

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1572

By: Martin (Scott)

4  
5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 amending 59 O.S. 2001, Sections 199, 199.1, 199.2, as  
9 last amended by Section 1, Chapter 12, O.S.L. 2003  
10 and 199.15 (59 O.S. Supp. 2006, Section 199.2) and 74  
11 O.S. 2001, Section 3904, as amended by Section 1,  
12 Chapter 26, O.S.L. 2003 (74 O.S. Supp. 2006, Section  
13 3904), which relate to the Oklahoma Cosmetology Act;  
14 modifying short title; modifying definitions;  
15 combining State Board of Cosmetology and State  
16 Barbers Advisory Board; modifying board members;  
17 combining revolving funds; modifying sunset  
18 provisions; repealing 59 O.S. 2001, Sections 61.1, as  
19 amended by Section 1, Chapter 93, O.S.L. 2002, 61.2,  
20 61.3, 61.4, as amended by Section 1, Chapter 11,  
21 O.S.L. 2003, 61.5 and 61.6 (59 O.S. Supp. 2006,  
22 Sections 61.1 and 61.4), which relate to barbering;  
23 and providing an effective date.  
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 199, is  
amended to read as follows:

Section 199. ~~Chapter 6 of Title 59 of the Oklahoma Statutes~~  
Sections 199 through 199.15 of this title shall be known and may be  
cited as the "Oklahoma Cosmetology and Barbers Act".

1 SECTION 2. AMENDATORY 59 O.S. 2001, Section 199.1, is  
2 amended to read as follows:

3 Section 199.1 A. As used in the Oklahoma Cosmetology and  
4 Barbers Act:

5 1. "Apprentice" means a person who is engaged in learning the  
6 practice of cosmetology or barbering in a cosmetology or barber  
7 salon;

8 2. "Board" means the State Board of Cosmetology and Barbers;

9 3. "Cosmetic studio" means any place or premises where  
10 demonstrators give demonstrations, without compensation, for the  
11 purpose only of advertising and selling cosmetics;

12 4. "Cosmetician" means a person licensed by the Board to  
13 perform patron services limited to hair arranging and application of  
14 makeup, including, but not limited to, using hairstyling tools and  
15 products. Services must be performed in a licensed establishment  
16 limited to photo studios and cosmetic studios;

17 5. "Cosmetology" means any one or combination of practices  
18 generally and usually performed by and known as the occupation of  
19 beauticians, beauty culturists, beauty operators, cosmeticians,  
20 cosmetologists, or hairdressers or of any other person holding  
21 himself or herself out as practicing cosmetology by whatever  
22 designation and within the meaning of the Oklahoma Cosmetology and  
23 Barbers Act and in or upon whatever place or premises. Cosmetology  
24 shall include, but not be limited to, any one or combination of the

1 following practices: bleaching, cleansing, curling, cutting,  
2 coloring, dressing, removing, singeing, styling, waving, or similar  
3 work upon the hair of any person by any means, whether with hands or  
4 mechanical or electrical apparatus or appliances. Nothing in the  
5 Oklahoma Cosmetology and Barbers Act shall be construed to prohibit  
6 the use of hands or mechanical or electrical apparatus or appliances  
7 for the nonpermanent removal of hair from the human body without  
8 puncturing of the skin or the use of cosmetic preparations,  
9 antiseptics, tonics, lotions, or creams, or massaging, cleansing,  
10 stimulating, exercising, beautifying, or similarly working the  
11 scalp, face, neck, arms, or the manicuring of the nails of any  
12 person, exclusive of such of the foregoing practices as are within  
13 the scope of practice of the healing arts as provided by law;

14 6. "Cosmetology salon" means any place or premises where any of  
15 the practices of cosmetology are performed. The term "cosmetology  
16 salon" shall not include a cosmetology school or a cosmetic studio;

17 7. "Cosmetology school" means any place or premises where  
18 instruction in any or all the practices of cosmetology is given.  
19 Any person, firm, institution or corporation, who holds himself,  
20 herself or itself out as a school to teach and train, or any person,  
21 firm, institution or corporation who shall teach and train any other  
22 person or persons in any of the practices of cosmetology is hereby  
23 declared to be engaged in operating a cosmetology school, and shall

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1 be subject to the provisions of the Oklahoma Cosmetology and Barbers  
2 Act;

3 8. "Demonstrator" means a person who is not licensed in this  
4 state as an operator or instructor and who demonstrates any cosmetic  
5 preparation. The person shall be required to obtain a Demonstrator  
6 license from the Board before making any such demonstrations;

7 9. "Facial/Esthetics instructor" means a person licensed by the  
8 Board as a qualified teacher of the art and science of facial and  
9 esthetics theory and practice;

10 10. "Facial operator" means any person who gives facials for  
11 compensation;

12 11. "Hairbraiding technician" means a person licensed by the  
13 Board to perform hairbraiding, hairweaving techniques, and hair  
14 extensions in a licensed cosmetology establishment;

15 12. "Manicurist" means a person who gives manicures, gives  
16 pedicures, or applies artificial nails;

17 13. "Manicurist/Nail technician instructor" means a person  
18 licensed by the Board as a qualified teacher of the art and science  
19 of nail technology theory and practice;

20 14. "Master instructor" means a person who gives instruction in  
21 cosmetology or any practices thereof;

22 15. "Operator" means any person who engages in, follows or  
23 performs any of the practices of cosmetology;

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1 16. "Public school" means any state-supported institution  
2 conducting a cosmetology program; and

3 17. "Student" means a person who is enrolled in and attending a  
4 cosmetology school for the purpose of learning the practice of  
5 cosmetology.

6 B. Any one or any combination of the following practices, when  
7 done upon the upper part of the human body for cosmetic purposes and  
8 when done for payment either directly or indirectly for the general  
9 public, constitutes the practice of barbering: shaving or trimming  
10 the beard or cutting the hair; giving facial or scalp massages or  
11 treatment with oils, creams, lotions or other preparations, either  
12 by hand or mechanical appliances; singeing, shampooing or dyeing the  
13 hair or applying hair tonics; applying cosmetic preparations,  
14 antiseptics, powders, oils, clays or lotions to scalp, face, neck or  
15 upper part of the body; and removing superfluous hair from the face,  
16 neck or upper part of the body.

17 SECTION 3. AMENDATORY 59 O.S. 2001, Section 199.2, as  
18 last amended by Section 1, Chapter 12, O.S.L. 2003 (59 O.S. Supp.  
19 2006, Section 199.2), is amended to read as follows:

20 Section 199.2 A. 1. There is hereby re-created, to continue  
21 until July 1, 2009, in accordance with the provisions of the  
22 Oklahoma Sunset Law, a State Board of Cosmetology and Barbers which  
23 shall be composed of nine ~~(9)~~ cosmetologists and four barbers, for a  
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1 total of thirteen (13) members to be appointed by the Governor and  
2 to serve at the pleasure of the Governor.

3       2. One member shall be appointed from each congressional  
4 district and the additional members shall be appointed at large.  
5 However, when congressional districts are redrawn each member  
6 appointed prior to July 1 of the year in which such modification  
7 becomes effective shall complete the current term of office and  
8 appointments made after July 1 of the year in which such  
9 modification becomes effective shall be based on the redrawn  
10 districts. Appointments made after July 1 of the year in which such  
11 modification becomes effective shall be from any redrawn districts  
12 which are not represented by a board member until such time as each  
13 of the modified congressional districts are represented by a board  
14 member.

15       3. At the time of appointment, the members shall be citizens of  
16 this state, at least twenty-five (25) years of age, and shall be  
17 high school graduates. Six members shall, at the time of  
18 appointment, have had at least five (5) ~~years~~ years of continuous  
19 practical experience in the practice of cosmetology and barbering in  
20 this state, one member shall be a lay person, one member shall be an  
21 administrator of a licensed private cosmetology or barbering school,  
22 and one member shall be an administrator of a public school licensed  
23 to teach cosmetology or barbering.

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1 4. No two members shall be graduates of the same cosmetology or  
2 barbering school, nor shall they be organizers of or promote the  
3 organization of any cosmetic, beauty, or ~~hairdressers~~ association  
4 of hairdressers. Each of the six cosmetology or barber appointees  
5 shall continue to be actively engaged in the profession of  
6 cosmetology or barbering while serving.

7 5. If any member retires or ceases to practice his or her  
8 profession during the term of membership on the Board, such terms  
9 shall automatically cease and the Governor shall appoint a like-  
10 qualified person to fulfill the remainder of the term.

11 B. The terms of office for Board members shall be four (4)  
12 years ending June 30.

13 C. Each member shall serve until a successor is appointed and  
14 qualified.

15 D. ~~Five~~ Seven members of the Board shall constitute a quorum  
16 for the transaction of business.

17 E. The Governor may remove any member of the Board at any time  
18 at the ~~Governor's~~ discretion of the Governor. Vacancies shall be  
19 filled by appointment by the Governor for the unexpired portion of  
20 the term.

21 F. The Board shall organize by electing from its membership a  
22 chair and vice-chair, each to serve for a period of one (1) year.  
23 The presiding officer shall not be entitled to vote upon any  
24 question except in the case of a tie vote.

1 Members shall be reimbursed for their actual and necessary  
2 traveling expenses as provided by the State Travel Reimbursement  
3 Act.

4 G. Within thirty (30) days after the end of each fiscal year,  
5 the Board shall make a full report to the Governor of all its  
6 receipts and expenditures, and also a full statement of its work  
7 during the year, together with such recommendations as the Board  
8 deems expedient.

9 H. The Board may expend funds for suitable office space for the  
10 transaction of its business. The Board shall adopt a common seal  
11 for the use of the executive director in authenticating Board  
12 documents.

13 I. The Board shall meet at its office for the transaction of  
14 such business as may come before it on the second Monday in January,  
15 March, May, July, September, and November and at such other times as  
16 it may deem advisable.

17 SECTION 4. AMENDATORY 59 O.S. 2001, Section 199.15, is  
18 amended to read as follows:

19 Section 199.15 A. There is hereby created in the State  
20 Treasury for the Oklahoma State Board of Cosmetology and Barbers a  
21 revolving fund to be designated the State Cosmetology and Barbers  
22 Fund. All funds previously held in the Oklahoma Barber Licensing  
23 Revolving Fund are hereby transferred to the State Cosmetology and  
24 Barbers Fund. The fund shall be a continuing fund not subject to

1 fiscal year limitations and shall consist of all fees and penalties  
2 collected pursuant to the Oklahoma Cosmetology and Barbers Act or  
3 rules promulgated thereto and any other funds obtained or received  
4 by the State Board of Cosmetology and Barbers pursuant to the  
5 Oklahoma Cosmetology and Barbers Act. All monies accruing to the  
6 credit of said fund are hereby appropriated and may be budgeted and  
7 shall be expended by the Board for the purposes of implementing,  
8 administering and enforcing the Oklahoma Cosmetology and Barbers  
9 Act. Expenditures from the fund shall be made upon warrants issued  
10 by the State Treasurer against claims filed as prescribed by law  
11 with the Director of State Finance for approval and payment.

12 B. At the close of each fiscal year, the Board shall pay into  
13 the General Revenue Fund of the state ten percent (10%) of the gross  
14 fees and penalties so charged, collected and received by the Board.  
15 Other than the ten percent (10%) all fees and penalties charged and  
16 monies collected and received, are hereby dedicated, appropriated  
17 and pledged to the accomplishment and fulfillment of the purposes of  
18 the Oklahoma Cosmetology and Barbers Act.

19 C. All expenses, per diem, salaries, wages, travel, rents,  
20 printing, supplies, maintenance, and other costs incurred by the  
21 Board in the performance of its duty and in accomplishment and  
22 fulfillment of the purposes of the Oklahoma Cosmetology and Barbers  
23 Act shall be a proper charge against and paid from the State  
24 Cosmetology and Barbers Fund. In no event shall any claim or

1 obligation accrue against the State of Oklahoma nor against the  
2 ~~Cosmetology~~ Fund in excess of the ninety percent (90%) or the amount  
3 of fees and penalties collected and paid into the State Treasury  
4 pursuant to the provisions of the Oklahoma Cosmetology and Barbers  
5 Act.

6 SECTION 5. AMENDATORY 74 O.S. 2001, Section 3904, as  
7 amended by Section 1, Chapter 26, O.S.L. 2003 (74 O.S. Supp. 2006,  
8 Section 3904), is amended to read as follows:

9 Section 3904. The following statutory entities and their  
10 successors shall be terminated on July 1, 2009, and all powers,  
11 duties and functions shall be abolished one (1) year thereafter:

12 1. State Board of Cosmetology and Barbers as created by Section  
13 199.2 of Title 59 of the Oklahoma Statutes;

14 ~~2. State Barber Advisory Board as created by Section 61.4 of~~  
15 ~~Title 59 of the Oklahoma Statutes;~~

16 ~~3.~~ Oklahoma Real Estate Commission as created by Section 858-  
17 201 of Title 59 of the Oklahoma Statutes;

18 ~~4.~~ 3. State Board of Examiners of Psychologists as created by  
19 Section 1354 of Title 59 of the Oklahoma Statutes;

20 ~~5.~~ 4. Scenic River Commission as created by Section 1461 of  
21 Title 82 of the Oklahoma Statutes;

22 ~~6.~~ 5. Domestic Violence and Sexual Assault Advisory Committee  
23 as created by Section 3-312 of Title 43A of the Oklahoma Statutes;

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1       ~~7.~~ 6. State Board of Medical Licensure and Supervision as  
2 created by Section 481 of Title 59 of the Oklahoma Statutes;

3       ~~8.~~ 7. Group Homes for Persons with Developmental or Physical  
4 Disabilities Advisory Board as created by Section 1430.4 of Title 10  
5 of the Oklahoma Statutes; and

6       ~~9.~~ 8. Ottawa Reclamation Authority as created by Section 801 of  
7 Title 45 of the Oklahoma Statutes.

8       SECTION 6.       REPEALER       59 O.S. 2001, Sections 61.1, as  
9 amended by Section 1, Chapter 93, O.S.L. 2002, 61.2, 61.3, 61.4, as  
10 amended by Section 1, Chapter 11, O.S.L. 2003, 61.5 and 61.6 (59  
11 O.S. Supp. 2006, Sections 61.1 and 61.4), are hereby repealed.

12       SECTION 7. This act shall become effective November 1, 2007.

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14       51-1-6248       LRB       01/16/07

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