

HOUSE BILL No. 2275

AN ACT concerning the state board of cosmetology; persons and practices regulated; permanent color technology, tattooing and body piercing; transferring certain powers, duties and functions to the secretary of health and environment; amending K.S.A. 2000 Supp. 65-1904, 65-1940, 65-1940, as amended by section 1 of this act, 65-1941, 65-1941, as amended by section 2 of this act, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951, 65-1953, 65-1954 and 74-2701 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 65-1952.

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

Section 1. K.S.A. 2000 Supp. 65-1904 is hereby amended to read as follows: 65-1904. (a) Unless revoked for cause, all licenses of cosmetologists, cosmetology technicians, estheticians, electrologists and manicurists issued or renewed by the board shall expire on the expiration dates established by rules and regulations adopted by the board under this section. Subject to the other provisions of this subsection, each such license shall be renewable on a biennial basis upon the filing of a renewal application prior to the expiration of the license, payment of the nonrefundable license renewal fee established under this section and with renewal applications filed on and after July 1, 2000, the filing of a successfully completed written renewal examination prescribed by the board under this subsection. For renewal applications filed on and after July 1, 2000, the board shall prescribe a written renewal examination for each classification of licensee under this subsection which will test the applicant's understanding of the laws relating to the practice for which the applicant holds a license, will test the applicant's understanding of health and sanitation matters relating to the practice for which the applicant holds a license and will test the understanding of the applicant about safety matters relating to the practice for which the applicant holds a license. The board shall fix the score for the successful completion of a written renewal examination. The board shall develop an information booklet to be sent to an applicant for renewal of a license along with the written renewal examination. The information booklet shall contain information on the subjects to be tested on the written renewal examination and shall be provided to the applicant along with the written renewal examination at least 30 days prior to the date on which the renewal application is to be filed. The written renewal examination may be prepared by the applicant with the use of the information booklet. ~~The board shall report to the 1999 session of the legislature the progress made by the board in developing an information booklet and a written renewal examination.~~

(b) Any cosmetologist's, cosmetology technician's, esthetician's, electrologist's or manicurist's license may be renewed by the applicant within six months after the date of expiration of the applicant's last license upon submission of proof, satisfactory to the board, of the applicant's qualifications to renew practice as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist, and payment of the applicable nonrefundable renewal fee and delinquent fee prescribed pursuant to this section. Any applicant whose license as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist ~~has expired for more than six months may obtain a license in the same manner and on payment of the same nonrefundable fees as provided for an applicant for an original license expires on or after January 1, 2000, and has been expired for more than six months may obtain reinstatement of such license upon application to the board, upon filing with the board a successfully completed written renewal examination and upon payment of the applicable nonrefundable delinquent renewal fee and a nonrefundable renewal penalty fee of \$100.~~

(c) Any applicant for a license other than a renewal license shall make a verified application to the board on such forms as the board may require and, upon payment of the license application fee and the examination fee shall be examined by the board or their appointees and shall be issued a license, if found to be duly qualified to practice the profession of cosmetologist, esthetician, electrologist or manicurist.

(d) The board is hereby authorized to adopt rules and regulations fixing the amount of nonrefundable fees for the following items and to charge and collect the amounts so fixed, subject to the following limitations:

Cosmetologist license application fee, for two years—not more than.....	\$60
Cosmetologist license renewal fee .....	60
Delinquent cosmetologist renewal fee.....	25

Cosmetology technician license renewal fee, for two years—not more than .....	35
Delinquent cosmetology technician renewal fee .....	25
Electrologist license application fee, for two years—not more than .....	35
Electrologist license renewal fee .....	35
Delinquent electrologist renewal fee .....	25
Manicurist license application fee, for two years—not more than .....	30
Manicurist license renewal fee .....	30
Delinquent manicurist renewal fee .....	25
Esthetician license application fee, for two years—not more than .....	30
Esthetician license renewal fee .....	30
Delinquent esthetician renewal fee .....	25
Any apprentice license application fee—not more than .....	15
New school license application fee .....	150
School license renewal fee—not more than .....	75
Delinquent school license fee—not more than .....	50
New cosmetology services salon or electrology clinic license application fee—not more than .....	50
Cosmetology services salon or electrology clinic license renewal fee—not more than .....	30
Delinquent cosmetology services salon or electrology clinic renewal fee .....	30
Cosmetologist's examination—not more than .....	50
Electrologist's examination—not more than .....	50
Manicurist's examination—not more than .....	50
Esthetician examination—not more than .....	50
Instructor's examination—not more than .....	75
Reciprocity application fee—not more than .....	50
Verification of licensure .....	20
Any duplicate of license .....	25
Instructor's license application fee, for two years—not more than .....	75
Renewal of instructor's license fee .....	50
Delinquent instructor's renewal fee—not more than .....	75
Temporary permit fee .....	15
Statutes and regulations book .....	5

(e) Whenever the board determines that the total amount of revenue derived from the fees collected pursuant to this section is insufficient to carry out the purposes for which the fees are collected, the board may amend its rules and regulations to increase the amount of the fee, except that the amount of the fee for any item shall not exceed the maximum amount authorized by this subsection. Whenever the amount of fees collected pursuant to this section provides revenue in excess of the amount necessary to carry out the purposes for which such fees are collected, it shall be the duty of the board to decrease the amount of the fee for one or more of the items listed in this subsection by amending the rules and regulations which fix the fees.

(f) Any person who failed to obtain a renewal license while in the armed forces of the United States shall be entitled to a renewal license upon filing application and paying the nonrefundable renewal fee for the current year during which the person has been discharged on and after July 1, 1996

~~(g) Any person who was formerly licensed as a cosmetologist, a cosmetology technician, an esthetician, an electrologist or a manicurist and whose license expired on or after July 1, 1996, and was not renewed may obtain reinstatement of the license until July 1, 1999, upon application to the board and upon payment of the applicable delinquent renewal fee.~~

~~(h)~~ (g) Any person who is currently licensed as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist on inactive status shall be deemed licensed on active status. Upon application for renewal of the license as provided in rules and regulations, the person shall be issued a license which does not indicate inactive status. Prior to application for renewal of the license and upon request to the board, such person may obtain a license which does not indicate inactive status.

~~(i)~~ (h) From and after the effective date of this act, there shall be no continuing education requirement imposed by the board upon any person who was formerly or is currently licensed as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist as a condition of reinstatement or renewal of the person's license to practice.

Sec. 2. K.S.A. 2000 Supp. 65-1940 is hereby amended to read as follows: 65-1940. As used in this act, unless the context otherwise requires:

- (a) “Board” means the Kansas state board of cosmetology.
- (b) “Director” means the executive director of the board.
- (c) “Department” means the department of health and environment.
- (d) “Secretary” means the secretary of health and environment.
- (e) “Licensed permanent color technician and tattoo artist” means a person licensed under this act to practice tattooing or permanent color technology, or both.
- (f) “Permanent color technician and tattoo artist” means a person who practices tattooing or permanent color technology, or both pursuant to this act.
- (g) “Body piercing” means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting *removable* jewelry or other objects ~~in or~~ through the human body, except puncturing the external part of the human ear ~~ear~~ *earlobe* shall not be included in this definition. *This act shall not be construed to authorize a licensed body piercer to implant or embed foreign objects into the human body or otherwise to engage in the practice of medicine and surgery.*
- (h) “Physician” means a person licensed to practice medicine and surgery by the state board of healing arts.
- (i) “Tattoo” means the indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.
- (j) “Tattooing” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.
- (k) “Tattoo facility” means any room or space or any part thereof where tattooing is practiced or where the business of tattooing is conducted.
- (l) “Body piercing facility” means any room space, or any part thereof, where body piercing is practiced or where the business of body piercing is conducted.
- (m) “Permanent color technology” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.

Sec. 3. K.S.A. 2000 Supp. 65-1941 is hereby amended to read as follows: 65-1941. (a) No person, including a permanent color technician and tattoo artist, shall perform tattooing, display a sign or in any other way advertise or purport to be a permanent color technician and tattoo artist unless that person holds a valid license issued by the board. No person shall perform body piercing, display a sign or in any other way advertise or purport to be in the business of body piercing unless that person holds a valid license issued by the board. This act does not prevent or affect the use of tattooing, permanent color technology or body piercing by a physician, a person under the control and supervision of a physician, a *licensed* dentist, a person under the control and supervision of a *licensed* dentist, an individual performing tattooing, permanent color technology or body piercing solely on such individual’s body or any other person specifically permitted to use electrolysis or tattooing by law.

- (b) *Violation of subsection (a) is a class A nonperson misdemeanor.*
- (c) *The board may bring an action to enjoin any person required to be licensed under K.S.A. 2000 Supp. 65-1940 to 65-1954, inclusive, and amendments thereto from practicing body piercing, tattooing or permanent color technology if such person does not hold a currently valid license authorizing the person to engage in such practice. The board may bring an action to enjoin any person from operating a facility required to be licensed under K.S.A. 2000 Supp. 65-1940 to 65-1954, inclusive, and*

*amendments thereto if such person does not hold a currently valid facility license.*

*(d) The board may order the remedying of any violations of rules and regulations of the board or any provision of this act and the board may issue a cease and desist order upon board determination that the holder of a license has violated any order of the board, any rules and regulations of the board or any provision of K.S.A. 2000 Supp. 65-1940 to 65-1954, inclusive, and amendments thereto.*

Sec. 4. K.S.A. 2000 Supp. 65-1942 is hereby amended to read as follows: 65-1942. (a) No person shall:

- ~~(a)~~ (1) Sell, barter or offer to sell or barter a license;
- ~~(b)~~ (2) purchase or procure by barter a license with intent to use it as evidence of the person's qualification to practice tattooing or body piercing;
- ~~(c)~~ (3) alter materially a license with fraudulent intent;
- ~~(d)~~ (4) use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered; or
- ~~(e)~~ (5) willfully make a false, material statement in an application for licensure or for renewal of a license.

*(b) A violation of subsection (a) is a class A nonperson misdemeanor.*

Sec. 5. K.S.A. 2000 Supp. 65-1953 is hereby amended to read as follows: 65-1953. No person shall perform body piercing or tattooing on or to any person under 18 years of age without the prior written and notarized consent of the parent or court appointed guardian of such person and the person giving such consent must be present during the body piercing or tattooing procedure. The written permission and a copy of the letters of guardianship when such permission is given is granted by a guardian, shall be retained by the person administering such body piercing or tattooing for a period of five years. Violation of this section is a class C A misdemeanor.

Sec. 6. On July 1, 2002, K.S.A. 2000 Supp. 65-1940, as amended by section 1 of this act, is hereby amended to read as follows: 65-1940. As used in this act, unless the context otherwise requires:

- ~~(a) "Board" means the Kansas state board of cosmetology.~~
- ~~(b) "Director" means the executive director of the board.~~
- ~~(c) "Department" means the department of health and environment.~~
- ~~(d) (b) "Secretary" means the secretary of health and environment.~~
- ~~(e) (c) "Licensed permanent color technician and tattoo artist" means a person licensed under this act to practice tattooing or permanent color technology, or both.~~
- ~~(f) (d) "Permanent color technician and tattoo artist" means a person who practices tattooing or permanent color technology, or both pursuant to this act.~~
- ~~(g) (e) "Body piercing" means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except puncturing the external part of the human earlobe shall not be included in this definition. This act shall not be construed to authorize a licensed body piercer to implant or embed foreign objects into the human body or otherwise to engage in the practice of medicine and surgery.~~
- ~~(h) (f) "Physician" means a person licensed to practice medicine and surgery by the state board of healing arts.~~
- ~~(i) (g) "Tattoo" means the indelible mark, figure or decorative design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.~~
- ~~(j) (h) "Tattooing" means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.~~

~~(i)~~ (i) “Tattoo facility” means any room or space or any part thereof where tattooing is practiced or where the business of tattooing is conducted.

~~(j)~~ (j) “Body piercing facility” means any room space, or any part thereof, where body piercing is practiced or where the business of body piercing is conducted.

~~(k)~~ (k) “Permanent color technology” means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes.

Sec. 7. On July 1, 2002, K.S.A. 2000 Supp. 65-1941, as amended by section 2 of this act, is hereby amended to read as follows: 65-1941. (a) No person, including a permanent color technician and tattoo artist, shall perform tattooing, display a sign or in any other way advertise or purport to be a permanent color technician and tattoo artist unless that person holds a valid license issued by the ~~board~~ secretary. No person shall perform body piercing, display a sign or in any other way advertise or purport to be in the business of body piercing unless that person holds a valid license issued by the ~~board~~ secretary. This act does not prevent or affect the use of tattooing, permanent color technology or body piercing by a physician, a person under the control and supervision of a physician, a licensed dentist, a person under the control and supervision of a licensed dentist, an individual performing tattooing, permanent color technology or body piercing solely on such individual’s body or any other person specifically permitted to use electrolysis or tattooing by law.

(b) Violation of subsection (a) is a class A nonperson misdemeanor.

(c) The ~~board~~ secretary may bring an action to enjoin any person required to be licensed under K.S.A. 2000 Supp. 65-1940 to 65-1954, inclusive, and amendments thereto from practicing body piercing, tattooing or permanent color technology if such person does not hold a currently valid license authorizing the person to engage in such practice. The ~~board~~ secretary may bring an action to enjoin any person from operating a facility required to be licensed under K.S.A. 2000 Supp. 65-1940 to 65-1954, inclusive, and amendments thereto if such person does not hold a currently valid facility license.

(d) The ~~board~~ secretary may order the remedying of any violations of rules and regulations of the ~~board~~ secretary or any provision of this act and the ~~board~~ secretary may issue a cease and desist order upon ~~board~~ determination that the holder of a license has violated any order of the ~~board~~ secretary, any rules and regulations of the ~~board~~ secretary or any provision of K.S.A. 2000 Supp. 65-1940 to 65-1954, inclusive, and amendments thereto.

Sec. 8. On July 1, 2002, K.S.A. 2000 Supp. 65-1943 is hereby amended to read as follows: 65-1943. An applicant for licensure shall pay a fee established by rules and regulations adopted by the ~~board~~ secretary and shall show to the satisfaction of the ~~board~~ secretary that the applicant:

(a) Has complied with the provisions of this act and the applicable rules and regulations of the secretary;

(b) is not less than 18 years of age;

(c) has a high school diploma or equivalent education;

(d) has submitted evidence of completion of education or training prescribed and approved by the ~~board~~ secretary as follows:

(1) (A) A training program under the direct supervision of a licensed permanent color technician and tattoo artist in a state approved by the ~~board~~ secretary, or a person or school in this state designated by the ~~board~~ secretary, if the application is for a permanent color technician and tattoo artist license; or

(B) a training program under the direct supervision of a person licensed in a state approved by the ~~board~~ secretary or a person or school in this state designated by the ~~board~~ secretary if the application is for a license to perform body piercing; and

(2) if the license is applied for under either subpart (A) or (B), has passed an examination approved, administered or recognized by the ~~board~~ *secretary*.

Sec. 9. On July 1, 2002, K.S.A. 2000 Supp. 65-1944 is hereby amended to read as follows: 65-1944. (a) A person who holds a license shall notify the ~~board~~ *secretary* in writing of the regular address of the place or places where the person performs or intends to perform tattooing or body piercing and shall keep the license conspicuously posted in the place of business at all times.

(b) The ~~board~~ *secretary* shall keep a record of the place or places of business of each person who holds a license.

(c) Any notice required to be given by the ~~board~~ *secretary* to a person who holds a license may be given by mailing the notice to the address of the last place of business of which the person has notified the ~~board~~ *secretary*.

(d) The ~~board~~ *secretary* shall issue to each qualified applicant a license to operate a tattoo facility or a body piercing facility and to advertise permanent tattooing or body piercing services for which the facility is licensed.

Sec. 10. On July 1, 2002, K.S.A. 2000 Supp. 65-1945 is hereby amended to read as follows: 65-1945. (a) Except as otherwise provided in this section, a license issued under K.S.A. 2000 Supp. 65-1950 expires one year after the date of issue unless renewed by payment of the required renewal fee. The ~~board~~ *secretary* may vary the date of license renewal by giving to the applicant written notice of the renewal date being assigned and by making prorated adjustments in the renewal fee. If payment is transmitted by postal service, the envelope must be postmarked on or before the expiration of the license. If the license expires, the license may be renewed on payment of a renewal fee and late penalty fee established by the ~~board~~ *secretary* under this act.

(b) The ~~board~~ *secretary* may suspend the license of any person who fails to renew. A suspended license may be reactivated upon the payment of a reactivation fee established by the ~~board~~ *secretary* under this act and all past unpaid renewal fees.

(c) A person applying for reactivation shall not be required to take an examination as a condition of reactivation if the reactivation occurs within three years after the date the license expired.

(d) All permanent color technicians, tattoo artists and persons who are licensed to perform body piercing must participate in continuing education, with guidelines and effective date to be established by rules and regulations of the ~~board~~ *secretary*.

Sec. 11. On July 1, 2002, K.S.A. 2000 Supp. 65-1946 is hereby amended to read as follows: 65-1946. Licensed practicing permanent color technicians and tattoo artists and persons who are licensed to perform body piercing shall meet the following standards and any others the ~~board~~ *secretary* may adopt by rules and regulations:

(a) Tattooing and body piercing instruments shall be sterilized in accordance with methods approved by rules and regulations of the ~~board~~ *secretary* and such rules and regulations shall be approved by the ~~secretary~~ *before adoption or amendment* ~~secretary~~;

(b) practicing permanent color technicians and tattoo artists and persons licensed to perform body piercing shall be equipped with appropriate sterilizing equipment, with availability of hot and cold running water and a covered waste receptacle; and

(c) case history cards shall be kept for each client for a period of five years.

Sec. 12. On July 1, 2002, K.S.A. 2000 Supp. 65-1947 is hereby amended to read as follows: 65-1947. The ~~board~~ *secretary* may revoke, suspend, refuse to issue a license or renewal or place on probation any licensee upon proof that a person or licensee:

- (a) Has been convicted of a violation under K.S.A. 2000 Supp. 65-1942;
- (b) has been convicted in this or any other state of a crime related to the practice of tattooing or body piercing;
- (c) has knowingly misrepresented, misstated or failed to disclose personal qualifications or other information necessary to practice tattooing or body piercing in any communication to the ~~board~~ *secretary* or the department;
- (d) has used, caused or promoted the use of any advertising matter, promotional literature, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive;
- (e) has knowingly deceived the public by acting in a manner as to mislead clients as to the person's professional status;
- (f) has employed directly or indirectly any suspended or unlicensed person to perform any tattooing or body piercing covered by this act;
- (g) has permitted another person to use the license;
- (h) has practiced tattooing or body piercing under a false, misleading or deceptive name;
- (i) has failed, if a licensed permanent color technician and tattoo artist or if licensed to perform body piercing, to maintain a business address and telephone number at which the licensee may be reached during business hours;
- (j) has failed, if a nonpracticing permanent color technician and tattoo artist or a person licensed to perform body piercing, to provide the ~~board~~ *secretary* with a home address and telephone number;
- (k) has failed to properly and reasonably accept responsibility for the actions of employees;
- (l) has practiced tattooing or body piercing with a mental or physical illness that affects ability to perform or endangers the public;
- (m) has demonstrated gross incompetence in performing tattooing or body piercing; or
- (n) has violated any of the provisions of this act or rules and regulations adopted by the ~~board~~ *secretary* pursuant to this act.

Sec. 13. On July 1, 2002, K.S.A. 2000 Supp. 65-1948 is hereby amended to read as follows: 65-1948. The powers and duties of the ~~board~~ *secretary* as related to this act are as follows:

- (a) To authorize all disbursements necessary to carry out the provisions of this act;
- (b) to determine training and experience requirements for taking the examination and to supervise and administer examinations to test the knowledge of applicants for licensure;
- (c) to license persons who apply to the ~~board~~ *secretary* and who have qualified to practice tattooing or body piercing;
- (d) to rent facilities when necessary to carry out the examination of applicants for licensure;
- (e) to renew licenses;
- (f) to suspend or revoke licenses or place licensees on probation in the manner provided by this act;
- (g) to appoint representatives to conduct or supervise the examination of applicants for licensure;
- (h) to designate the time and place for examining applicants for licensure;
- (i) to carry out, ~~together with the department or separately,~~ the periodic inspection of facilities of persons who are licensed to practice tattooing or body piercing *and to enter into contracts for the performance of such inspections;*
- (j) to issue a tattoo facility license to qualified applicants upon compliance with this act;
- (k) to issue a body piercing facility license to qualified applicants upon compliance with this act; and
- (l) to appoint or employ subordinate employees.

Sec. 14. On July 1, 2002, K.S.A. 2000 Supp. 65-1949 is hereby amended to read as follows: 65-1949. (a) The ~~board~~ *secretary* shall adopt rules and regulations to prescribe education and training standards for the practice of tattooing and separate education and training standards for the licensure of body piercing.

(b) An applicant seeking licensure as a permanent color technician and tattoo artist or to be licensed to perform body piercing shall be required to demonstrate safety, sanitation and sterilization techniques by means of an inspection conducted by the ~~board~~ *secretary* to test the applicant's knowledge of infection control practices and requirements.

Sec. 15. On July 1, 2002, K.S.A. 2000 Supp. 65-1950 is hereby amended to read as follows: 65-1950. (a) The ~~board~~ *secretary* shall assess, by rules and regulations adopted by the ~~board~~ *secretary*, the following fees and any other fees necessary to carry out the provisions of this act:

- (1) Application fee;
- (2) examination fees;
- (3) reexamination fees;
- (4) reciprocity fee;
- (5) license fee;
- (6) license renewal fee, active and inactive;
- (7) late fee;
- (8) reactivation fee;
- (9) duplicate license fee;
- (10) demonstration permit;
- (11) tattoo facility fee and renewal fee, active or inactive; and
- (12) body piercing facility fee renewal fee.

(b) The ~~board~~ *secretary* shall license each applicant, without discrimination, who proves to the satisfaction of the ~~board~~ *secretary*, fitness for such licensure as required by this act and upon payment of a fee established by the ~~board~~ *secretary* under this section. Except as provided in K.S.A. 2000 Supp. 65-1945, the ~~board~~ *secretary* shall issue to the applicant a license that expires one year after the date of issuance.

(c) An applicant who is employed as a permanent color technician and tattoo artist on the day immediately preceding the effective *date* of this act shall be licensed by the ~~board~~ *secretary*, even though the applicant does not meet the training requirements of this act, so long as the applicant successfully passes an examination required by the ~~board~~ *secretary*.

(d) The ~~board~~ *secretary* shall establish all fees under this act. The fees and charges established under this section shall not exceed the cost of administering the regulatory program under this act pertaining to the purpose for which the fee or charge is established.

Sec. 16. On July 1, 2002, K.S.A. 2000 Supp. 65-1951 is hereby amended to read as follows: 65-1951. The ~~board, the director~~ *secretary* or a person authorized by the ~~board~~ *secretary* shall remit all moneys received by or for it from fees, charges or penalties *under the provisions of K.S.A. 2000 Supp. 65-1940 through 65-1954, and amendments thereto*, to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the ~~cosmetology~~ *tattoo and body piercing* fee fund.

Sec. 17. On July 1, 2002, K.S.A. 2000 Supp. 65-1954 is hereby amended to read as follows: 65-1954. (a) The ~~board~~ *secretary*, in addition to any other penalty prescribed under the act governing permanent color technicians and tattoo artists, may assess civil fines and costs, including attorney fees, after proper notice and an opportunity to be heard, against any person or entity for a violation of the statutes, rules and regulations or orders enforceable by the ~~board~~ *secretary* in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation.



(b) In determining the amount of penalty to be assessed pursuant to this section, the ~~board~~ *secretary* may consider the following factors among others: (1) Willfulness of the violation; (2) repetitions of the violation; and (3) magnitude of the risk of harm caused by the violation.

(c) In addition to a civil penalty and costs, the ~~board~~ *secretary* may assess investigation and hearing costs against a licensee for proceedings which have resulted in a successful action by the ~~board~~ *secretary* against the license of the licensee under K.S.A. 2000 Supp. 65-1947 and amendments thereto.

(d) All civil fines assessed and collected under this section shall be remitted to the state treasurer at least monthly and shall be deposited in the state treasury and credited to the state general fund. All costs assessed under this section shall be remitted to the state treasurer at least monthly and shall be deposited in the state treasury and credited to the ~~cosmetology~~ *tattoo and body piercing* fee fund.

New Sec. 18. (a) On July 1, 2002, all of the powers, duties and functions of the state board of cosmetology and the position of executive director thereof which relate to the administration of the provisions of K.S.A. 2000 Supp. 65-1940 through 65-1954, and amendments thereto, are hereby transferred to and imposed upon the secretary of health and environment.

(b) On and after July 1, 2002, whenever the state board of cosmetology or the executive director thereof are referred to or designated by this act, any other statute, rules and regulations, contract or other document, with reference to the administration of the provisions of K.S.A. 2000 Supp. 65-1940 through 65-1954, and amendments thereto, such reference or designation shall apply to the secretary of health and environment.

(c) All rules and regulations of the state board of cosmetology in existence on July 1, 2002, which relate to the administration of the provisions of K.S.A. 2000 Supp. 65-1940 through 65-1954, and amendments thereto, shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment under this act until revised, amended, revoked or nullified pursuant to law.

(d) All orders and directives of the state board of cosmetology in existence on July 1, 2002, which relate to the administration of the provisions of K.S.A. 2000 Supp. 65-1940 through 65-1954, and amendments thereto, shall continue to be effective and shall be deemed to be orders and directives of the secretary of health and environment under this act until revised, amended, or nullified pursuant to law.

(e) On July 1, 2002, all books, records and other property of the state board of cosmetology which relate to the administration of the provisions of K.S.A. 2000 Supp. 65-1940 through 65-1954, and amendments thereto, are hereby transferred to the secretary of health and environment.

(f) On July 1, 2002, officers and employees who immediately prior to the effective date of this act were engaged in the exercise and performance of the powers, duties and functions which relate to the administration of the provisions of K.S.A. 2000 Supp. 65-1940 through 65-1954, and amendments thereto, and who, in the opinion of the secretary of health and environment, are necessary to perform the powers, duties and functions transferred under this section shall become officers and employees of the department of health and environment. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this act. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers and any abolition of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

(g) Whenever any conflict arises as to the proper disposition of any property or records as a result of any abolishment and transfer made under this act, or under authority of this act, such conflict shall be resolved by the governor, and the decision of the governor shall be final.

Sec. 19. On July 1, 2002, K.S.A. 2000 Supp. 74-2701 is hereby amended to read as follows: 74-2701. (a) There is hereby created the Kansas state board of cosmetology, which shall be composed of ~~seven~~ six members, appointed by the governor, to regulate the practice of the profession of cosmetology in Kansas. Subject to the provisions of K.S.A. 75-4315c and amendments thereto, a member shall be appointed from each congressional district and the remainder from the state at large. Not more than four members shall be of the same political party. Four members shall be licensed cosmetologists; ~~one member shall be a licensed permanent color technician and tattoo artist or a licensed body piercer;~~ and two members shall represent the general public interest, except that no manufacturer, wholesaler or retailer of cosmetic supplies or equipment used by the profession of cosmetology, or any representative of such manufacturer, wholesaler or retailer, shall become a member of the board.

(b) ~~The terms of office of members of the board serving prior to the effective date of this act shall expire on the effective date of this act, but such members shall continue to serve until their successors are appointed and qualified as provided in this section.~~ Members of the board serving prior to the effective date of this act may be reappointed as provided in this section. Of the members first appointed to the board on and after the effective date of this act, two members shall be appointed for terms of one year, two members shall be appointed for terms of two years and three members shall be appointed for terms of three years. Thereafter each member of the board shall be appointed for a term of three years, and until a successor is appointed and qualifies. The board shall annually select a chairperson from its membership.

(c) The governor shall appoint an executive director who shall serve at the pleasure of the governor. The executive director shall also be the treasurer of the board and shall keep a record of the proceedings and perform such other duties as the board shall direct.

(d) When a vacancy occurs by death or resignation, appointees to the board shall have the prescribed qualifications. All vacancies in the board shall be filled by the governor for the unexpired terms. The members of the board shall take the oath of office prescribed for public officers before entering upon the discharge of their duties.

Sec. 20. K.S.A. 2000 Supp. 65-1904, 65-1940, 65-1941, 65-1942, 65-1952 and 65-1953 are hereby repealed.

Sec. 21. On July 1, 2002, K.S.A. 2000 Supp. 65-1940, as amended by section 1 of this act, 65-1941, as amended by section 2 of this act, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951, 65-1954 and 74-2701 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*