

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1150

By: Miller (Ray)

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 199.3, 199.4, 199.5, 199.7, 199.10, 199.11, 199.13 and 199.14, which relate to the Oklahoma Cosmetology Act; adding to and modifying powers of the State Board of Cosmetology and the powers and duties of the executive director; removing authority to make appointments; removing certain requirements for filing certain reports; expanding certain times for applications for licensure; authorizing certain renewal and penalty fees; adding to certain causes for penalties; providing for reciprocity licenses; modifying terms; removing certain licensing requirements for examinations; requiring certain qualifications; clarifying language; repealing Section 1, Chapter 225, O.S.L. 2002 (59 O.S. Supp. 2002, Section 199.7), which is a duplicate section; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 199.3, is amended to read as follows:

Section 199.3 A. In order to safeguard and protect the health and general welfare of the people of the State of Oklahoma, the State Board of Cosmetology is hereby vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions of the Oklahoma Cosmetology Act.

B. The Board shall have the ~~following specific~~ powers and duties to:

1. ~~Pursuant to the Administrative Procedures Act, the Board shall promulgate~~ Promulgate rules pursuant to the Administrative Procedures Act relating to standards of sanitation which ~~shall~~ must be observed and practiced by all cosmetology schools and cosmetology

salons. The Board shall furnish copies of the rules to the owner or manager of each cosmetology school or cosmetology salon operating in this state, ~~and it.~~ It shall be the duty of each owner or manager to post a copy of the rules in a conspicuous place in each of the establishments or schools;

2. ~~The Board shall conduct~~ Conduct examinations of applicants for certificates of registration as manicurists, cosmetologists, facial operators, hairbraiding technician, manicurist/nail technician instructor, facial/esthetics instructor, master instructor and cosmetician at such times and places determined by the Board. Applications for all examinations shall be made on forms approved by the Board;

3. ~~The Board shall keep~~ Keep a record of all its proceedings. ~~The Board~~ The Board shall keep a record of all applicants for certificates, licenses and permits, showing the name of the applicant, the name and location of the place of occupation or business, if any, and the residence address of the applicant, and whether the applicant was granted or refused a certificate, license or permit. The records of the Board shall be valid and sufficient evidence of matters contained therein, shall constitute public records, ~~and.~~ Records shall be open to public inspection at all reasonable times and subject to the Oklahoma Open Records Act;

4. ~~The Board shall have authority to issue~~ Issue all certificates of registration, licenses, permits, notices and orders;

5. ~~The Board is authorized to establish, pursuant to the Administrative Procedures Act,~~ Establish limited specialty licenses for cosmetician, facial/esthetics instructor, hairbraiding technician and manicurist/nail technician instructor within the practice of cosmetology. The Board shall also promulgate rules for ~~said~~ special licenses, including but not limited to reduced curriculum requirements, as the Board may deem appropriate and necessary to further the purposes of the Oklahoma Cosmetology Act;

6. ~~The Board or the duly authorized representatives thereof shall make~~ Make regular inspections of all cosmetology schools and cosmetology salons licensed to operate in this state, and reports thereof shall be kept and maintained in the office of the Board;

7. ~~The Board or the duly authorized representatives thereof shall make~~ Make investigations and reports on all violations of the Oklahoma Cosmetology Act;

8. ~~The Board or the duly authorized representatives thereof shall have authority to take~~ Take samples of beauty supplies for the purpose of chemical analysis; provided, that if the owner demands payment for the sample taken, payment at the regular retail price shall be made;

9. a. ~~The Board shall have the power to refuse~~ Refuse, revoke, or suspend licenses, certificates of registration or permits after notice and an opportunity for a full hearing, pursuant to Article II of the Administrative Procedures Act, on proof of violation of any of these provisions or the rules established by the Board;

10. Enter into any contracts necessary to implement or enforce the provisions of the Oklahoma Cosmetology Act or rules promulgated thereto; and

11. Apply to a court of competent jurisdiction for an order enjoining an unlicensed person from practicing cosmetology or holding himself or herself out as a practitioner of cosmetology. Injunctive relief granted by the court shall be without bond.

~~b.~~

C. 1. Any person whose license, certificate of registration, or permit has been suspended or revoked may, after the expiration of thirty (30) days, make application to the Board for reinstatement thereof.

2. Reinstatement of any such license, certificate of registration, or permit shall rest in the sound discretion of the Board.

3. Any action of the Board in refusing, revoking, or suspending a license, certificate of registration, or permit may be appealed to the district court of the county of the appellant's residence pursuant to the Administrative Procedures Act; ~~and~~.

~~10.~~ D. 1. In any case where a licensee becomes a member of the Armed Forces of the United States, such license shall not lapse by reason thereof but shall be considered and held in full force and effect without further payment of license fees during the period of service in the Armed Forces of the United States and for six (6) months after honorable release therefrom. At any time within six (6) months after honorable release from the Armed Forces of the United States the licensee may resume practice pursuant to a license without other or further examination by notifying the Board in writing.

2. The period of time in which the licensee shall have been a member of the Armed Forces of the United States shall not be computed in arriving at the amount of fee or fees due or to become due by such licensee.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 199.4, is amended to read as follows:

Section 199.4 The State Board of Cosmetology shall employ an executive director who shall be in charge of the office of the Board. The executive director shall have such qualifications as shall be established by rules of the Board; provided, the executive director shall not be actively engaged in the practice of cosmetology while serving as executive director. The executive director shall:

1. Devote his or her entire time to the duties of the office;
2. Receive salary and benefits as provided by law;

3. Keep and preserve all books and records pertaining to the Board;

4. Have authority, in the name of and in behalf of the Board, to issue all licenses, certificates of registration, permits, orders, and notices;

5. Have authority to collect all fees and penalties provided for by the Oklahoma Cosmetology Act;

6. Make quarterly reports to the Board of all monies collected and the sources from which derived;

7. Have authority to approve payrolls and all claims for the Board;

8. ~~With the approval of the Board, have the authority to designate a business manager, whose duties shall include receiving, accounting for, and depositing all funds for the Board~~ Have authority to employ staff;

9. Keep a continuous inventory of all properties, excluding supplies, belonging to the Board; and

10. Perform such other duties as may be directed by the Board.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 199.5, is amended to read as follows:

Section 199.5 A. The State Board of Cosmetology shall create positions, ~~make appointments,~~ and fix the salaries of officials and employees necessary to carry out the purposes of the Oklahoma Cosmetology Act and the administration thereof.

B. The employees shall include not less than five nor more than nine cosmetology inspectors. Only licensed instructors shall be employed as cosmetology inspectors by the Board.

SECTION 4. AMENDATORY 59 O.S. 2001, Section 199.7, is amended to read as follows:

Section 199.7 A. Each cosmetology school shall be licensed annually by the State Board of Cosmetology. Application for the first year's license for a cosmetology school shall be accompanied

by a fee of Four Hundred Dollars (\$400.00), which shall be retained by the Board if the application is approved and a license is issued. The annual renewal license fee for cosmetology schools shall be One Hundred Twenty-five Dollars (\$125.00).

B. 1. No license or renewal thereof for a cosmetology school shall be issued unless the owner thereof ~~shall furnish~~ furnishes to the Board a good and sufficient surety bond in the principal sum of Two Thousand Dollars (\$2,000.00) for the first instructor and an additional One Thousand Dollars (\$1,000.00) for each additional instructor, executed by a surety company authorized to do business in this state, and conditioned on the faithful performance of the terms and conditions of all contracts entered into between the owner of said cosmetology school and all persons enrolling therein.

2. The surety bond shall be in a form approved by the Attorney General and filed in the Office of the Secretary of State. Suit may be brought on said bond by any person injured by reason of the breach of the conditions thereof.

C. It shall be the duty of the owner or manager of a cosmetology school to enter into a written contract with all students before permitting students to attend any classes. Contracts shall be made out in triplicate, the original copy to be retained by the school, the duplicate to be given to the student, and the triplicate to be filed with the executive director of the Board.

D. No license for a cosmetology school shall be issued unless the owner thereof ~~shall present~~ presents evidence satisfactory to the Board that the school has satisfactory facilities and equipment and has instructors qualified to give a course of study as provided in the Oklahoma Cosmetology Act.

E. There shall be included in the curriculum for cosmetology schools, courses of study in the theory of cosmetology and related theory, studies in manipulative practices, sterilization and

sanitation, shop management, and such other related subjects as may be approved by the Board.

F. 1. The Board shall adopt a curriculum of required courses of instruction in theory and training of either one thousand five hundred (1,500) clock hours or an equivalent number of credit hours as recognized by the United States Department of Education or a regional or national accreditation entity recognized by the United States Department of Education in a basic course of cosmetology to be taught in all cosmetology schools in the state. The basic course shall be designed to qualify students completing the course to take the examination for an operator's license.

2. Students in vocational, trade, and industrial cosmetology classes in public schools shall qualify by completing one thousand (1,000) hours in a basic course of cosmetology and five hundred (500) hours of approved related subjects to be selected from, but not limited to, the following high school courses in a public school: psychology, biology, general science, American history, art, typing I, typing II, business arithmetic, salesmanship, bookkeeping I, bookkeeping II, related mathematics, English II, English III and English IV.

G. 1. No person shall be eligible to give instruction in cosmetology unless the person is the holder of a current unrevoked instructor's license issued by the Board.

2. Each cosmetology school shall employ at least one instructor for the first fifteen students registered therein, and at least one additional instructor shall be employed for each additional group of fifteen students, or major fraction thereof.

H. A cosmetology school may be operated in and as part of an accredited high school.

I. No cosmetology school owner or cosmetology salon owner shall charge students for cosmetic materials, supplies, apparatus, or machines used by them in practice work, but students shall be

required to furnish their own books and hand instruments of trade. A reasonable charge may be made by a cosmetology school for clinical work performed by students upon persons who are not students therein. No instructor shall be permitted to do professional or clinical work in a cosmetology school at any time.

J. No cosmetology salon shall ever be operated in or as a part of a cosmetology school.

K. 1. Students shall:

a. have an eighth-grade education or the equivalent thereof, ~~shall~~

b. be at least sixteen (16) years of age unless they are public or private school students who will be sixteen (16) years of age by November 1 of the year in which cosmetology instruction begins, and ~~shall~~

c. be of good moral and ethical character.

2. Credit shall not be given to any person by the Board or by a cosmetology school for hours spent in attending a cosmetology school unless the person has registered with the Board as a student prior to the attendance, except that a student who has attended a cosmetology school out of state may receive credit for such attendance for transfer upon proper certification as provided by rule of the Board.

3. No student shall be credited with more than eight (8) hours' attendance in a cosmetology school in any one (1) day.

4. No person shall be eligible to take the examination for an operator's license unless such person is at least seventeen (17) years of age or a high school graduate.

L. 1. No student shall be eligible to take the examination for an operator's license without furnishing to the Board the affidavit of the owner of the cosmetology school that said student has satisfactorily completed ~~one thousand five hundred (1,500) hours' study of the approved basic course~~ the requirements specified in

paragraph 1 of subsection F of this section, except public and private school students who will complete the ~~one thousand five hundred hour basic course~~ requirements specified in paragraph 2 of subsection F of this section by the close of the current school year may take the examination next preceding the end of the school year.

2. ~~The owner of each cosmetology school shall file a report with the Board on or before the fifth day of each month showing the total number of hours of instruction and training received by each student during the preceding calendar month.~~ Students who are eligible to take the examination shall be given an oral examination if requested by their instructor.

M. No person shall be eligible to register for the examination for an instructor's license unless such person is a high school graduate, or has ~~the equivalent of a high school education~~ obtained a General Equivalency Diploma (GED) as to which the applicant shall qualify by tests to be prescribed by the Board and conducted by qualified examiners selected by the Board, and has:

1. ~~Has satisfactorily~~ Satisfactorily completed all hours required for the appropriate specialty course and an additional one thousand (1,000) instructor training hours or thirty-three (33) credit hours prescribed by the Board in a cosmetology school in this state; or

2. ~~Has completed~~ Completed all hours required for the appropriate specialty course, five hundred (500) instructor training hours, prescribed by the Board in a cosmetology school in this state and has been engaged in the practice of cosmetology for at least the preceding two (2) years.

N. The Board shall have the power to conduct examinations around the state at public locations including, but not limited to, technology center schools.

O. Each cosmetology school shall prominently display in a conspicuous place above or to the side of the entrance thereto a

sign bearing the words "BEAUTY SCHOOL", which words shall be in plain letters at least three (3) inches high and at least one (1) inch wide.

SECTION 5. AMENDATORY 59 O.S. 2001, Section 199.10, is amended to read as follows:

Section 199.10 A. All licenses issued under the provisions of the Oklahoma Cosmetology Act shall be issued for a period of one (1) year. The expiration date of the license shall be the last day of the month in which the applicant's birthday falls.

B. Applications for renewal must be made on or before the last day of the month in which the applicant's birthday falls, and shall be accompanied by the appropriate fees.

C. Any person who ~~ceases to practice under a license issued by the State Board of Cosmetology and~~ fails to renew the license within the required time may make application for renewal at any time within ~~one (1) year~~ five (5) years from the expiration date of the license by paying the regular renewal license fee and a late fee of Ten Dollars (\$10.00), which becomes due two (2) months after the expiration date. ~~If application for renewal of the license is not made within said period of one (1) year, no renewal may be made by the Board unless the applicant passes the regular examination.~~

D. Any person who fails to renew within the required time may make application with subsequent renewal and penalty fees.

E. Before a person may take an examination to renew an expired license after a period of five (5) years, such person shall, after registering for examination, register in a cosmetology school for the given number of review hours in accordance with the following timetable and schedule based upon the number of years the license has expired, and upon the type of license held.

	Number of Years	Review
License Type	License Expired	Hours Required
Basic Cosmetologist	5 years	250 hours

	10 years	500 hours
	15 years or more	1,000 hours
Cosmetician	5 years	120 hours
	10 years	200 hours
	15 years or more	250 hours
Manicurist	5 years	120 hours
	10 years	200 hours
	15 years or more	250 hours
Facial Operator	5 years	120 hours
	10 years	200 hours
	15 years or more	250 hours
Hairbraiding		
Technician	5 years	120 hours
	10 years	200 hours
	15 years or more	250 hours
Master Instructor	5 years	200 hours
	10 years	300 hours
	15 years or more	400 hours
Facial/Esthetics		
Instructor	5 years	200 hours
	10 years	300 hours
	15 years or more	400 hours
Manicurist/Nail		
Technician Instructor	5 years	200 hours
	10 years	300 hours
	15 years or more	400 hours

~~E.~~ F. Each person holding a license shall notify the Board of any change in the mailing address of such person within thirty (30) days after any change.

SECTION 6. AMENDATORY 59 O.S. 2001, Section 199.11, is amended to read as follows:

Section 199.11 The State Board of Cosmetology is hereby authorized to deny, revoke, suspend, or refuse to renew any license, certificate, or registration that it is authorized to issue under the Oklahoma Cosmetology Act for any of the following causes:

1. Conviction of a felony as shown by a certified copy of the record of the court;
2. Gross malpractice or gross incompetence;
3. Fraud practiced in obtaining a license or registration;
4. A license or certificate holder's continuing to practice while afflicted with an infectious, contagious, or communicable disease;
5. Habitual drunkenness or addiction to use of habit forming drugs;
6. Advertising by means of statements known to be false or deceptive;
7. Continued or flagrant violation of any rules of the Board, or continued practice by an operator in a cosmetology salon wherein violations of the rules of the Board are being committed within the knowledge of the operator;
8. Failure to display license or certificate as required by the Oklahoma Cosmetology Act;
9. Continued practice of cosmetology after expiration of a license therefor; ~~or~~
10. Employment by a salon owner or manager of any person to perform any of the practices of cosmetology who is not duly licensed to perform the services; or
11. Practicing cosmetology in an immoral or unprofessional manner.

SECTION 7. AMENDATORY 59 O.S. 2001, Section 199.13, is amended to read as follows:

Section 199.13 A. The State Board of Cosmetology may ~~dispense with examinations of an applicant and may grant a certificate of~~

~~registration as provided in the Oklahoma Cosmetology Act~~ issue a reciprocity license without examination to an otherwise qualified applicant if:

1. The applicant has complied with the requirements of another state, territory or foreign country or province;

2. ~~Holds~~ The applicant holds a current license from ~~such other~~ a state, territory, or foreign country or province wherein the whose requirements for registration are substantially equal to those in force in this state at the time of filing application for ~~such certificate~~ a reciprocity license; ~~or~~ and

3. ~~Upon due proof that such~~ The applicant has continuously engaged in the practices or occupation for which a reciprocity license is applied for at least three (3) years immediately prior to such application ~~and upon the payment of a fee of Thirty Dollars (\$30.00).~~

B. The Board may issue a license without examination to an otherwise qualified applicant from a state, territory or foreign country or province that does not license practitioners if the applicant can show adequate proof of having engaged in the practice or occupation for which a license is applied for at least three (3) years immediately prior to such application.

C. An applicant for an instructor's license without examination shall possess the equivalent of a high school education.

D. Payment of the reciprocity fee shall also constitute payment of the first annual license fee.

E. The Board may establish by rule any administrative or other fees associated with processing applications for licensure without examination.

SECTION 8. AMENDATORY 59 O.S. 2001, Section 199.14, is amended to read as follows:

Section 199.14 A. The following fees shall be charged by the State Board of Cosmetology:

Registration as an apprentice or student.....	\$ 5.00
Examination for Manicurist, Operator, Instructor, or Facial Operator license.....	15.00
Cosmetology school license (initial).....	400.00
Cosmetology school license (renewal).....	125.00
Renewal Advanced Operator license (annual).....	15.00
Facial Operator license (annual).....	15.00
Operator license (annual).....	15.00
Manicurist license (annual).....	15.00
Facial/Esthetics Instructor license (annual).....	20.00
Cosmetician license (annual).....	15.00
Hairbraiding Technician (annual).....	15.00
Manicurist/Nail Technician Instructor (annual).....	20.00
Demonstrator license (annual).....	20.00
Master Instructor license (annual).....	20.00
Cosmetology Salon license (initial).....	35.00
Cosmetology Salon license (renewal).....	20.00
Cosmetic Studio license (initial).....	40.00
Cosmetic Studio license (renewal).....	20.00
Reciprocity license (initial).....	30.00
Reciprocity processing fee.....	30.00
Duplicate license (in case of loss or destruction of original).....	5.00
Notary fee.....	1.00
Certification of Records.....	10.00

B. In addition to the fees specified in subsection A of this section, the Board shall charge a total penalty ~~in the amount~~ of Ten Dollars (\$10.00), ~~which becomes due two (2) months after the expiration date on all delinquent licenses~~ as provided for in Section 199.10 of this title.

C. Any person licensed as an advanced operator prior to July 1, 1985, may renew the advanced cosmetologist license annually by

payment of the fee required by this section and by being in compliance with the rules promulgated by the State Board of Cosmetology.

SECTION 9. REPEALER Section 1, Chapter 225, O.S.L. 2002 (59 O.S. Supp. 2002, Section 199.7), is hereby repealed.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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