which certificate license or registration and pay the required fee. Such license or registration shall be effective as of July 1 of each year, and which certificate shall terminate on June 30 of the next succeeding year, and shall pay the required fee.~~

Every registered assistant barber instructor shall, subject to the requirements of section 71-208.02, renew his or her registration on or before its expiration date during the period of its validity established by such section and pay the required fee.

~~Every barber school shall annually, on or before June 30 of each year, obtain renewal of its approval license and pay the required fee. Such, which renewal of approval shall be effective as of July 1 of each year and shall expire on June 30 of the next succeeding year.~~

Any licensed barber, registered barber instructor, registered assistant barber instructor, or barber school which fails to renew his, her, or its license or registration on or before the expiration date may renew such license or registration by payment of the renewal fee and a late renewal fee established by the board within sixty days after such date or such other time period as the board establishes.

~~Any barber on inactive status as of April 17, 1978, may restore his or her license any time before June 30, 1979, by paying the prescribed annual renewal fee. After June 30, 1979, any registered barber~~

~~on inactive status~~ or who withdraws from the active practice of barbering may renew his or her license within five years of its expiration date upon the payment of the required restoration fee. ~~No fee shall be charged for the period between the expiration of the last license issued and the time of renewal.~~ Any barber who fails to renew his or her license for five consecutive years shall be required to successfully complete the examination for issuance of a new license.

Sec. 7. That section 71-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-219. The ~~Board of Barber Examiners~~ board shall set the fee ~~fees~~ to be paid:

(1) By an applicant for an examination to determine his or her fitness to receive a ~~certificate of registration~~ license to practice barbering or a registration as a barber instructor; and for the issuance of the ~~certificate~~ license or registration;

(2) By an applicant for registration as an assistant barber instructor;

(3) For the renewal of a ~~certificate of registration~~ license to practice barbering; and for restoration of an ~~expired certificate~~ inactive license;

(4) For the renewal of a ~~certificate of~~ registration to practice as a barber instructor ~~or assistant barber instructor~~; and for the restoration of an ~~expired certificate~~ inactive registration;

(5) For renewal of a registration to practice as an assistant barber instructor;

(6) For late renewal of a license issued under the Barber Act; ~~By an applicant for an examination to receive a certificate of registration to practice as an apprentice, and for the issuance of a certificate~~;

~~(6) For the renewal of a certificate of registration to practice as an apprentice, and for the restoration of an expired certificate~~;

(7) For an application for a license to establish a barber shop or barber school and for the issuance of a ~~certificate~~ license;

(8) For the transfer of license or change of ownership of a barber shop or barber school;

(9) For a renewal of a barber license, to conduct a school of barbering, barber instructor registration, barber shop license, or barber school license;

~~(10) For a license to conduct a barber shop, and for restoration of an expired license~~;

~~(11)~~ (10) For an application for a temporary license to conduct classes of instruction in barbering;

~~(12)~~ (11) For an affidavit for purposes of reciprocity or for issuance of a certification of licensure for purposes of reciprocity;

~~(13)~~ (12) For the sale of listings or labels; and

~~(14)~~ (13) For a returned check because of insufficient funds or no funds.

Sec. 8. That section 71-222, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

71-222. The ~~Board of Barber Examiners~~ board shall annually elect a president and vice president, and the board shall ~~then~~ appoint a director who shall serve as secretary of the board. The board shall be furnished with suitable quarters in the State Capitol or elsewhere. It shall adopt and use a common seal for the authentication of its orders and records. The ~~director~~ secretary of the board shall keep a record of all proceedings of the board. A majority of the board, in a meeting duly assembled, may perform and exercise all the duties and powers devolving upon the board. Each member of the board shall receive a compensation of ~~forty~~ seventy-five dollars per diem; and shall be reimbursed for his or her actual and necessary ~~traveling~~ expenses incurred in the discharge of his or her duties as provided in sections 81-1174 to 81-1177, ~~for state employees,~~ not to exceed two thousand dollars per annum. ~~Both salaries~~ Salaries and expenses ~~are to~~ shall be paid only from the fund created by fees collected in the administration of ~~sections 71-201 to 71-237,~~ PROVIDED, that the Barber Act, and no other funds or state money except as collected in the administration of ~~such sections~~ the act shall be drawn upon to pay the expense of administration. The board shall report each year to the Governor a full statement of its receipts and expenditures and also a full statement of its work during the year, together with such recommendations as it may deem expedient. The board may employ one field inspector and such other inspectors, clerks, and other assistants as it may deem necessary to carry out the ~~act~~ provisions of sections 71-201 to 71-237 and prescribe their qualifications. No owner, agent, or employee of any barber school shall be eligible to membership on the board.

Sec. 9. That section 71-223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-223. The ~~Board of Barber Examiners~~ board shall have authority to ~~make~~ adopt and promulgate reasonable rules and regulations for the administration of the provisions of sections 71-201 to 71-224. Any member of the board, ~~or its agents, or its~~ or assistants; shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules and regulations adopted by the board shall be furnished to the owner or manager of each barber shop and barber school, and it shall be posted in a conspicuous place in such barber shop or barber school. The board shall keep a record of proceedings relating to the issuance, refusal, renewal, suspension, and revocation of ~~certificates of registration~~ registrations and licenses and ~~inspection inspections.~~ This Such record shall also contain the name, place of business, and residence of each registered barber instructor, ~~registered and licensed barber, and registered apprentice,~~ and the date and number of his or her registration or license, certificate of registration. This record shall be open to public inspection at all reasonable times.

Sec. 10. That section 71-223.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-223.02. ~~No barber school shall place in the window or in such location as to be readily visible from the street any sign or other advertisement of the scale of prices charged. No barber school shall in any manner advertise that it renders barber service to the general public. Nothing contained in this section shall be construed to prohibit advertising of barber shop prices or services in newspapers, radio, television or by other lawful methods, or to prohibit a barber school from, in any lawful way, advertising for students. A barber school shall display a sign indicating that it is a barber school. The sign shall be clearly visible at the main entrance. A sign shall be displayed in the clinical area indicating that all services are performed by students. A barber school which advertises the performance of any barber service shall advertise, in as conspicuous a manner as such advertisement of services, that all services are performed by students.~~

Sec. 11. That section 71-224, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-224. Sections 71-201 to ~~71-237~~ 71-248 shall be known and may be cited as the Barber Act.

Sec. 12. That section 71-238, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-238. The ~~Board of Barber Examiners~~ board may negotiate reciprocal agreements for licensure with any other state or country for ~~apprentice barbers, registered~~ licensed barbers; and registered barber instructors.

Sec. 13. That section 71-239, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-239. For ~~the purpose~~ purposes of recognizing licenses which have been issued in other states or countries to practice barbering as ~~an apprentice barber, registered~~ a licensed barber; or registered barber instructor, ~~the board for which a license is required by Chapter 71, article 2, the Board of Barber Examiners~~ may enter into a reciprocal agreement with every any state which is certified to it by the proper examining board under the provisions of section 71-240.

Sec. 14. That section 71-242, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-242. The ~~Board of Barber Examiners~~ board shall not enter into any reciprocal agreement with any state or country with reference to the practice of barbering as ~~an apprentice barber, registered~~ a licensed barber; or registered barber instructor for which the board conducts examinations; unless every person licensed or registered in such state or country when applying for a license to practice in this state shall show:

(1) That the requirements for licensure or registration were substantially equal to those in force in this state at the time such license was issued; or

(2) Upon due proof that such applicant has continuously practiced the practices or occupation for which application for a license is made at least three years immediately prior to such application.

The applicant shall also pay the fee set pursuant to section 71-219.

Any applicant who fails to qualify for such exemption because his or her study or training outside this state does not fulfill the requirements of this section shall receive credit for the number of hours of study and training successfully completed in the particular state where he or she is registered or licensed, and he or she shall be qualified for the examination upon completion of such supplementary study and training in an accredited school of barbering in this state as the board finds necessary to substantially equal the study and training of a qualified person who has studied and trained in an accredited school in this state only. For the purposes of this section, each six months of practice outside of this state of the practices or occupation for which application for a license is made shall be deemed the equivalent of one hundred hours of study and training required in this state in order to qualify for the practice of barbering.

Sec. 15. That original sections 71-201, 71-202, 71-202.01, 71-208.02, 71-208.07, 71-216, 71-219, 71-222, 71-223, 71-223.02, 71-224, 71-238, 71-239, and 71-242, Reissue Revised Statutes of Nebraska, 1943, and also section 71-249, Reissue Revised Statutes of Nebraska, 1943, are repealed.