

Substitute for SENATE BILL No. 92

By Committee on Public Health and Welfare

3-7

1 AN ACT concerning the board of cosmetology; relating to licensing
2 requirements; amending K.S.A. 2010 Supp. 65-1901, 65-1902, 65-1905
3 and 65-1912 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2010 Supp. 65-1901 is hereby amended to read as
7 follows: 65-1901. As used in K.S.A. 65-1901 through 65-1912, and
8 amendments thereto:

9 (a) "Apprentice" means any person engaged in ~~learning the~~ *a course*
10 *of instruction and* practice of cosmetology, nail technology, esthetics or
11 electrology in a school of cosmetology, nail technology, esthetics or
12 electrology licensed by the board, except until such time as an electrology
13 school is established in this state apprenticing of electrology will be
14 subject to approval by the board in a clinic or establishment.

15 (b) "Board" means the state board of cosmetology.

16 (c) "Cosmetologist" means any person, other than a manicurist or
17 esthetician, who practices the profession of cosmetology for
18 compensation.

19 (d) (1) "Cosmetology" means the profession of:

20 (A) Arranging, dressing, permanently curling, curling, waving,
21 cleansing, temporarily or permanently coloring, bleaching, relaxing,
22 conditioning or cutting the hair;

23 (B) cleansing, stimulating or performing any other noninvasive
24 beautifying process on any skin surface by means of hands or mechanical
25 or electrical appliances, other than electric needles, provided for esthetic
26 rather than medical purposes;

27 (C) temporary hair removal from the face or any part of the body by
28 use of the hands or mechanical or electrical appliances other than electric
29 needles;

30 (D) using cosmetic preparations, antiseptics, lotions, creams or other
31 preparations in performing any of the practices described in paragraphs
32 (A), (B) and (C) of this subsection (d)(1); or

33 (E) manicuring, pedicuring or sculpturing nails.

34 (2) "Cosmetology" shall not include a service that results in tension
35 on hair strands or roots by twisting, wrapping, weaving, extending,
36 locking, or braiding by hand or mechanical device so long as the service

1 does not include the application of dyes, reactive chemicals or other
2 preparations to alter the color of the hair or to straighten, curl or alter the
3 structure of the hair and so long as the requirements of K.S.A. 65-1928,
4 and amendments thereto are met. Nothing in this paragraph shall be
5 construed to preclude a licensed cosmetologist from performing the
6 service described in this paragraph.

7 (e) "Esthetician" means any person who, for compensation practices
8 the profession of cosmetology only to the following extent:

9 (1) Eyebrow and eyelash services, cleansing, stimulating or
10 performing any other noninvasive beautifying process on any skin surface
11 by means of hands or mechanical or electrical appliances, other than
12 electric needles, provided for esthetic rather than medical purposes;

13 (2) temporary hair removal from the face or any part of the body by
14 use of the hands or mechanical or electrical appliances other than electric
15 needles; or

16 (3) using cosmetic preparations, antiseptics, lotions, creams or other
17 preparations in performing any of the practices described in in this
18 subsection.

19 (f) "Manicurist" means any person who, for compensation practices
20 the profession of cosmetology only to the extent of:

21 (1) Nail technology;

22 (2) cleansing, stimulating or performing similar work on the arms,
23 hands or ankles and feet by means of hands or mechanical or electrical
24 appliances, other than electric needles; or

25 (3) using cosmetic preparations, antiseptics, lotions, creams or other
26 preparations in performing any practice described in subsection (f)(2).

27 (g) "Nail technology" means manicuring, pedicuring and sculpturing
28 nails.

29 (h) "Electrologist" means any person who, for compensation removes
30 hair from, or destroys hair on, the human body for beautification by use of
31 an electric needle only.

32 (i) "Person" means any individual, corporation, partnership,
33 association or other entity.

34 (j) "Instructor-in-training" means a person who is a licensed
35 cosmetologist and has met the board's training requirements for obtaining
36 an instructor-in-training permit.

37 (k) "Physician" means a person licensed to practice medicine and
38 surgery by the state board of healing arts.

39 Sec. 2. K.S.A. 2010 Supp. 65-1902 is hereby amended to read as
40 follows: 65-1902. (a) Except as provided in subsection (b), no person
41 shall:

42 (1) Engage in practice of cosmetology, esthetics, nail technology or
43 electrology unless the person holds a valid license; issued by the board; to

1 engage in that practice;

2 (2) *engage in a course of instruction or practice of cosmetology,*
3 *esthetics or nail technology in a licensed school unless the person holds a*
4 *valid apprentice license or the board has provided written verification to*
5 *such school;*

6 (3) *engage in a course of instruction or practice of electrology in a*
7 *licensed school, salon, clinic or establishment unless such person holds a*
8 *valid apprentice license issued by the board or unless the board has*
9 *provided written verification to such school, salon, clinic or*
10 *establishment;*

11 ~~(2)~~(4) engage in the practice of tattooing, cosmetic tattooing or body
12 piercing unless the person holds a valid license, issued by the board, to
13 engage in such practice;

14 ~~(3)~~(5) teach cosmetology in a licensed school unless the person holds
15 a valid cosmetology instructor's license issued by the board;

16 ~~(4)~~(6) conduct a school for teaching nail technology unless the person
17 holds a valid license, issued by the board, to conduct the school;

18 ~~(5)~~(7) teach nail technology in a licensed school unless the person
19 holds a valid cosmetology or manicuring instructor's license issued by the
20 board;

21 ~~(6)~~(8) conduct a school for teaching electrology unless the person
22 holds a valid license, issued by the board, to conduct the school;

23 ~~(7)~~(9) teach electrology in a licensed school or clinic unless the
24 person holds a valid electrology instructor's license issued by the board;

25 ~~(8)~~(10) conduct a school for teaching esthetics unless the person
26 holds a valid license, issued by the board, to conduct the school;

27 ~~(9)~~(11) teach esthetics in a licensed school unless the person holds a
28 valid cosmetology or esthetics instructor's license issued by the board;

29 ~~(10)~~(12) own or operate a school, salon or clinic where cosmetology,
30 esthetics, nail technology or electrology is taught or practiced unless the
31 person holds a valid school, salon or clinic license issued by the board;

32 ~~(11)~~(13) teach or practice cosmetology, esthetics, nail technology or
33 electrology in a school, salon or clinic unless the owner or operator of the
34 school, salon or clinic holds a valid school, salon or clinic license issued
35 by the board; or

36 ~~(12)~~(14) provide a service constituting the practice of cosmetology,
37 nail technology, esthetics or electrology by use of a medical device
38 registered with the federal food and drug administration, or as defined in
39 federal or state law which may be distributed only upon the order of a
40 physician. This act does not prohibit a board of cosmetology licensee from
41 providing services using a medical device upon the order and under the
42 supervision of a physician and in a location maintained by the physician.

43 (15) *provide instruction or allow practice of cosmetology, esthetics*

1 *or nail technology in a licensed school for a person who does not hold a*
2 *valid apprentice license issued by the board or who has not received*
3 *written verification from the board; or*

4 *(16) provide instruction or allow practice of electrology in a licensed*
5 *school, salon, clinic or establishment for a person who does not hold a*
6 *valid apprentice license issued by the board or who has not received*
7 *written verification from the board.*

8 (b) The provisions of this act shall not apply to:

9 (1) Any person licensed as a barber or apprentice barber;

10 (2) any person licensed to practice medicine and surgery, chiropractic,
11 optometry, nursing or dentistry, while engaged in that practice;

12 (3) any person who is a licensed physical therapist or certified
13 physical therapist assistant while engaged in that practice; or

14 (4) any teacher while engaged in instructing elementary or secondary
15 school students in the proper care of their own persons.

16 (c) A person holding a license as a cosmetology technician on the day
17 immediately preceding the effective date of this act shall continue to be a
18 licensed cosmetology technician and perform the functions of a
19 cosmetology technician, as such term was defined immediately prior to the
20 effective date of this act, and may renew such license subject to the
21 payment of fees and other conditions and limitations on the renewal of
22 licenses under article 19 of chapter 65 of the Kansas Statutes Annotated
23 ~~and acts amendatory of the provisions thereof, and amendments thereto.~~

24 (d) If the board determines that an individual has violated subsection
25 (a), in addition to any other penalties imposed by law, the board, in
26 accordance with the Kansas administrative procedure act, may issue a
27 cease and desist order against such individual or may assess such
28 individual a fine of not to exceed \$1,500, or may issue such order and
29 assess such fine. In determining the amount of fine to be assessed, the
30 board may consider the following factors: (1) Willfulness of the violation,
31 (2) repetitions of the violation and (3) risk of harm to the public caused by
32 the violation.

33 (e) A violation of subsection (a) of this section is a class C
34 misdemeanor.

35 Sec. 3. K.S.A. 2010 Supp. 65-1905 is hereby amended to read as
36 follows: 65-1905. (a) All examinations held or conducted by the board
37 shall be in accordance with rules and regulations adopted by the board.
38 The examinations shall include a written test administered at the
39 completion of 1,000 hours of ~~training~~ *instruction and practice*. If the
40 applicant has attended a licensed school electing to base the course of
41 instruction and practice on credit hours as provided in K.S.A. 65-1903, and
42 amendments thereto, the written test shall be administered at the
43 completion of the credit hours which are the equivalent of 1,000 clock

1 hours under the formula for conversion used by the licensed school. A
2 practical test may be administered prior to licensure. Examinations to
3 qualify for an instructor's license shall be limited to written tests.

4 (b) Each applicant for licensure by examination shall:

5 (1) Be at least 17 years of age;

6 (2) be a graduate of an accredited high school, or equivalent thereof.
7 ~~The provisions of this paragraph shall not apply to any applicant who was~~
8 ~~at least 25 years of age and licensed as an apprentice on May 21, 1998;~~

9 (3) submit to the board verification of date of birth; and

10 (4) ~~have served as an apprentice~~ *completed the number of hours of*
11 *instruction and practice* for the period of time provided by K.S.A. 65-
12 1912, and amendments thereto.

13 (c) Any person making application who apparently possesses the
14 necessary qualifications to take an examination provided herein, upon
15 application and payment of the nonrefundable temporary permit fee, may
16 be issued a temporary permit by the board to practice cosmetology until
17 the next regular examination conducted by the board.

18 Sec. 4. K.S.A. 2010 Supp. 65-1912 is hereby amended to read as
19 follows: 65-1912. (a) ~~Any person desiring to practice as an apprentice shall~~
20 ~~be required to pay to the board the fee required pursuant to K.S.A. 65-~~
21 ~~1904, and amendments thereto, and obtain an apprentice license from the~~
22 ~~board. Application for an apprentice license allowing a person to practice~~
23 ~~in a licensed school shall be submitted to the board not more than 15 days~~
24 ~~after the person's enrollment in the school. A person shall apply for an~~
25 ~~apprentice license prior to the commencement of instruction and practice~~
26 ~~and shall pay the fee required pursuant to K.S.A. 65-1904, and~~
27 ~~amendments thereto. No school, salon, clinic or establishment shall~~
28 ~~provide instruction or allow practice of cosmetology, esthetics, nail~~
29 ~~technology or electrolysis for a person unless such person is licensed as~~
30 ~~an apprentice or the board has provided **[written]** verification to the~~
31 ~~school that such person has applied for an apprentice license.~~

32 (b) (1) An applicant for examination and licensure as a cosmetologist
33 ~~shall be required to have practiced as an apprentice in a licensed school for~~
34 ~~have completed~~ not less than 1,500 clock hours *in a licensed school* or, if
35 the applicant has attended a licensed school electing to base the course of
36 instruction and practice on credit hours as provided in K.S.A. 65-1903, and
37 amendments thereto, the applicant shall have ~~practiced as an apprentice for~~
38 ~~completed~~ not less than those credit hours which are the equivalent of
39 1,500 clock hours under the formula for conversion used by the licensed
40 school.

41 (2) (A) ~~Before July 1, 2009, an applicant for examination and~~
42 ~~licensure as an esthetician shall be required to have practiced as an~~
43 ~~apprentice in a licensed school for not less than 650 clock hours or, if the~~

1 applicant has attended a licensed school electing to base the course of
2 instruction and practice on credit hours as provided in K.S.A. 65-1903, and
3 amendments thereto, the applicant shall have practiced as an apprentice for
4 not less than those credit hours which are the equivalent of 650 clock
5 hours under the formula for conversion used by the licensed school.

6 ~~(B) On and after July 1, 2009, An applicant for examination and~~
7 ~~licensure as an esthetician shall be required to have practiced as an~~
8 ~~apprentice in a licensed school for~~ *have completed* not less than 1,000
9 clock hours; *in a licensed school* or; if the applicant has attended a licensed
10 school electing to base the course of instruction and practice on credit
11 hours as provided in K.S.A. 65-1903, and amendments thereto, the
12 applicant shall have practiced as an apprentice for *completed* not less than
13 those credit hours which are the equivalent of 1,000 clock hours under the
14 formula for conversion used by the licensed school.

15 (3) An applicant for examination and licensure as a manicurist shall
16 ~~be required to have practiced as an apprentice in a licensed school of~~
17 ~~cosmetology or nail technology for~~ *have completed* not less than 350 clock
18 hours *in a licensed school of cosmetology or nail technology* or, if the
19 applicant has attended a licensed school electing to base the course of
20 instruction and practice on credit hours as provided in K.S.A. 65-1903, and
21 amendments thereto, the applicant shall have practiced as an apprentice for
22 *completed* not less than those credit hours which are the equivalent of 350
23 clock hours under the formula for conversion used by the licensed school.

24 (4) An applicant for examination and licensure as an electrologist
25 shall ~~be required to have practiced as an apprentice~~ *have completed*: (A) In
26 a licensed school of cosmetology or electrology for not less than 500 clock
27 hours or, if the applicant has attended a licensed school electing to base the
28 course of instruction and practice on credit hours as provided in K.S.A. 65-
29 1903, and amendments thereto, ~~the applicant shall have practiced as an~~
30 ~~apprentice for~~ not less than those credit hours which are the equivalent of
31 500 clock hours under the formula for conversion used by the licensed
32 school; or (B) in a licensed clinic or establishment for not less than 1,000
33 clock hours of training. The duration of practice as an apprentice in a clinic
34 or establishment must be in the clinic or establishment in which ~~practice~~
35 ~~was commenced~~ *the hours were completed*, except that the board may
36 permit, upon written application and for good cause, the transfer of the
37 apprentice to another clinic or establishment for completion of the ~~term of~~
38 ~~apprenticeship. Any licensed cosmetologist who is practicing electrology~~
39 ~~in a licensed clinic or establishment on July 1, 1987, may apply for and be~~
40 ~~issued an electrologist's license without examination hours.~~

41 (c) No apprentice shall make any charge for the apprentice's services,
42 but a licensed school of cosmetology, electrology or nail technology or a
43 proprietor of a licensed clinic or establishment in which an apprentice of

1 electrology practices may charge for services of the apprentice.

2 (d) For purposes of subsection (b), a person is not required to have
3 ~~practiced as an apprentice continuously or without interruption in~~
4 ~~obtaining the required number of hours~~ *the board shall not consider hours*
5 *completed prior to licensure as an apprentice or prior to board written*
6 *verification that a person has applied for an apprentice license. A person*
7 *is not required to have completed the required hours without interruption.*

8 (e) *If an applicant has been convicted of a felony, the board shall not*
9 *issue an apprentice license or provide written verification of an apprentice*
10 *application unless the applicant is able to demonstrate to the board's*
11 *satisfaction that such applicant has been sufficiently rehabilitated to*
12 *warrant the public trust.*

13 Sec. 5. K.S.A. 2010 Supp. 65-1901, 65-1902, 65-1905 and 65-1912
14 are hereby repealed.

15 Sec. 6. This act shall take effect and be in force from and after its
16 publication in the statute book.

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