

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1166

By: Bergstrom

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Cosmetology and
8 Barbering Act; amending 59 O.S. 2011, Section 199.1,
9 as last amended by Section 1, Chapter 62, O.S.L.
10 2018, 199.3, as last amended by Section 2, Chapter
11 62, O.S.L. 2018, 199.6, as last amended by Section 4,
12 Chapter 260, O.S.L. 2014, 199.10, as last amended by
13 Section 1, Chapter 265, O.S.L. 2016, and 199.14, as
14 last amended by Section 4, Chapter 62, O.S.L. 2018
15 (59, O.S. Supp. 2019, Sections 199.1, 199.3, 199.6,
16 199.10 and 199.14), which relate to definitions,
17 powers of the board, unlawful acts, renewal of
18 licenses and license fees; modifying and adding
19 definitions; deleting hair braiding and cosmetician
20 from board authority to regulate; deleting hours of
21 training for certain technicians; deleting certain
22 licenses and fees; and providing an effective date.

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

26 SECTION 1. AMENDATORY 59 O.S. 2011, Section 199.1, as
27 last amended by Section 1, Chapter 62, O.S.L. 2018 (59 O.S. Supp.
28 2019, Section 199.1), is amended to read as follows:

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

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

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

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

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

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

23 6. "Board" means the State Board of Cosmetology and Barbering;
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1 7. ~~"Cosmetic studio" means any place or premises where~~
2 ~~demonstrators give demonstrations, without compensation, for the~~
3 ~~purpose only of advertising and selling cosmetics;~~

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

9 9. 8. "Cosmetology" means any one or combination of practices
10 generally and usually performed by and known as the occupation of
11 beauticians, beauty culturists, beauty operators, ~~cosmeticians,~~
12 ~~cosmetologists,~~ or hairdressers or of any other person holding
13 himself or herself out as practicing cosmetology by whatever
14 designation and within the meaning of the Oklahoma Cosmetology and
15 Barbering Act and in or upon whatever place or premises.

16 Cosmetology shall include, but not be limited to, any one or
17 combination of the following practices: bleaching, ~~cleansing,~~
18 ~~curling,~~ cutting, coloring, ~~dressing,~~ removing, singeing, ~~styling,~~
19 ~~waving,~~ or similar work upon the hair of any person by any means,
20 whether with hands or mechanical or electrical apparatus or
21 appliances. Nothing in the Oklahoma Cosmetology and Barbering Act
22 shall be construed to prohibit the use of hands or mechanical or
23 electrical apparatus or appliances for the nonpermanent removal of
24 hair from the human body without puncturing of the skin or the use

1 of cosmetic preparations, antiseptics, tonics, lotions, or creams,
2 or massaging, cleansing, stimulating, exercising, beautifying, or
3 similarly working the scalp, face, neck, arms, or the manicuring of
4 the nails of any person, exclusive of such of the foregoing
5 practices as are within the scope of practice of the healing arts as
6 provided by law;

7 ~~10.~~ 9. "Cosmetology establishment" means an establishment or
8 place of business where one or more persons are engaged in the
9 practices of cosmetology but shall not include cosmetology schools
10 or colleges;

11 ~~11.~~ 10. "Cosmetology or barber school/college" means any place
12 or premises where instruction in any or all the practices of
13 cosmetology or barbering is given. Any person, firm, institution or
14 corporation, who holds himself, herself or itself out as a school to
15 teach and train, or any person, firm, institution or corporation who
16 shall teach and train any other person or persons in any of the
17 practices of cosmetology or barbering is hereby declared to be
18 engaged in operating a cosmetology and/or barber school, and shall
19 be subject to the provisions of the Oklahoma Cosmetology and
20 Barbering Act. Licensed cosmetology and/or barber schools may offer
21 education to secondary and postsecondary students in this state;

22 ~~12.~~ 11. "Demonstrator" means a person who is not licensed in
23 this state as an operator or instructor and who demonstrates any
24 cosmetic preparation. ~~The person shall be required to obtain a~~

1 ~~Demonstrator license and pass a state written exam relating to~~
2 ~~general safety and sanitation from the Board before making any such~~
3 ~~demonstrations including makeup;~~

4 ~~13.~~ 12. "Facial/Esthetics instructor" means a person licensed
5 by the Board as a qualified teacher of the art and science of facial
6 and esthetics theory and practice;

7 ~~14.~~ 13. "Facialist/Esthetician" means any person who gives
8 facials for compensation;

9 ~~15.~~ 14. "~~Hairbraiding technician~~ Hair braiding" means ~~a person~~
10 ~~certified by the Board to perform hairbraiding, hairweaving~~
11 ~~techniques, and hair extensions in a licensed cosmetology~~
12 ~~establishment~~ the service of twisting, wrapping, weaving, extending,
13 locking or braiding hair by hand or with mechanical devices and
14 includes:

- 15 a. the use of decorative beads, natural or synthetic hair
16 and fibers, the use of hair extensions and other hair
17 accessories, and
18 b. minor trimming of natural hair or hair extensions
19 incidental to twisting, wrapping, weaving, extending,
20 locking or braiding hair;

21 15. "Hair arranging" means drying, styling, curling, dressing
22 or manipulating the hair using hairstyling tools and products that
23 do not include application of dyes, reactive chemicals or other
24 preparations to alter the structure or composition of the hair and

1 includes hair braiding, the use of topical agents such as
2 conditioners, gels, moisturizers, pomades and shampoos used in
3 conjunction with arranging hair and the making and use of natural
4 and synthetic hair extensions and wigs;

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

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

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

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

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

16 21. "Postsecondary institution" means a school licensed to
17 teach students according to prescribed curriculum as in paragraph 1
18 of subsection G of Section 199.7 of this title and in Board rule
19 175:10-3-34(a);

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

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

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

6 SECTION 2. AMENDATORY 59 O.S. 2011, Section 199.3, as
7 last amended by Section 2, Chapter 62, O.S.L. 2018 (59 O.S. Supp.
8 2019, Section 199.3), is amended to read as follows:

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

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

16 1. Promulgate rules pursuant to the Administrative Procedures
17 Act relating to standards of sanitation which must be observed and
18 practiced by ~~all~~ cosmetology and barber establishments, cosmetology
19 or barber schools, master cosmetology instructors, master barber
20 instructors, barbers, apprentices, students, and board licensees.

21 The Board shall furnish copies of the rules to the owner or manager
22 of each cosmetology school, barber school and cosmetology and barber
23 establishment operating in this state. It shall be the duty of each
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1 owner or manager to post a copy of the rules in a conspicuous place
2 in each of the establishments or schools;

3 2. Conduct examinations of applicants for certificates of
4 registration as manicurists, cosmetologists, facial operators,
5 ~~hairbraiding technician,~~ manicurist/nail technician instructor,
6 facial/esthetics instructor, master cosmetology instructor,
7 ~~cosmetician,~~ barber, or barber instructor at such times and places
8 determined by the Board. Applications for all examinations shall be
9 made on forms approved by the Board;

10 3. Keep a record of all its proceedings. The Board shall keep
11 a record of all applicants for certificates, licenses and permits,
12 showing the name of the applicant, the name and location of the
13 place of occupation or business, if any, ~~and~~ the residence address
14 of the applicant, and whether the applicant was granted or refused a
15 certificate, license or permit. The records of the Board shall be
16 valid and sufficient evidence of matters contained therein, shall
17 constitute public records. Records shall be open to public
18 inspection at all reasonable times and subject to the Oklahoma Open
19 Records Act. Notwithstanding any other provision of law to the
20 contrary, records and information obtained in connection with an
21 investigation of alleged violations, including complaints, identity
22 of a complainant, investigative reports, and documentation or images
23 generated or received during the course of an investigation, shall
24 be confidential and shall not be subject to disclosure;

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

3 5. Establish limited specialty licenses for ~~cosmetician,~~
4 facial/esthetics instructor, manicurist/nail technician instructor,
5 master barber instructor~~,~~ or master cosmetology instructor within
6 the practice of cosmetology or barbering. The Board shall also
7 promulgate rules for special licenses, including but not limited to
8 reduced curriculum requirements, as the Board may deem appropriate
9 and necessary to further the purposes of the Oklahoma Cosmetology
10 and Barbering Act;

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

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

17 8. Take samples of beauty supplies for the purpose of chemical
18 analysis; provided, that if the owner demands payment for the sample
19 taken, payment at the regular retail price shall be made;

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

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

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

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

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

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

20 D. 1. In any case where a licensee becomes a member of the
21 Armed Forces of the United States, such license shall not lapse by
22 reason thereof but shall be considered and held in full force and
23 effect without further payment of license fees during the period of
24 service in the Armed Forces of the United States and for six (6)

1 months after honorable release therefrom. At any time within six
2 (6) months after honorable release from the Armed Forces of the
3 United States the licensee may resume practice pursuant to a license
4 without other or further examination by notifying the Board in
5 writing.

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

10 SECTION 3. AMENDATORY 59 O.S. 2011, Section 199.6, as
11 last amended by Section 4, Chapter 260, O.S.L. 2014 (59 O.S. Supp.
12 2019, Section 199.6), is amended to read as follows:

13 Section 199.6. A. The State Board of Cosmetology and Barbering
14 is hereby authorized to promulgate rules for governing the
15 examination and licensure of cosmetologists, manicurists, nail
16 technicians, estheticians, ~~cosmeticians, hair braiding technicians,~~
17 master cosmetology instructors, manicurist instructors, esthetics
18 instructors, barbers, and master barber instructors. The Board is
19 hereby authorized to promulgate rules to govern the sanitary
20 operation of cosmetology and barbering establishments and to
21 administer fines not to exceed Fifty Dollars (\$50.00) for those
22 licensed and not to exceed Five Hundred Dollars (\$500.00) for those
23 not licensed. Each day a violation continues shall be construed as
24 a separate offense.

1 B. The State Board of Cosmetology and Barbering shall have the
2 power and duty to implement rules of the Board, to issue and renew
3 licenses, to inspect cosmetology and barbering establishments and
4 schools, and to inspect the sanitary operating practices of
5 cosmetology and barbering licensees, including sanitary conditions
6 of cosmetology and barbering establishments and schools.

7 C. It shall be unlawful and constitute a misdemeanor,
8 punishable upon conviction by a fine of not less than Fifty Dollars
9 (\$50.00), nor more than One Hundred Fifty Dollars (\$150.00), or by
10 imprisonment in the county jail for not more than thirty (30) days,
11 or both such fine and imprisonment, for any person, firm, or
12 corporation in this state to:

13 1. Operate or attempt to operate a cosmetology school/college,
14 cosmetology or barber establishment, cosmetology or barber school or
15 college that offers cosmetology, barbering or both without having
16 obtained a license therefor from the State Board of Cosmetology and
17 Barbering;

18 2. Give or attempt to give instruction in cosmetology or
19 barbering, without having obtained an instructor's license from the
20 Board;

21 3. Practice or offer to practice barbering, cosmetology or
22 manicuring without having obtained a license therefor from the
23 Board;

1 4. ~~Operate a cosmetic studio without having obtained a license~~
2 ~~therefor from the Board;~~

3 5. ~~Demonstrate a cosmetic preparation without having obtained a~~
4 ~~demonstrator's license from the Board;~~

5 6. Permit any person in one's employ, supervision, or control
6 to practice cosmetology or barbering unless that person has obtained
7 an appropriate license from the Board;

8 7. 5. Willfully violate any rule promulgated by the Board for
9 the sanitary management and operation of a cosmetology or barber
10 establishment, cosmetology school or barber college; or

11 8. 6. Violate any of the provisions of the Oklahoma Cosmetology
12 and Barbering Act.

13 D. The State Board of Cosmetology and Barbering shall have the
14 authority to levy administrative fines not to exceed Five Hundred
15 Dollars (\$500.00) for persons practicing cosmetology or barbering
16 without a license, and for owners of licensed establishments who
17 allow unlicensed individuals to practice cosmetology or barbering
18 without a license in their establishment. Each day a violation
19 continues shall be a separate offense. The administrative fine
20 shall not exceed a total of Five Hundred Dollars (\$500.00).

21 E. The provisions of the Oklahoma Cosmetology and Barbering Act
22 shall not apply to the following persons while such persons are
23 engaged in the proper discharge of their professional duties:

24 1. Funeral directors;

1 2. Persons in the Armed Services;

2 3. Persons authorized to practice the healing arts or nursing;

3 ~~or~~

4 4. Regularly employed sales people working in retail
5 establishments engaged in the business of selling cosmetics in
6 sealed packages;

7 5. Cosmeticians; and

8 6. Demonstrators.

9 SECTION 4. AMENDATORY 59 O.S. 2011, Section 199.10, as
10 last amended by Section 1, Chapter 265, O.S.L. 2016 (59 O.S. Supp.
11 2019, Section 199.10), is amended to read as follows:

12 Section 199.10. A. All licenses issued under the provisions of
13 the Oklahoma Cosmetology and Barbering Act shall be issued for a
14 period of one (1) year. The expiration date of the license shall be
15 the last day of the month in which the applicant's birthday falls.
16 The public display of a licensee's personal residential address on
17 the face of any license issued pursuant to the provisions of the
18 Oklahoma Cosmetology and Barbering Act shall be prohibited on and
19 after July 1, 2016, and such personal address information, if
20 publically displayed on a valid license, may be redacted by the
21 licensee until the license is renewed and no longer bears his or her
22 personal residential address.

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

4 C. Any person who fails to renew the license within the
5 required time may make application for renewal at any time within
6 five (5) years from the expiration date of the license by paying the
7 regular renewal license fee and a late fee of Ten Dollars (\$10.00),
8 which becomes due two (2) months after the expiration date.

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

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

| | Expired Five | Review |
|---------------------|---------------|----------------|
| License Type | Years or More | Hours Required |
| Basic Cosmetologist | | 250 hours |
| Barber | | 250 hours |
| Master Cosmetology | | |
| Instructor | | 100 hours |
| Master Barber | | |
| Instructor | | 100 hours |
| Facial/Esthetics | | |

| | | |
|---|-------------------------|----------------------|
| 1 | Instructor | 100 hours |
| 2 | Manicurist/Nail | |
| 3 | Technician | |
| 4 | Instructor | 100 hours |
| 5 | Manicurist | 100 hours |
| 6 | Facial Operator | 100 hours |
| 7 | Cosmetician | 100 hours |
| 8 | Hairbraiding | |
| 9 | Technician | 100 hours |

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

13 SECTION 5. AMENDATORY 59 O.S. 2011, Section 199.14, as
14 last amended by Section 4, Chapter 62, O.S.L. 2018 (59 O.S. Supp.
15 2019, Section 199.14), is amended to read as follows:

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

| | | |
|----|------------------------------------------------------|---------|
| 18 | Registration as a student..... | \$ 5.00 |
| 19 | Examination for license | 35.00 |
| 20 | Cosmetology and Barber school license (initial)..... | 400.00 |
| 21 | Cosmetology and Barber school license (renewal)..... | 125.00 |
| 22 | Apprentice Registration..... | 10.00 |
| 23 | Renewal Advanced Operator license (annual)..... | 25.00 |
| 24 | Facial Operator license (annual)..... | 25.00 |

| | | |
|----|-------------------------------------------------------------|------------------|
| 1 | Cosmetology license (annual)..... | 25.00 |
| 2 | Barber license (annual)..... | 25.00 |
| 3 | Manicurist license (annual)..... | 25.00 |
| 4 | Facial/Esthetics Instructor license (annual)..... | 30.00 |
| 5 | Cosmetician license (annual)..... | 25.00 |
| 6 | Manicurist/Nail Technician Instructor license (annual)..... | 30.00 |
| 7 | Demonstrator license (annual)..... | 20.00 |
| 8 | Master Cosmetology Instructor license (annual) | 50.00 |
| 9 | Master Barber Instructor license (annual)..... | 50.00 |
| 10 | Cosmetology establishment license (initial)..... | 45.00 |
| 11 | Cosmetology establishment license (renewal)..... | 30.00 |
| 12 | Barber establishment license (initial)..... | 45.00 |
| 13 | Barber establishment license (renewal)..... | 30.00 |
| 14 | Cosmetic Studio license (initial)..... | 50.00 |
| 15 | Cosmetic Studio license (renewal) | 30.00 |
| 16 | Nail Salon (initial) | 45.00 |
| 17 | Nail Salon (renewal) | 30.00 |
| 18 | Reciprocity license (initial)..... | 30.00 |
| 19 | Reciprocity processing fee..... | 30.00 |
| 20 | Duplicate license (in case of loss or | |
| 21 | destruction of original)..... | 5.00 |
| 22 | Notary fee..... | 1.00 |
| 23 | Certification of Records..... | 10.00 |
| 24 | | |

1 B. In addition to the fees specified in subsection A of this
2 section, the Board shall charge a total penalty of Ten Dollars
3 (\$10.00), as provided for in Section 199.10 of this title.

4 C. Any person licensed as an advanced operator prior to July 1,
5 1985, may renew the advanced cosmetologist license annually by
6 payment of the fee required by this section and by being in
7 compliance with the rules promulgated by the State Board of
8 Cosmetology and Barbering.

9 SECTION 6. This act shall become effective November 1, 2020.

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