

## HOUSE BILL No. 2722

By Committee on Appropriations

3-1

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9 AN ACT providing for consolidation of certain administrative operations  
10 of the Kansas board of barbering and the Kansas state board of cos-  
11 metology; amending K.S.A. 65-1809, 65-1826, 65-1907, 74-1805a, 74-  
12 1805b, 74-1806, 74-1807, 74-2701, 74-2702 and 74-2704 and K.S.A.  
13 2009 Supp. 65-1908 and repealing the existing sections.  
14

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

16 New Section 1. (a) On and after January 1, 2011, the offices, equip-  
17 ment, supplies and staff of the Kansas board of barbering and the Kansas  
18 state board of cosmetology are hereby consolidated.

19 (b) The Kansas board of barbering and the Kansas state board of  
20 cosmetology jointly shall appoint a person to serve as executive director  
21 of such boards on and after January 1, 2011. The executive director shall  
22 serve at the pleasure of such boards jointly.

23 (c) The executive director of the Kansas board of barbering and the  
24 Kansas state board of cosmetology shall be treasurer of each board, shall  
25 keep a record of the proceedings of each board and shall perform such  
26 other duties as directed by each board. The executive director, with the  
27 approval of both boards, may employ such inspectors and other staff as  
28 necessary to enforce and administer the provisions of K.S.A. 65-1808 et  
29 seq., and 65-1901 et seq., and amendments thereto. The inspectors and  
30 other staff shall be considered to be employees and agents of both boards.

31 (d) Inspectors employed pursuant to this section shall perform all  
32 inspection duties of the Kansas board of barbering and the Kansas state  
33 board of cosmetology as required by law and rules and regulations of the  
34 respective boards. The inspectors shall have such powers as granted to  
35 them by rules and regulations of the respective boards to make inspec-  
36 tions, investigations and inquiries, except that a permanent order to close  
37 the business of a barber or cosmetologist shall have approval of the re-  
38 spective board.

39 (e) The executive director of the Kansas board of barbering and the  
40 Kansas state board of cosmetology shall be in the unclassified service of  
41 the Kansas civil serve act and, within the limits of appropriations therefor,  
42 shall receive an annual salary jointly fixed by the boards and approved by  
43 the governor. All other employees shall be in the classified service of the

1 Kansas civil service act.

2 (f) All expenditures for offices, equipment, supplies and staff used or  
3 employed jointly by the Kansas board of barbering and the Kansas state  
4 board of cosmetology shall be paid equally from the budget of each board.

5 (g) On the effective date of this act, the position of the administrative  
6 officer of the Kansas board of barbering under K.S.A. 74-1805a, and  
7 amendments thereto, and the position of the executive officer of the Kan-  
8 sas state board of cosmetology under K.S.A. 74-2701, and amendments  
9 thereto, are hereby abolished.

10 Sec. 2. On and after January 1, 2011, K.S.A. 65-1809 is hereby  
11 amended to read as follows: 65-1809. As used in this act:

12 (a) "Board" means the Kansas board of barbering;

13 (b) ~~"administrative officer" means the administrative officer of the~~  
14 ~~board~~ *"executive director" means the executive director of the Kansas*  
15 *board of barbering and the Kansas state board of cosmetology appointed*  
16 *pursuant to section 1, and amendments thereto;*

17 (c) "license" means a license entitling the person to whom issued to  
18 practice barbering, or to operate a barber school, barber college or barber  
19 shop;

20 (d) "barber shop" means any place, shop or establishment, wherein  
21 the practice of barbering is engaged in or carried on;

22 (e) "barber school" or "barber college" means any place or establish-  
23 ment wherein the practice, fundamentals, theories or practical applica-  
24 tions of barbering are taught;

25 (f) "barbering" means any one or any combinations of the following  
26 practices (when done upon the upper part of the human body for cos-  
27 metic purposes and not for the purpose of diseases or physical or mental  
28 ailments, and when done for payment, either directly or indirectly, or  
29 without payment, for the public generally, upon male or female): Shaving  
30 or trimming the beard or cutting the hair; giving facial or scalp massages  
31 or treatments with oils, creams, lotions or other preparations, either by  
32 hand or mechanical appliances, singeing, shampooing or dyeing, arrang-  
33 ing, perming or waving the hair, or applying tonics; applying cosmetic  
34 preparations, antiseptic powders, oils, clays, or lotions to the scalp, face,  
35 neck or upper part of the body.

36 Sec. 3. On and after January 1, 2011, K.S.A. 65-1826 is hereby  
37 amended to read as follows: 65-1826. (a) The practice and procedure of  
38 the board with respect to any investigation made by it under authority of  
39 this act shall be in accordance with rules and regulations adopted by the  
40 board.

41 (b) Each person who serves a subpoena shall receive the same fees  
42 as a sheriff, and each witness who appears in obedience to a subpoena,  
43 shall receive for attendance the fees and mileage provided by law for

1 witnesses in civil cases in the district courts of this state. Such fees and  
2 mileage shall be paid by the board in the same manner as other expenses  
3 are paid by the board. No witness subpoenaed at the instance of a party  
4 other than the board or one of its members, or ~~its administrative officer~~  
5 *the executive director*, shall be entitled to fees and mileage unless the  
6 board shall certify that the witness' testimony was material to the matter  
7 investigated.

8 Sec. 4. On and after January 1, 2011, K.S.A. 65-1907 is hereby  
9 amended to read as follows: 65-1907. ~~The chairperson, with the approval~~  
10 ~~of the board, shall employ inspectors to inspect schools, salons and clinics~~  
11 ~~and the inspectors shall perform all of the inspection duties of the board,~~  
12 ~~as required by this act, rules and regulations of the board and sanitation~~  
13 ~~standards adopted by the secretary of health and environment pursuant~~  
14 ~~to K.S.A. 65-1,148 and amendments thereto. The board shall provide~~  
15 ~~training to the inspectors to enable the inspectors to provide current~~  
16 ~~information to school, salon and clinic personnel regarding requirements~~  
17 ~~of applicable statutes and regulations. It shall be the duty of the board to~~  
18 determine the number of hours and practice work required of students  
19 in each subject of cosmetology, nail technology, esthetics and electrology  
20 taught in a licensed school.

21 Sec. 5. On and after January 1, 2011, K.S.A. 2009 Supp. 65-1908 is  
22 hereby amended to read as follows: 65-1908. (a) The board, in accordance  
23 with the provisions of the Kansas administrative procedure act, may re-  
24 fuse to issue or renew a license, or revoke, suspend, censure, limit or  
25 condition a license for any of the following reasons:

- 26 (1) Failure to comply with the sanitation standards prescribed by the  
27 secretary of health and environment pursuant to K.S.A. 65-1,148, and  
28 amendments thereto;
- 29 (2) failure to comply with any provision of this act, with the rules and  
30 regulations of the board of cosmetology or with any order issued by the  
31 board;
- 32 (3) has become a danger to the public by reason of alcohol or drug  
33 abuse;
- 34 (4) conviction of a felony unless the applicant or licensee is able to  
35 demonstrate to the board's satisfaction that such person has been suffi-  
36 ciently rehabilitated to warrant the public trust;
- 37 (5) the obtaining of, or the attempt to obtain, a license by fraudulent  
38 misrepresentation or bribery;
- 39 (6) advertising by means of false or knowingly deceptive matter or  
40 statement;
- 41 (7) failure to display the annual license or inspection report as pro-  
42 vided for in this act;
- 43 (8) gross negligence or unprofessional conduct as defined by rules

1 and regulations of the board; or

2 (9) has had a license revoked, suspended or limited, or has had other  
3 disciplinary action taken, or an application for a license denied, by the  
4 proper regulatory authority of another state, territory, District of Colum-  
5 bia or another country, a certified copy of the record of the action of the  
6 other jurisdiction being conclusive evidence thereof.

7 (b) The board may order the remedying of any violations of rules and  
8 regulations of the board or any provision of this act, and the board may  
9 issue a cease and desist order upon board determination that the holder  
10 of a license or any person has violated any order of the board, any rules  
11 and regulations of the board or any provision of this act.

12 (c) ~~Inspectors employed by the board shall have such powers as the~~  
13 ~~board may prescribe by rules and regulations to make inspections, inves-~~  
14 ~~tigations, and inquiries, except that a permanent order for closing any~~  
15 ~~establishment licensed by the board shall be issued only by the board.~~

16 ~~—(d)~~ In addition to the board's authority to refuse licensure or impose  
17 discipline pursuant to subsection (a), the board shall have the authority  
18 to assess a fine not in excess of \$1,000 against a licensee for each of the  
19 reasons specified in subsection (a). Such fine may be assessed in lieu of  
20 or in addition to such discipline.

21 Sec. 6. On and after January 1, 2011, K.S.A. 74-1805a is hereby  
22 amended to read as follows: 74-1805a. (a) There is hereby created the  
23 Kansas board of barbering which board shall be composed of five mem-  
24 bers to be appointed by the governor. Four members of the board shall  
25 be barbers and one member of the board shall represent the general  
26 public. Each member of the board, except the members who are ap-  
27 pointed to represent the general public, shall have had experience as a  
28 practical barber for at least five years immediately prior to appointment.  
29 Each member of the board, before entering upon the member's duties  
30 shall take the oath provided by law for public officers. One member of  
31 the board shall be appointed each year for a term of three years, and shall  
32 hold office until a successor is appointed and qualified.

33 (b) The governor shall designate one member of the board as the  
34 chairperson thereof and the member shall hold such position during the  
35 member's term of office. ~~Vacancies caused by death, resignation or other~~  
36 ~~causes; Any vacancy in the membership of the board shall be filled by~~  
37 ~~appointment as provided for regular appointments, but such appointees~~  
38 ~~shall serve only for the unexpired terms of their predecessors for unex-~~  
39 ~~pired term.~~

40 ~~The board shall appoint an administrative officer who shall be in the~~  
41 ~~unclassified service of the Kansas civil service act. The administrative~~  
42 ~~officer shall receive an annual salary fixed by the board subject to approval~~  
43 ~~of the governor. The administrative officer shall be treasurer of the board~~

1 ~~and shall keep a record of its proceedings and perform other duties as~~  
2 ~~directed by the board.~~

3 Sec. 7. On and after January 1, 2011, K.S.A. 74-1805b is hereby  
4 amended to read as follows: 74-1805b. (a) ~~On July 1, 1990,~~ The board of  
5 barber examiners shall be and hereby is officially designated as the Kansas  
6 board of barbering.

7 (b) ~~On and after July 1, 1990,~~ When the board of barber examiners  
8 ~~or the administrative officer of the board of barber examiners,~~ or words  
9 of like effect, is referred to or designated by a statute, contract or other  
10 document, such reference or designation shall mean and apply to the  
11 Kansas board of barbering ~~and to the administrative officer of the Kansas~~  
12 ~~board of barbering.~~

13 (c) ~~Nothing in this act shall be construed as abolishing the board of~~  
14 ~~barber examiners or the office of the administrative officer thereof, or as~~  
15 ~~reestablishing the same.~~

16 Sec. 8. On and after January 1, 2011, K.S.A. 74-1806 is hereby  
17 amended to read as follows: 74-1806. The board shall meet immediately  
18 after appointment and determine the policies of the board and may con-  
19 duct any business that may be before such board. Thereafter, the board  
20 shall meet as required by law, at times designated by the board and on  
21 the call of the ~~administrative officer~~ *executive director*. The board shall  
22 keep a record of all its proceedings and a register of all applicants for  
23 licensure and all licensees. Members of the board attending meetings of  
24 such board, or attending a subcommittee meeting thereof authorized by  
25 such board, shall be paid compensation, subsistence allowances, mileage  
26 and other expenses as provided in K.S.A. 75-3223, and amendments  
27 thereto. The board shall adopt rules and regulations for the purpose of  
28 carrying out the provisions of this act. ~~The administrative officer, with the~~  
29 ~~approval of the board, shall have authority to employ inspectors and office~~  
30 ~~personnel as may be deemed necessary to administer this act, and shall~~  
31 ~~provide and maintain offices. The inspectors so appointed shall perform~~  
32 ~~all of the inspection duties of the board. All employees of the board shall~~  
33 ~~be within the classified service of the Kansas civil service act, with the~~  
34 ~~exception of the administrative officer, who shall be in the unclassified~~  
35 ~~service.~~

36 Sec. 9. On and after January 1, 2011, K.S.A. 74-1807 is hereby  
37 amended to read as follows: 74-1807. Upon presentation of proper cre-  
38 dentials, any member of the board, the ~~administrative officer~~ *executive*  
39 *director* or the board's inspectors shall have the authority to enter, inspect  
40 and enforce rules and regulations pertaining to barber shops, barber  
41 schools or barber colleges at any time during business hours.

42 Sec. 10. On and after January 1, 2011, K.S.A. 74-2701 is hereby  
43 amended to read as follows: 74-2701. (a) There is hereby created the

1 Kansas state board of cosmetology, the members of which shall be ap-  
2 pointed by the governor, to regulate the practice of the profession of  
3 cosmetology in Kansas. Not more than four members shall be of the same  
4 political party. Three members shall be licensed under the provisions of  
5 K.S.A. 65-1901 through 65-1912, and amendments thereto, at least two  
6 of whom shall be licensed cosmetologists; one member shall be a licensed  
7 permanent color technician and tattoo artist or a licensed body piercer;  
8 one member shall be an owner and licensed operator of a tanning facility;  
9 one member shall be a person who holds a valid school license issued by  
10 the board or a person who is engaged in the day-to-day operation of a  
11 school licensed by the board; and two members shall represent the gen-  
12 eral public interest. If none of the licensed cosmetologist members of the  
13 board is an African-American, at least one member representing the gen-  
14 eral public interest shall be an African-American. No manufacturer,  
15 wholesaler or retailer of cosmetic supplies or equipment used by the  
16 profession of cosmetology, or any representative of such manufacturer,  
17 wholesaler or retailer, shall become a member of the board.

18 (b) Members of the board serving prior to the effective date of this  
19 act may be reappointed as provided in this section. Of the members first  
20 appointed to the board on and after the effective date of this act, two  
21 members shall be appointed for terms of one year, two members shall be  
22 appointed for terms of two years and three members shall be appointed  
23 for terms of three years. Thereafter each member of the board shall be  
24 appointed for a term of three years, and until a successor is appointed  
25 and qualifies. The board shall annually select a chairperson from its  
26 membership.

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

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

36 Sec. 11. On and after January 1, 2011, K.S.A. 74-2702 is hereby  
37 amended to read as follows: 74-2702. (a) The Kansas state board of cos-  
38 metology shall meet immediately after appointment and determine pol-  
39 icies of the board and conduct any business that may be before such  
40 board, ~~and said officers~~ and thereafter shall meet as required by law, at  
41 times designated by the board ~~and shall also meet on the call of the~~  
42 ~~chairman. The executive director shall not be entitled to vote at such~~  
43 ~~meetings or on the call of the chairperson. Said~~ The board shall keep a

1 record of its proceedings and a register of the names of applicants for  
2 licenses, showing whether the licenses were granted or refused. ~~Said~~ *The*  
3 board shall have a seal, and each ~~of said members of said~~ *member of the*  
4 board shall have the authority and be empowered, for all purposes and  
5 duties of ~~said the~~ board in connection therewith, to administer oaths. ~~The~~  
6 chairman with the approval of the board shall have the power to appoint  
7 inspectors who shall perform all of the inspection duties of the board and  
8 may employ such additional help as may in his or her judgment be ne-  
9 cessary to properly carry out the provisions of this act.

10 (b) ~~All employees appointed as herein authorized, except the execu-~~  
11 ~~tive director, shall be within the classified service of the Kansas civil ser-~~  
12 ~~vise act. The executive director shall be within the unclassified service of~~  
13 ~~the Kansas civil service act and shall receive an annual salary to be fixed~~  
14 ~~by the board, with the approval of the state finance council. Members of~~  
15 the state board of cosmetology attending meetings of such board, or at-  
16 tending a subcommittee meeting thereof authorized by such board, shall  
17 be paid compensation, subsistence allowances, mileage and other ex-  
18 penses as provided in K.S.A. 75-3223, *and amendments thereto.*

19 Sec. 12. On and after January 1, 2011, K.S.A. 74-2704 is hereby  
20 amended to read as follows: 74-2704. All fees and payments required to  
21 be paid by applicants for examinations or licenses, shall be paid to the  
22 executive director of the Kansas state board of cosmetology ~~or the board's~~  
23 ~~designee and the Kansas board of barbering.~~ The executive director, ~~or~~  
24 ~~the board's designee,~~ shall remit all moneys received from fees, charges  
25 or penalties to the state treasurer in accordance with the provisions of  
26 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such  
27 remittance, the state treasurer shall deposit the entire amount in the state  
28 treasury. Twenty percent of each such deposit shall be credited to the  
29 state general fund and the balance shall be credited to the cosmetology  
30 fee fund. All expenditures from such fund shall be made in accordance  
31 with appropriation acts upon warrants of the director of accounts and  
32 reports issued pursuant to vouchers approved by the executive director  
33 or by a person or persons designated by the ~~board~~ *executive director.*

34 Sec. 13. On and after January 1, 2011, K.S.A. 65-1809, 65-1826, 65-  
35 1907, 74-1805a, 74-1805b, 74-1806, 74-1807, 74-2701, 74-2702 and 74-  
36 2704 and K.S.A. 2009 Supp. 65-1908 are hereby repealed.

37 Sec. 14. This act shall take effect and be in force from and after its  
38 publication in the statute book.