

An Act

ENROLLED HOUSE
BILL NO. 2772

By: Osburn (Mike) of the House

and

Pugh and Pittman of the
Senate

An Act relating to professions and occupations; amending 59 O.S. 2011, Sections 199.1, as last amended by Section 1, Chapter 260, O.S.L. 2014, 199.3, as last amended by Section 3, Chapter 260, O.S.L. 2014, 199.13, as last amended by Section 10, Chapter 260, O.S.L. 2014 and 199.14, as last amended by Section 11, Chapter 260, O.S.L. 2014 (59 O.S. Supp. 2017, Sections 199.1, 199.3, 199.13 and 199.14), which relate to the Oklahoma Cosmetology and Barbering Act; modifying definition; modifying powers and duties of the State Board of Cosmetology and Barbering; modifying reciprocity licenses; removing fee for certain license; and providing an effective date.

SUBJECT: Oklahoma Cosmetology and Barbering Act

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 199.1, as last amended by Section 1, Chapter 260, O.S.L. 2014 (59 O.S. Supp. 2017, Section 199.1), is amended to read as follows:

Section 199.1 As used in the Oklahoma Cosmetology and Barbering Act:

1. "Apprentice" means a person who is engaged in learning the practice of cosmetology or barbering in a cosmetology or barbering establishment;

2. "Barber" or "barber stylist" means any person who engages in the practice of barbering;

3. "Barbering" means any one or any combination of the following practices, when done upon the upper part of the human body for cosmetic purposes and when done for payment either directly or indirectly for the general public, constitutes the practice of barbering, to wit: Shaving or trimming the beard or cutting the hair; giving facial or scalp massages or treatment with oils, creams, lotions or other preparations, either by hand or mechanical appliances; singeing, shampooing or applying lighteners or color to the hair or applying hair tonics; applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body; and removing superfluous hair from the face, neck or upper part of the body;

4. "Barber establishment" means an establishment or place of business where one or more persons are engaged in the practice of barbering, but shall not include barber schools or colleges;

5. "Barber school" or "barber college" means an establishment operated for the purpose of teaching barbering;

6. "Board" means the State Board of Cosmetology and Barbering;

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

8. "Cosmetician" means a person licensed by the Board to perform patron services limited to hair arranging and application of makeup, including, but not limited to, using hairstyling tools and products. Services must be performed in a licensed establishment;

9. "Cosmetology" means any one or combination of practices generally and usually performed by and known as the occupation of beauticians, beauty culturists, beauty operators, cosmeticians, cosmetologists, or hairdressers or of any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of the Oklahoma Cosmetology and Barbering Act and in or upon whatever place or premises. Cosmetology shall include, but not be limited to, any one or combination of the following practices: bleaching, cleansing, curling, cutting, coloring, dressing, removing, singeing, styling,

waving, or similar work upon the hair of any person by any means, whether with hands or mechanical or electrical apparatus or appliances. Nothing in the Oklahoma Cosmetology and Barbering Act shall be construed to prohibit the use of hands or mechanical or electrical apparatus or appliances for the nonpermanent removal of hair from the human body without puncturing of the skin or the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, or massaging, cleansing, stimulating, exercising, beautifying, or similarly working the scalp, face, neck, arms, or the manicuring of the nails of any person, exclusive of such of the foregoing practices as are within the scope of practice of the healing arts as provided by law;

10. "Cosmetology establishment" means an establishment or place of business where one or more persons are engaged in the practices of cosmetology but shall not include cosmetology schools or colleges;

11. "Cosmetology or barber school/college" means any place or premises where instruction in any or all the practices of cosmetology or barbering is given. Any person, firm, institution or corporation, who holds himself, herself or itself out as a school to teach and train, or any person, firm, institution or corporation who shall teach and train any other person or persons in any of the practices of cosmetology or barbering is hereby declared to be engaged in operating a cosmetology and/or barber school, and shall be subject to the provisions of the Oklahoma Cosmetology and Barbering Act. Licensed cosmetology and/or barber schools may offer education to secondary and postsecondary students in this state;

12. "Demonstrator" means a person who is not licensed in this state as an operator or instructor and who demonstrates any cosmetic preparation. The person shall be required to obtain a Demonstrator license and pass a state written exam relating to general safety and sanitation from the Board before making any such demonstrations;

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

14. "Facialist/Esthetician" means any person who gives facials for compensation;

15. "Hairbraiding technician" means a person ~~licensed~~ certified by the Board to perform hairbraiding, hairweaving techniques, and hair extensions in a licensed cosmetology establishment;

16. "Hybrid learning" means courses that combine face-to-face classroom instruction with on-line, computer-based learning;

17. "Manicurist/Nail technician" means a person who gives manicures, gives pedicures, or applies artificial nails;

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

19. "Master barber instructor" means a person who gives instruction in barbering or any practices thereof;

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

21. "~~Post-secondary~~ Postsecondary institution" means a school licensed to teach students according to prescribed curriculum as in paragraph 1 of subsection ~~F~~ G of Section 199.7 of this title and in Board rule 175:10-3-34(a);

22. "Public school" means any state-supported institution conducting a cosmetology program;

23. "Secondary institution" means a school licensed to teach students eligible for credit of five hundred (500) hours of related subjects as prescribed in paragraph 2 of subsection ~~F~~ G of Section 199.7 of this title and in Board rule 175:10-3-34(b); and

24. "Student" means a person who is enrolled in and attending a cosmetology or barbering school for the purpose of learning the practice of cosmetology or barbering.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 199.3, as last amended by Section 3, Chapter 260, O.S.L. 2014 (59 O.S. Supp. 2017, 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 and Barbering 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 and Barbering Act.

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

1. Promulgate rules pursuant to the Administrative Procedures Act relating to standards of sanitation which must be observed and practiced by all cosmetology and barber establishments, cosmetology or barber schools, master cosmetology instructors, master barber instructors, barbers, apprentices, students, and board licensees. The Board shall furnish copies of the rules to the owner or manager of each cosmetology school, barber school and cosmetology and barber establishment operating in this state. 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. Conduct examinations of applicants for certificates of registration as manicurists, cosmetologists, facial operators, hairbraiding technician, manicurist/nail technician instructor, facial/esthetics instructor, master cosmetology instructor, cosmetician, barber, or barber instructor at such times and places determined by the Board. Applications for all examinations shall be made on forms approved by the Board;

3. Keep a record of all its proceedings. 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. Records shall be open to public inspection at all reasonable times and subject to the Oklahoma Open Records Act. Notwithstanding any other provision of law to the contrary, records and information obtained in connection with an investigation of alleged violations, including complaints, identity of a complainant, investigative reports, and documentation or images generated or received during the course of an investigation, shall be confidential and shall not be subject to disclosure;

4. Issue all certificates of registration, licenses, permits, notices and orders;

5. Establish limited specialty licenses for cosmetician, facial/esthetics instructor, ~~hairbraiding technician,~~

manicurist/nail technician instructor, master barber instructor, or master cosmetology instructor within the practice of cosmetology or barbering. The Board shall also promulgate rules for 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 and Barbering Act;

6. Make regular inspections of all cosmetology and barber schools and cosmetology and barber establishments licensed to operate in this state, and reports thereof shall be kept and maintained in the office of the Board;

7. Make investigations and reports on all violations of the Oklahoma Cosmetology and Barbering Act;

8. 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. 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 and Barbering 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 barbering or holding himself or herself out as a practitioner of cosmetology or barbering. Injunctive relief granted by the court shall be without bond.

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.

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 3. AMENDATORY 59 O.S. 2011, Section 199.13, as last amended by Section 10, Chapter 260, O.S.L. 2014 (59 O.S. Supp. 2017, Section 199.13), is amended to read as follows:

Section 199.13 A. The State Board of Cosmetology and Barbering may issue a reciprocity license to an applicant if:

1. The applicant has complied with the requirements of another state, territory or province and applicant holds a current license as verified by certification; and

2. The applicant successfully passes Oklahoma's state rules, regulations and law test administered by the Board.

B. The Board may issue a license without examination to an applicant from a foreign country or territory if:

1. The applicant is otherwise qualified and possesses a current license issued in that foreign country or territory; or

2. The applicant is otherwise qualified and does not possess a current license issued in that foreign country or territory, but can show he or she has continuously engaged in the practices or

occupation for which a reciprocity license is applied for at least (3) years immediately prior to such application.

The applicant from a foreign country or territory applying for a cosmetology, manicurist, facialist, ~~hairbraiding technician~~ or barber license shall successfully pass Oklahoma's state rules, regulations and law test administered by the Board and shall possess the equivalent of at least an eighth-grade education.

The applicant from a foreign country or territory applying for a master instructor's license shall successfully pass Oklahoma's state rules, regulations and law test administered by the Board and shall possess the equivalent of a high school education.

The applicant from a foreign country may be required to provide evidence that documents have been verified as valid by a creditable agency as recognized by the Board.

C. The applicant from a foreign country or territory who is otherwise qualified, but who possesses a current license issued in that foreign country or territory must take examinations, both practical and written, to be issued a license if the applicant cannot show that he or she has been 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 shall successfully pass Oklahoma's state rules, regulations and law test administered by the Board.

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 reciprocity applications for licensure without examination.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 199.14, as last amended by Section 11, Chapter 260, O.S.L. 2014 (59 O.S. Supp. 2017, 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 and Barbering:

Registration as a student.....	\$ 5.00
Examination for license	35.00

Cosmetology and Barber school license (initial).....	400.00
Cosmetology and Barber school license (renewal).....	125.00
Apprentice Registration.....	10.00
Renewal Advanced Operator license (annual).....	25.00
Facial Operator license (annual).....	25.00
Cosmetology license (annual).....	25.00
Barber license (annual).....	25.00
Manicurist license (annual).....	25.00
Facial/Esthetics Instructor license (annual).....	30.00
Cosmetician license (annual).....	25.00
Hairbraiding Technician license (annual).....	25.00
Manicurist/Nail Technician Instructor license (annual).....	30.00
Demonstrator license (annual).....	20.00
Master Cosmetology Instructor license (annual)	50.00
Master Barber Instructor license (annual).....	50.00
Cosmetology establishment license (initial).....	45.00
Cosmetology establishment license (renewal).....	30.00
Barber establishment license (initial).....	45.00
Barber establishment license (renewal).....	30.00
Cosmetic Studio license (initial).....	50.00
Cosmetic Studio license (renewal)	30.00
Nail Salon (initial)	45.00

Nail Salon (renewal)	30.00
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 of Ten Dollars (\$10.00), 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 and Barbering.

SECTION 5. This act shall become effective November 1, 2018.

Passed the House of Representatives the 12th day of March, 2018.

Presiding Officer of the House
of Representatives

Passed the Senate the 16th day of April, 2018.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____