



2025 South Dakota Legislature

House Bill 1231

Introduced by: **Representative Schwans**

1 **An Act to repeal the board of barber examiners and cosmetology commission, and**
2 **to create the cosmetology and barbering board, to provide a penalty, and to**
3 **make an appropriation therefor.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That § 1-37-12 be AMENDED:**

6 **1-37-12.** The Board of Barber Examiners, ~~created by chapter 36-14,~~ and its
7 functions in the former Department of Commerce and Regulation ~~are~~ were transferred to
8 the Department of Labor and Regulation. ~~The secretary of the Department of Labor and~~
9 ~~Regulation shall perform the functions of the former secretary of the Department of~~
10 ~~Commerce and Regulation, relating to the Board of Barber Examiners.~~ The Board of Barber
11 Examiners was consolidated with the Cosmetology Commission to form the Cosmetology
12 and Barbering Board, effective July 1, 2025.

13 **Section 2. That § 1-37-13 be AMENDED:**

14 **1-37-13.** The Cosmetology Commission, ~~created by chapter 36-15,~~ and its
15 functions in the former Department of Commerce and Regulation ~~are~~ were transferred to
16 the Department of Labor and Regulation. The commission was consolidated with the Board
17 of Barber Examiners to form the Cosmetology and Barbering Board, effective July 1, 2025.
18 The secretary of the Department of Labor and Regulation shall perform ~~the functions of~~
19 ~~the former secretary of the Department of Commerce and Regulation,~~ functions relating
20 to the Cosmetology Commission Cosmetology and Barbering Board.

21 **Section 3. That § 36-35-25 be AMENDED:**

22 **36-35-25.** The provisions of this chapter do not apply to any person performing
23 massage for compensation if the massage is done under one of the following
24 circumstances:

- (1) As part of a licensed practice as a physician, physician assistant, chiropractor, nurse, physical therapist, athletic trainer, or other health care profession licensed or certified under title 36;
- (2) As part of a licensed practice pursuant to ~~chapter 36-14 or 36-15~~ sections 4 to 68, inclusive, of this Act, if the licensee is performing within the scope of the licensed practice and the licensee does not hold himself or herself out to be a massage therapist or to be engaged in the practice of massage therapy;
- (3) In furtherance of duties as an employee of the United States;
- (4) As part of a course of study with a facility or instructor recognized and approved by the board to provide training in massage or the provision of such instruction;
- (5) As part of providing a course of instruction or continuing education by a licensed massage therapist from another state or provider preapproved by the board, in the practice of massage therapy on a temporary basis not in excess of ten days per calendar year; or
- (6) Manipulation of the soft tissues of the human body is restricted to the hands, feet, or ears and the person does not hold himself or herself out to be a massage therapist or to be engaged in the practice of massage therapy.

Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 36:

Terms used in this Act mean:

- (1) "Apprentice," an individual who participates in an apprenticeship and possesses an apprentice license in accordance with this chapter;
- (2) "Apprentice salon," a salon that is licensed to provide training for apprentices in accordance with this chapter;
- (3) "Barber," an individual who is engaged in the practice of barbering and is licensed in accordance with this chapter;
- (4) "Barbering," any one or a combination of the following practices, when performed on the upper part of the human body for cosmetic purposes:
 - (a) Applying antiseptics, clays, cosmetics, creams, hair tonics, lotions, oils, or powders;
 - (b) Cutting hair;
 - (c) Dyeing, shampooing, or singeing hair;
 - (d) Performing facial and scalp massages; and
 - (e) Shaving or trimming a beard;

- (5) "Barber school," any place, premise, or building that is approved by the board to provide education in the practice of barbering;
- (6) "Barber shop," any place, premise, building, or any part of a building that is operated for the purpose of engaging in the practice of barbering and licensed in accordance with this chapter;
- (7) "Board," the Cosmetology and Barbering Board;
- (8) "Booth," any area that is within a salon and rented or leased for the purpose of providing cosmetology services as an independent salon;
- (9) "Cosmetologist," an individual who is engaged in the practice of cosmetology and licensed in accordance with this chapter;
- (10) "Cosmetology," any one or a combination of the following practices with hands, chemicals, or any apparatus, when performed for beautification or cosmetic purposes:
- (a) Care of an individual's hair, hairpiece, scalp, or wig by arranging, bleaching, braiding, cleansing, coloring, curling, cutting, dressing, extending, fitting, fusing, massaging, permanent waving, relaxing, setting, shampooing, singeing, straightening, styling, twisting, waving, weaving, wrapping, or similar work;
- (b) Esthetics; or
- (c) Nail technology;
- (11) "Cosmetology school," any place, premise, or building, which is licensed by the board to provide education to students in the practice of cosmetology;
- (12) "Esthetician," an individual who:
- (a) Is engaged in the practice of esthetics and licensed by the board in accordance with this chapter; and
- (b) Does not engage in other practices of cosmetology;
- (13) "Esthetics," any one or a combination of the following practices when performed for cosmetic purposes:
- (a) Beautifying, cleansing, exfoliating, massaging, or stimulating skin through the use of antiseptics, body treatments, body wraps, clays, cosmetic preparations, creams, facial treatments, lotions, make-up, masks, oils, scrubs, waxes, or other noninvasive means that are confined to the nonliving cells of the stratum corneum of the epidermis;
- (b) The grooming of eyebrows or eyelashes, including arching and tinting; and

- 1 (c) The removal of superfluous hair by nonpermanent means, including
2 tweezing and waxing;
- 3 (14) "Esthetics school," any place, premise, or building that is licensed by the board to
4 provide education to students in the practice of esthetics;
- 5 (15) "Instructor," an individual who:
6 (a) Teaches the practice of cosmetology, esthetics, or nail technology, at a
7 licensed school or an apprentice salon; and
8 (b) Is licensed in accordance with this chapter;
- 9 (16) "Mobile barber shop," a self-contained unit in which barbering is conducted and
10 which may be moved, towed, or transported from one location to another;
- 11 (17) "Nail technician," an individual who:
12 (a) Is engaged in the practice of nail technology and licensed by the board in
13 accordance with this chapter; and
14 (b) Does not engage in other practices of cosmetology;
- 15 (18) "Nail technology," any one or a combination of the following practices:
16 (a) Applying and removing artificial nails;
17 (b) Air-brushing, cleansing, coloring, cutting, decorating, filing, polishing,
18 removing polish from, shaping, tinting, trimming, or otherwise beautifying
19 an individual's fingernails or toenails; or
20 (c) Cleansing, exfoliating, or massaging a hand, arm, foot, or leg;
- 21 (19) "Nail technology school," any place, premise, or building that is licensed by the
22 board to provide education to students in the practice of nail technology;
- 23 (20) "Natural hair braiding," a form of hair manipulation that uses topical agents, and
24 results in tension on hair strands by beading, braiding, cornrowing, extending,
25 lacing, locking, twisting, weaving, or wrapping human hair, natural fibers, synthetic
26 fibers, or hair extensions into a variety of shapes, patterns, and textures, and
27 maintenance thereof, by hand or with clips, combs, hairpins, or thread, but does
28 not involve the use of penetrating chemical hair treatments, chemical hair coloring
29 agents, chemical hair straightening agents, chemical hair joining agents,
30 permanent wave styles, or chemical hair bleaching agents;
- 31 (21) "Salon," any place, premise, building, or any part of a building that is:
32 (a) Operated for the purpose of engaging in the practice of cosmetology,
33 esthetics, or nail technology, or any combination of these practices; and
34 (b) Licensed in accordance with this chapter; and
- 35 (22) "Student," an individual licensed by the board to receive education in:

- 1 (a) A cosmetology school;
- 2 (b) An esthetics school; or
- 3 (c) A nail technology school.

4 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

5 The Cosmetology and Barbering Board is created within the Department of Labor
6 and Regulation.

7 The board consists of the following members appointed by the Governor:

- 8 (1) Three cosmetologists who have been actively engaged in cosmetology during the
9 three-year period immediately preceding the appointment;
- 10 (2) Two barbers who have been actively engaged in barbering during the three-year
11 period immediately preceding the appointment; and
- 12 (3) Two individuals who are not barbers or cosmetologists, but who regularly use
13 barbering or cosmetology services.

14 Each member must be a resident of this state and at least twenty-five years of
15 age. The term of office for each member is three years, beginning on the first day of July,
16 except that the initial terms must be staggered by lot so that no more than two terms
17 expire each year.

18 In the event of a vacancy, the Governor shall appoint another individual to serve
19 the remainder of the term.

20 No individual may serve more than three full consecutive terms. An appointment
21 to fill an unexpired term is not a full term.

22 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

23 An individual who served on the Cosmetology Commission or the Board of Barber
24 Examiners, as they existed on the day before the effective date of this Act, is eligible to
25 serve on the Cosmetology and Barbering Board, if appointed by the Governor. Any term
26 served on the Cosmetology Commission, or the Board of Barber Examiners, does not count
27 as a term for purposes of appointment to the Cosmetology and Barbering Board.

28 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

29 No member of the board, or employee thereof, may be a member of, be affiliated
30 with, or have a financial interest in a:

- 31 (1) Barber school;

- 1 (2) Cosmetology school;
- 2 (3) Esthetics school; or
- 3 (4) Nail technology school.

4 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

5 At the initial meeting of the board, and annually thereafter, the board shall elect
6 one member to serve as the president, one member to serve as the vice-president, and
7 one member to serve as the secretary-treasurer.

8 Three members of the board constitute a quorum.

9 The board shall meet at least twice each year and may hold additional meetings at
10 the call of the president or at the request of a majority of the board.

11 The board shall provide to the Department of Labor and Regulation, at the time
12 and in the manner set forth by the department, an annual report and any other records
13 or information requested by the department.

14 **Section 9. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

15 The board may:

- 16 (1) Employ personnel;
- 17 (2) Reimburse personnel in accordance with § 3-9-2 for expenses incurred in the
18 performance of their duties; and
- 19 (3) During normal business hours, enter and inspect or provide for the inspection of:
 - 20 (a) A barber school;
 - 21 (b) A barber shop;
 - 22 (c) A branch school;
 - 23 (d) A cosmetology school;
 - 24 (e) An esthetics school;
 - 25 (f) A nail technology school; and
 - 26 (g) A salon.

27 **Section 10. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

28 The board shall:

- 29 (1) Annually conduct, for purposes of licensure pursuant to this chapter, at least:
 - 30 (a) Two examinations in barbering;
 - 31 (b) Six examinations in cosmetology;

- 1 (c) Two examinations in esthetics; and
2 (d) Two examinations in nail technology;
3 (2) Establish in accordance with section 67 of this Act:
4 (a) Educational standards and requirements necessary for licensure pursuant
5 to this chapter;
6 (b) Continuing education requirements related to health and safety issues, and
7 the use of chemicals, and electrical or mechanical apparatuses, for
8 individuals licensed pursuant to this chapter; and
9 (c) Plumbing, electrical, physical, and sanitary requirements necessary to
10 ensure the health and safety of individuals utilizing barber shops, salons,
11 and schools;
12 (3) Annually inspect every facility licensed in accordance with this chapter;
13 (4) Investigate violations of this chapter;
14 (5) Maintain records necessary for carrying out this chapter; and
15 (6) Take all other actions necessary for the administration of this chapter.

16 **Section 11. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

17 There is created in the state treasury the cosmetology and barbering fund. The
18 fund consists of all fees imposed pursuant to this chapter and any other moneys
19 designated for deposit into the fund. The board shall administer the fund. The purpose of
20 the fund is to defray expenses associated with the administration of this chapter. Interest
21 on moneys credited to the fund must remain in the fund.

22 The cosmetology and barbering fund is continuously appropriated to the
23 Department of Labor and Regulation.

24 All moneys currently held by the Cosmetology Commission and the Board of Barber
25 Examiners must be deposited in the fund.

26 **Section 12. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

27 Except as provided in sections 60 and 61 of this Act, an individual must be a
28 cosmetologist to engage in cosmetology for compensation or any other valuable
29 consideration.

30 **Section 13. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

31 The board may issue a license to practice cosmetology to an individual who:

- 1 (1) Is at least eighteen years old;
- 2 (2) Submits an application provided by the board;
- 3 (3) Successfully completes an examination on:
 - 4 a) The provisions of this chapter and rules adopted pursuant to this chapter;
 - 5 and
 - 6 (b) The practice of cosmetology;
- 7 (4) Provides to the board documentation that the individual has completed one
8 thousand five hundred hours of education, equivalent credit hours, or training in:
 - 9 (a) A cosmetology school; or
 - 10 (b) An apprentice salon; and
- 11 (5) Pays the licensure fee established by the board, in accordance with section 68 of
12 this Act.

13 **Section 14. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

14 Except as provided in section 59 of this Act, an individual must be a cosmetologist
15 or an esthetician to engage in the practice of esthetics for compensation or any other
16 valuable consideration.

17 **Section 15. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 18 The board may issue a license to practice esthetics to an individual who:
- 19 (1) Is at least eighteen years old;
 - 20 (2) Submits an application provided by the board;
 - 21 (3) Successfully completes an examination on:
 - 22 a) The provisions of this chapter and rules adopted pursuant to this chapter;
 - 23 and
 - 24 (b) The practice of esthetics;
 - 25 (4) Completes six hundred hours of education, equivalent credit hours, or training in
26 the practice of esthetics at:
 - 27 (a) A cosmetology school;
 - 28 (b) An esthetics school; or
 - 29 (c) An apprentice salon; and
 - 30 (5) Pays the licensure fee established by the board in accordance with section 68 of
31 this Act.

32 **Section 16. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

1 Except as provided in section 59 of this Act, an individual must be a cosmetologist
2 or a nail technician to engage in the practice of nail technology for compensation or any
3 other valuable consideration.

4 **Section 17. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

5 The board may issue a license to practice nail technology to an individual who:

- 6 (1) Is at least eighteen years old;
7 (2) Submits an application provided by the board;
8 (3) Successfully completes an examination on:
9 a) The provisions of this chapter and rules adopted pursuant to this chapter;
10 and
11 b) The practice of nail technology;
12 (4) Completes four hundred hours of education, equivalent credit hours, or training in
13 the practice of nail technology at:
14 a) A cosmetology school;
15 b) A nail technology school; or
16 c) An apprentice salon; and
17 (5) Pays the licensure fee established by the board in accordance with section 68 of
18 this Act.

19 **Section 18. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

20 Except as provided in sections 59 and 60 of this Act, an individual must be a barber
21 to engage in the practice of barbering for compensation or any other valuable
22 consideration.

23 **Section 19. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

24 The board may issue a license to practice barbering to an individual who:

- 25 (1) Is at least eighteen years old;
26 (2) Submits an application provided by the board, together with two five-by-three inch
27 photographs of the individual;
28 (3) Successfully completes an examination on the practice of barbering, which includes
29 a practical barber demonstration;
30 (4) Completes one thousand five hundred hours of education in barbering, at a barber
31 school approved by the board; and

1 (5) Pays the licensure fee established by the board in accordance with section 68 of
2 this Act.

3 The board may permit an individual to practice barbering from the time the
4 individual has completed the requirements of subdivision (4) of this section until the next
5 barbering examination is offered.

6 **Section 20. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

7 Any license issued pursuant to this chapter must be renewed each year on a date
8 determined by the board, pursuant to section 67 of this Act.

9 **Section 21. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

10 To renew a barber license, cosmetology license, esthetician license, or nail
11 technology license, a licensee shall:

- 12 (1) Submit an application provided by the board;
13 (2) Pay the renewal fee established by the board pursuant to section 68 of this Act;
14 and
15 (3) Provide to the board documentation of having completed any continuing education
16 requirements, pursuant to section 67 of this Act.

17 **Section 22. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

18 The board may require experience in addition to, or instead of, education or
19 continuing education requirements for any license issued pursuant to this chapter and
20 may waive any education requirement in the case of a certified illness or undue hardship.

21 **Section 23. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

22 The following acts do not constitute the practice of cosmetology, esthetics, or nail
23 technology:

- 24 (1) The cutting of nail beds;
25 (2) The demonstration of make-up at a retail establishment, if:
26 (a) The demonstration is performed in the ordinary course of business;
27 (b) The make-up is applied only with disposable applicators that are discarded
28 after each customer demonstration;
29 (c) The demonstration is provided without charge; and

- 1 (d) The retailer does not advertise or provide a cosmetology service, except the
2 sale of make-up and fragrances;
3 (3) Any medical treatment involving the feet, hands, or nails;
4 (4) Scalp treatments or massages;
5 (5) The removal of hair through the use of a galvanic or thermolytic needle; and
6 (6) The treatment of corns or calluses.

7 **Section 24. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 8 The board may waive the requirement for an individual to pass an examination in
9 accordance with sections 13, 15, and 17 of this Act, if an individual applying for a license
10 as a cosmetologist, esthetician, or nail technician:
11 (1) Holds a current license issued by another state, district, or foreign country, which
12 has licensing education requirements that are at least equal to those required by
13 the board;
14 (2) Provides documentation of having successfully completed an examination
15 approved by the board in the specialty for which the individual is seeking licensure;
16 (3) Successfully completes the examination on the provisions of this chapter and rules
17 in accordance with sections 13, 15, and 17 of this Act; and
18 (4) Pays the reciprocal license fee established by the board pursuant to section 68 of
19 this Act.

20 **Section 25. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 21 An individual who holds a license to practice cosmetology, esthetics, or nail
22 technology from another state, district, or a foreign country may apply to the board, for
23 a temporary permit to practice the same specialty in this state.
24 The application, which must be made available by the board, must be accompanied
25 by:
26 (1) The fee established by the board pursuant to section 68 of this Act; and
27 (2) Documentation demonstrating that the individual satisfies the requirements for
28 license reciprocity pursuant to section 24 of this Act.
29 A temporary permit is valid until the date of the next examination offered by the
30 board.
31 If the holder of a temporary permit takes the examination at the next regularly
32 scheduled time, the board must extend the temporary permit until the result of the
33 examination is mailed to the individual. If an individual is not excused from the

1 examination by the board or fails to successfully complete the examination, the temporary
2 permit is invalid and may not be extended.

3 **Section 26. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

4 The board may issue a license to practice barbering to an individual who is licensed
5 as a barber in another state, district or country, if the individual:

6 (1) Submits an application provided by the board;

7 (2) Provides documentation demonstrating that:

8 (a) The requirements for licensure in the other state or country are substantially
9 similar to those set forth in this chapter; and

10 (b) The individual has practiced as a barber in the other state or country for at
11 least five years; and

12 (3) Pays the licensure reciprocity fee established by the board pursuant to section 68
13 of this Act.

14 If an applicant applies to transfer a barber license from a state that requires less
15 than one thousand five hundred hours of instruction, the applicant must obtain an
16 additional fifty credit hours for each month the applicant has practiced as a licensed barber
17 in the other state or country. This credit must be applied toward the one thousand five
18 hundred hours of instruction required by section 19 of this Act.

19 **Section 27. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

20 An individual must be licensed as an instructor by the board in accordance with
21 this chapter to teach in a school or apprentice salon.

22 An esthetician or nail technician may teach only in the specialty for which the
23 individual is licensed.

24 **Section 28. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

25 The board may issue a license as an instructor to an individual who:

26 (1) Submits an application provided by the board;

27 (2) Pays the instructor licensure fee established by the board in accordance with
28 section 68 of this Act;

29 (3) Successfully completes an examination required by the board; and

30 (4) Verifies:

- 1 (a) Successful completion of the education requirements established by the
2 board, in accordance with section 67 of this Act; or
3 (b) One year of teaching experience as a licensed instructor in another state.
4 The board may issue a license, in accordance with rules adopted pursuant to
5 chapter 1-26, which is conditioned on the individual completing the requirements of this
6 section.

7 **Section 29. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

8 To renew an instructor license, a licensee shall:

- 9 (1) Submit an application provided by the board;
10 (2) Pay the renewal fee established by the board pursuant to section 68 of this Act;
11 and
12 (3) Provide to the board documentation verifying completion of any continuing
13 education requirements, established pursuant to section 67 of this Act.
14 The board shall promulgate rules, pursuant to chapter 1-26, to establish education
15 and experience requirements for an individual to serve as a substitute instructor.

16 **Section 30. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

17 A person must possess a school license issued by the board to operate a
18 cosmetology school, an esthetics school, or a nail technology school.

19 A school license is valid only for the premises approved by the board. A school
20 license is not transferable to another person.

21 If the holder of a school license proposes to conduct a complete or partial education
22 program on premises other than those licensed by the board, the licensee must obtain an
23 additional license for the newly proposed premises as a branch school, pursuant to section
24 34 of this Act.

25 The board may approve limited field trips supervised by instructors.

26 **Section 31. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

27 To apply for a license as a cosmetology school, esthetics school, or nail technology
28 school, a person shall:

- 29 (1) Submit an application provided by the board;
30 (2) Pay the fee required by the board in accordance with section 68 of this Act;

- 1 (3) Not be subject to any ongoing investigation or disciplinary action by any board;
2 and
3 (4) Offer a course of instruction, that provides:
4 (a) One thousand five hundred hours of education or equivalent credit hours
5 for a cosmetology school;
6 (b) Six hundred hours of education or equivalent credit hours for an esthetics
7 school; or
8 (c) Four hundred hours of education or equivalent credit hours for a nail
9 technology school.

10 **Section 32. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 11 A person may not operate a barber school unless it is approved by the board.
12 In order to be approved by the board, a person seeking to operate a barber school
13 must provide a course of instruction that:
14 (1) Has a duration of at least nine months; and
15 (2) Provides at least one thousand five hundred hours of education or the equivalent
16 credit hours covering topics pertaining to the scientific fundamentals of barbering.

17 **Section 33. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 18 No cosmetology school, esthetics school, or nail technology school may conduct an
19 education program on a separate school premises unless the separate premises is licensed
20 by the board as a branch school.

21 **Section 34. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 22 To obtain a branch school license, a cosmetology school, esthetics school, or nail
23 technology school must:
24 (1) Submit an application provided by the board;
25 (2) Pay the fee required by the board in accordance with section 68 of this Act;
26 (3) Not be subject to any ongoing investigation or disciplinary action by any board;
27 and
28 (4) Offer a course of instruction that provides at least twenty-five percent of the
29 required education hours, or equivalent credit hours, for:
30 (a) A cosmetology license, pursuant to section 13 of this Act;
31 (b) An esthetics license, pursuant to section 15 of this Act; or

1 (c) A nail technology license, pursuant to section 17 of this Act.

2 **Section 35. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

3 A branch school, cosmetology school, esthetics school, or nail technology school
4 shall use the word "school" or similar words to indicate that it is an institution of learning
5 in any advertisement, directory, display, or sign. Each school shall clearly indicate, in a
6 location conspicuous to the general public, that services and practices in the school are
7 performed by students.

8 **Section 36. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

9 An individual enrolled in a cosmetology school, esthetics school, or nail technology
10 school shall obtain a student permit from the board, within ten days of the date of
11 enrollment.

12 If a student transfers to another school, the student must submit a new application
13 and pay the student permit fee.

14 **Section 37. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

15 The board may issue a student permit to an individual who:

16 (1) Is at least seventeen years old;

17 (2) Submits an application that is provided by the board and contains the name and
18 location of the student's school; and

19 (3) Pays the fee required by the board in accordance with section 68 of this Act.

20 A student permit entitles the individual to complete the course of instruction in
21 which the individual is enrolled, without additional fees.

22 If the individual withdraws from the school or course for which the fee was paid,
23 and later enrolls in the same or a different school or course, the student must pay a new
24 student permit fee.

25 **Section 38. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

26 Any individual seeking to transfer from an out-of-state school to a school in this
27 state shall apply for a student permit issued pursuant to section 37 of this Act.

28 An individual who transfers from an out-of-state school to one in this state must
29 be awarded credit hours for any out-of-state education, as permitted by the board,
30 pursuant to section 67 of this Act.

Section 39. That a NEW SECTION be added to a NEW CHAPTER in title 36:

An individual may not simultaneously operate a salon and a cosmetology school, esthetics school, or nail technology school, unless the operation of the salon is clearly separate from the school, so as not to be construed by the public as one enterprise.

Section 40. That a NEW SECTION be added to a NEW CHAPTER in title 36:

Before an individual may become an apprentice in cosmetology, esthetics, or nail technology, the individual must be issued an apprentice license by the board, in accordance with section 41 of this Act.

The cosmetology salon in which the individual is to apprentice must be licensed as an apprentice salon.

Section 41. That a NEW SECTION be added to a NEW CHAPTER in title 36:

The board may issue an apprentice license to an individual who:

- (1) Is at least seventeen years old;
- (2) Submits an application provided by the board;
- (3) Provides to the board documentation verifying that the apprentice salon is licensed and adequately equipped to teach cosmetology, esthetics, or nail technology, as applicable; and
- (4) Pays the apprentice license fee established by the board.

An apprentice license is valid for the duration of the apprenticeship and is not renewable.

Section 42. That a NEW SECTION be added to a NEW CHAPTER in title 36:

To provide an apprenticeship, a salon must be licensed by the board as an apprentice salon. Only an instructor licensed in accordance with section 28 of this Act may train an apprentice. An instructor, a salon, or anyone connected with the apprenticeship may not charge, receive, or accept any fee or anything of value for the training, other than the services of the apprentice.

No apprentice salon may have more than eight apprentices at one time. No instructor may supervise more than two apprentices at one time.

Section 43. That a NEW SECTION be added to a NEW CHAPTER in title 36:

- 1 To apply for a license as an apprentice salon, the owner of a salon shall:
2 (1) Submit to an initial inspection of the salon; and
3 (2) Pay the licensure fee established by the board in accordance with section 68 of this
4 Act.

5 **Section 44. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 6 An apprentice may practice cosmetology, esthetics, or nail technology, as
7 applicable, if:
8 (1) The practice is performed only in an apprentice salon;
9 (2) The apprentice is under the supervision, control, and direction of a licensed
10 instructor at all times; and
11 (3) The apprentice is engaged in the study and practice of cosmetology, esthetics, or
12 nail technology:
13 (a) Full-time for at least forty hours a week; or
14 (b) Part-time for at least twenty hours per week.
15 A part-time apprentice may revert to full-time status by notifying the board, at
16 least fifteen days prior to the change taking effect.

17 **Section 45. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 18 To complete an apprenticeship in cosmetology, an apprentice shall receive
19 education in the practice of cosmetology, as required by section 13 of this Act, for one
20 thousand five hundred hours in the same apprentice salon.
21 To complete an apprenticeship in esthetics, an apprentice shall receive education
22 in the practice of esthetics, as required by section 15 of this Act, for six hundred hours in
23 the same apprentice salon.
24 To complete an apprenticeship in nail technology, an apprentice shall receive
25 education in the practice of nail technology, as required by section 17 of this Act, for four
26 hundred hours in the same apprentice salon.
27 The board may permit an apprentice to transfer to another apprentice salon for
28 completion of an apprenticeship, if the apprentice applies to the board for a transfer and
29 shows good cause for the request.
30 The board may authorize an interruption in the period of the apprenticeship, upon
31 submission of a request by the apprentice and a showing of good cause.

32 **Section 46. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

1 An individual who has completed hours under an apprenticeship or a cosmetology
2 school, esthetics school, or nail technology school, may have those completed hours count
3 toward another apprenticeship or school, if allowed by the institution to which the person
4 is transferring.

5 **Section 47. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

6 Every apprentice salon shall send to the board a report on an apprentice's progress
7 and education at the time and in the manner prescribed by the board, in accordance with
8 section 67 of this Act.

9 **Section 48. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

10 An individual who completes the terms of apprenticeship or the education
11 requirements for licensure in accordance with this chapter, may apply to the board for a
12 temporary permit. A temporary permit authorizes the individual to perform all the
13 practices of a licensed cosmetologist, nail technician, or esthetician, as applicable.

14 A temporary permit is valid until the date of the next regularly scheduled
15 examination for licensure.

16 If the holder of a temporary permit takes the examination at the scheduled time,
17 the board shall extend the temporary permit until the result of the examination is mailed
18 to the individual. If an individual is not excused from the examination by the board or fails
19 to successfully complete the examination, the temporary permit is invalid and may not be
20 extended or reissued.

21 **Section 49. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

22 To apply for a temporary permit following the completion of an apprenticeship or
23 a course of education, an individual shall:

24 (1) Submit an application provided by the board;

25 (2) Provide documentation to the board verifying:

26 (a) The completion of an apprenticeship; or

27 (b) The completion of a course of education; and

28 (3) Pay the fee for:

29 (a) A temporary permit, as established by the board in accordance with section
30 68 of this Act; and

- 1 (b) Initial licensure, as established by the board in accordance with section 68
2 of this Act.

3 **Section 50. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

4 An individual must be licensed by the board to operate a salon or a booth.

5 Upon the individual applying for licensure, the board may issue a temporary salon
6 permit, or a temporary booth permit to the individual. A temporary permit under this
7 section is valid for ninety days. During that time, the board shall inspect the premises of
8 the salon or booth.

9 **Section 51. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

10 The board may issue a salon or booth license to an individual who:

11 (1) Submits an application provided by the board;

12 (2) Passes an inspection by the board; and

13 (3) Pays the fee established by the board, pursuant to section 68 of this Act for:

14 (a) A cosmetology salon license, or a cosmetology booth license, if two or more
15 of the practices of cosmetology are provided;

16 (b) An esthetics salon license or an esthetics booth license, if only esthetics
17 services are provided; or

18 (c) A nail salon license, or a nail booth license, if only nail technology services
19 are provided.

20 No individual may practice cosmetology, nail technology, or esthetics beyond the
21 limits specified in the license. Nothing prohibits a cosmetologist, esthetician, or nail
22 technician who is operating a booth within a salon, from using any space or cosmetology
23 equipment provided by the salon or another booth within the same salon.

24 **Section 52. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

25 If the address of a salon or booth is changed, the owner of the salon or booth shall
26 notify the board and shall apply for a new license pursuant to section 51 of this Act.

27 If there is any change in the ownership associated with the salon or booth, the
28 owner of the salon or booth shall notify the board and shall apply for a new license
29 pursuant to section 51 of this Act.

30 **Section 53. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 1 An individual must be licensed by the board to operate a barber shop.
2 The board may issue a barber shop license to an individual who:
3 (1) Applies to the board on a form provided by the board; and
4 (2) Pays the barber shop licensure fee established by the board, pursuant to section
5 68 of this Act.
6 A barber shop must be under the direct supervision and management of a barber.
7 A license issued pursuant to this section may not be transferred to another
8 individual.

9 **Section 54. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 10 A barber pole may be used or displayed only at a barber shop.
11 For the purposes of this section, "barber pole" means a cylinder or pole with
12 alternating stripes of any combination that run diagonally along the length of the pole.

13 **Section 55. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 14 The board shall inspect the premises of a barber shop pursuant to section 9 of this
15 Act:
16 (1) Before a license as a barber shop may be issued; and
17 (2) Whenever there is a change in the address or ownership of a barber shop.

18 **Section 56. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 19 A barber shall display the barber's license in a conspicuous place at the barber
20 shop.

21 **Section 57. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 22 A barber may operate a mobile barber shop, provided the shop is licensed as a
23 barber shop, pursuant to section 53 of this Act, and is inspected annually.
24 A mobile barber shop may not be operated in a municipality or unincorporated
25 town in which a barber shop is located.

26 **Section 58. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 27 A nursing facility or assisted living center, licensed in accordance with chapter 34-
28 12, is not required to be licensed as a salon if the facility or center:
29 (1) Permits cosmetology services only for its residents; and

1 (2) Does not advertise itself to be a salon.

2 **Section 59. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

3 Except as provided in this section, this chapter does not apply to any of the
4 following when practiced within the scope of the respective professions:

- 5 (1) A chiropractor, licensed in accordance with chapter 36-5;
6 (2) A funeral director, licensed in accordance with chapter 36-19;
7 (3) A nurse, licensed in accordance with chapter 36-9;
8 (4) An occupational therapist, licensed in accordance with chapter 36-31;
9 (5) A physical therapist, licensed in accordance with chapter 36-10;
10 (6) A physician, licensed in accordance with chapter 36-4;
11 (7) A physician assistant, licensed in accordance with chapter 36-4A;
12 (8) A podiatrist, licensed in accordance with chapter 36-8; or
13 (9) An individual engaging solely in natural hair braiding.

14 **Section 60. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

15 A barber is exempt from any requirements established only for a cosmetologist in
16 this chapter.

17 A cosmetologist is exempt from any requirements established only for a barber in
18 this chapter.

19 **Section 61. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

20 Cosmetology may be practiced only in a salon, booth, cosmetology school,
21 esthetics school, or nail technology school, except for:

- 22 (1) A service provided to a mobility-limited client who is unable to travel due to a
23 disability, illness, or imprisonment; or
24 (2) A service provided for a special event, if the service is practiced within the scope
25 of the license and if the service is limited to:
26 (a) The nonpermanent manipulation of hair;
27 (b) The application of polish to nails; or
28 (c) The application of make-up.

29 **Section 62. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

The board may refuse to issue or renew a license or permit, and may cancel, suspend, or revoke a license or permit, in accordance with chapter 1-26, on the following grounds:

(1) Fraud or deception in procuring a license or permit;

(2) Failure to comply with any of the requirements of this chapter or rules adopted pursuant to this chapter;

(3) The use of any untruthful or improper statement or representation, for the purpose of deceiving the public or any client, in connection with the practices of cosmetology or barbering;

(4) Habitual drunkenness or drug addiction affecting the licensee's practice, or conviction for the violation of any federal or state law relating to narcotic drugs;

(5) Failure to provide to the board any report or information that is required by this chapter or rules adopted pursuant to this chapter;

(6) The employment of an unlicensed or unpermitted individual to perform work, which under this chapter may lawfully be performed only by a licensed or permitted individual;

(7) Failure to publicly display any license or permit required by this chapter;

(8) Conviction of a felony affecting the licensee's or permit holder's practice, as evidenced by a certified copy of a court record;

(9) Continued practice while knowingly having an infectious or contagious disease; or

(10) Practice of a cosmetology or barbering service for which the board requires continuing education, if the requirement has not been met.

Section 63. That a NEW SECTION be added to a NEW CHAPTER in title 36:

No proceeding related to the cancellation, suspension, or revocation of a license, or to the reissuance of a license that has been suspended or revoked may occur unless a majority of the board members are present.

A cancellation, suspension, or revocation of a license requires a majority vote of the board members.

An action of the board, pursuant to this chapter, may be appealed, as provided by chapter 1-26.

Section 64. That a NEW SECTION be added to a NEW CHAPTER in title 36:

The board may, by majority vote, reinstate a suspended license or reissue a revoked license upon application by the affected individual and:

1 (1) A showing of compliance with existing licensing requirements; or

2 (2) Witness testimony.

3 The board may impose conditions for the reinstatement of a license, and provide
4 for the automatic reinstatement of a license after a fixed period of time.

5 **Section 65. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

6 No person may:

7 (1) Practice cosmetology, nail technology, or esthetics without a license or a permit;

8 (2) Fail to display a license in a conspicuous place in a barber shop, booth, salon, or
9 school;

10 (3) Fail to comply with any plumbing, electrical, physical, or sanitary requirements set
11 forth in the rules promulgated by the board pursuant to chapter 1-26;

12 (4) Improperly charge or receive compensation for teaching an apprentice any of the
13 practices of cosmetology;

14 (5) Operate a school without a license, as required by this chapter;

15 (6) Employ or allow an unlicensed individual to perform work, which under this chapter
16 may be performed only by a licensed individual or permit holder;

17 (7) Operate a salon, barber shop, or booth without a license, as required in this
18 chapter;

19 (8) Practice any cosmetology or barbering service for which the board requires
20 additional continuing education, without having completed the requirement; or

21 (9) Perform any act prohibited by this chapter.

22 A violation of this section is a Class 2 misdemeanor.

23 **Section 66. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

24 The board or any resident of this state may bring an action in circuit court for an
25 injunction to restrain:

26 (1) Any person from the practice of or education in cosmetology or barbering without
27 a license or a permit;

28 (2) The operation of any salon or school without a license; and

29 (3) The violation of any provisions or requirements of this chapter or rules adopted
30 pursuant to this chapter.

31 The board may employ counsel and expend moneys for these purposes.

32 **Section 67. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 1 The board shall promulgate rules, pursuant to chapter 1-26 to establish:
- 2 (1) Application requirements for any license or permit issued pursuant to this chapter;
- 3 (2) Renewal application requirements for any license or permit issued pursuant to this
- 4 chapter;
- 5 (3) Standards and requirements for any examination required by this chapter;
- 6 (4) Standards for plumbing, electrical, physical, and sanitary conditions for the health
- 7 and safety of individuals utilizing barber shops, salons, or licensed schools;
- 8 (5) Inspection standards and requirements for barbers, cosmetologists, estheticians,
- 9 nail technicians, students, apprentices, and instructors;
- 10 (6) Inspection standards and requirements for barber shops, booths, salons, and
- 11 licensed schools;
- 12 (7) Standards for the professional conduct of licensees and permit holders;
- 13 (8) Requirements for the reinstatement of lapsed licenses and lapsed renewals;
- 14 (9) Standards for textbooks, educational materials, and the general course of study to
- 15 satisfy any requirements for licensing pursuant to this chapter and criteria for
- 16 verifying compliance;
- 17 (10) Standards for the approval of barber schools;
- 18 (11) Requirements for the report of a student's education and work performance;
- 19 (12) Continuing education requirements for the renewal of a license issued pursuant to
- 20 this chapter and criteria for verifying compliance;
- 21 (13) The course and education requirements applicable to transfer students;
- 22 (14) Standards and requirements regarding the progress and education of an
- 23 apprentice;
- 24 (15) Requirements for the work experience of an applicant licensed in another state,
- 25 which may be used as a substitute for the educational requirement;
- 26 (16) Standards for the use of chemicals or any mechanical or electrical apparatus or
- 27 appliance; and
- 28 (17) Standards for the administration and duties of the commission.

29 **Section 68. That a NEW SECTION be added to a NEW CHAPTER in title 36:**

- 30 The board shall promulgate rules in accordance with chapter 1-26 to establish fees
- 31 that may not exceed:
- 32 (1) Eighty dollars for a second or subsequent examination;
- 33 (2) Fifty dollars for the reinspection of a barber shop, booth, salon, or school;
- 34 (3) Five dollars for a duplicate or replacement license;

- 1 (4) Forty dollars for the renewal of a salon, barber shop, booth, or school license;
2 (5) One hundred dollars for an initial license for a barber, cosmetologist, esthetician,
3 and nail technician;
4 (6) One hundred dollars for a reciprocal license;
5 (7) Six dollars for a temporary permit;
6 (8) Six dollars for a student permit;
7 (9) Sixty dollars for an initial salon license;
8 (10) Sixty dollars for an initial barber shop license;
9 (11) Thirty-five dollars for an instructor license;
10 (12) Three hundred dollars for an initial school license;
11 (13) Twenty-five dollars for a license renewal;
12 (14) Twenty-five dollars for each year that a license or renewal has remained lapsed;
13 (15) Twenty dollars for the transfer of a license to another state;
14 (16) Twenty-five dollars for an apprentice license; and
15 (17) Two hundred fifty dollars for an apprentice salon initial license.
16 Any license, permit, or renewal fee that is collected by the board must be the same
17 for each respective license, permit, or renewal, regardless of the time remaining before
18 the expiration date.

19 **Section 69. That chapters 36-14 and 36-15 be REPEALED.**