

SESSION OF 2016

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2456**

As Agreed to April 29, 2016

Brief*

HB 2456 would create and amend law regarding tanning facilities and barber schools and colleges.

The bill would create the Kansas Tanning Facilities Act and would prohibit a tanning facility from providing access to a tanning device to any individual under 18 years of age. In addition to or in place of disciplinary action currently allowed under statute, the Board of Cosmetology would have authority to impose fines up to \$250 against a tanning facility licensee for each violation. The Board of Cosmetology would be required to adopt rules and regulations under the Act, no later than January 1, 2017.

The bill also would amend the requirements for a barber school or college to be approved by the Kansas Board of Barbering (Board); the qualifications for a person to receive a license to practice barbering; the license renewal process for a barber, instructor, or operator of a barber shop whose license has expired; the disciplinary procedures the Board is allowed to follow; and the Board's duties to include increased authority.

The bill would amend the requirements for a barber school or college to be approved by the Board by changing the required hours for graduation to a minimum of 1,200 hours and a maximum of 1,500 hours and by eliminating the

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period of time an instructor must be a licensed practicing barber.

Under the bill, barber schools or colleges would be allowed to design courses of study for barbers who have not renewed their licenses for a period of at least three years, for students who have failed at least two examinations conducted by the Board, or for other purposes as prescribed by the Board, including courses of study for professionals in related industries.

The bill would allow a person to receive a license to practice barbering if such person has been certified in a related industry, such as barbering in any branch of the U.S. military service, and has completed a course of study in a licensed Kansas barber college or school or has been a cosmetologist licensed by the Kansas Board of Cosmetology and has completed a course of study in a licensed Kansas barber college or school.

A barber, instructor, or operator of a barber shop whose license has been expired for a period of less than three years would be required to file a renewal application with the Board for license renewal. A barber, instructor, or operator of a barber shop whose license has been expired for a period of three years or more would be required to file an application for reexamination with the Board for license renewal. The Board would be allowed to issue the new license upon receipt of the application, payment of fees, and passage of reexamination, if applicable.

The Board would be allowed to censure, limit, condition, suspend, revoke or refuse to issue, reinstate, or renew a license of any applicant or licensee upon proof that the applicant or licensee violated the provisions set forth in the statute that would make a licensee or applicant subject to discipline or would disqualify the licensee or applicant from practicing barbering. The bill would add to the list of such provisions having been convicted of any felony offense or misdemeanor offense of a crime against persons or involving

illegal drugs as determined by the Board in rules and regulations, and the licensee or applicant for a license is unable to demonstrate to the Board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust. The Board also would have the authority to issue up to a \$1,000 civil fine against a licensee for a violation of such provisions.

The Board would have the authority to revoke the license of any licensee who voluntarily surrenders such person's or entity's license pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

All disciplinary proceedings would be conducted in accordance with the Kansas Administrative Procedure Act. Additionally, all judicial review and civil enforcement of agency actions would be in accordance with the Kansas Judicial Review Act.

The Board would be granted additional authority to issue a cease and desist order against any individual, operator, or licensee if the Board determined that such individual, operator, or licensee has practiced without a valid license or engaged or attempted to engage in any act or practice in violation of the laws, or rules and regulations pertaining to barbering.

Further, the Board would be granted additional authority to make an application to any court of competent jurisdiction for an order enjoining any person who has engaged or attempted to engage in any act or practice in violation of the laws, or rules and regulations pertaining to barbering. Upon a showing by the Board that such person has engaged or attempted to engage in any such act or practice, the Court would be required to issue, without bond, an injunction, restraining order, or such other order as may be appropriate.

Conference Committee Action

The Conference Committee agreed to the following:

- Delete contents of HB 2456 (contents moved to HB 2516, for additional information see CCRB on HB 2516);
- Insert contents of HB 2369 as passed by the House, change the rules and regulations authority from permissive to mandatory, and insert January 1, 2017, as a deadline for the Board of Cosmetology to adopt rules and regulations; and
- Insert contents of HB 2471 as passed by the House.

Background

[*Note:* HB 2456 originally related to the Interstate Medical Licensure Compact; those provisions have been addressed in another Conference Committee report. Further information on provisions contained in this Conference Committee report are described below.]

HB 2369 Background

HB 2369 was introduced during the 2015 Legislative Session by the House Committee on Appropriations. At the 2016 hearing before the House Committee on Health and Human Services, testimony in favor of the bill was provided by representatives of the University of Kansas Cancer Center, a surgical oncologist and representative of the Commission on Cancer, and two private citizens. Representatives of the University of Kansas Cancer Center and the Commission on Cancer testified that exposure to ultraviolet (UV) light during childhood and teenage years results in a higher risk of developing skin cancer as an adult, with an increased risk of

malignant melanoma when a person utilizes a tanning device before the age of 35. Both representatives noted the World Health Organization's International Agency for Research on Cancer listed UV radiation and indoor tanning beds as a class I carcinogen. Both private citizens testified about being diagnosed with melanoma and stated the use of a tanning bed in their youth was a contributing factor to their diagnoses.

Written only testimony in favor of the bill was provided by representatives of the American Cancer Society Cancer Action Network, American College of Surgeons, the Kansas Chapter of American Academy of Pediatrics, Kansas City Medical Society, Kansas City Surgical Society, Kansas Medical Society, Kansas School Nurses Association, Kansas Society of Eye Physicians and Surgeons, and two private citizens.

Testimony in opposition to the bill was presented by representatives of the American Suntanning Association. (One representative provided oral-only testimony.) The representatives testified that the legislation is unnecessary due to a rule proposed by the U.S. Food and Drug Administration (FDA) prohibiting the use of tanning devices in salons by clients under the age of 18, and neither this legislation nor the proposed federal rule addresses teenage access of unsupervised tanning devices at gyms, apartment complexes, or in homes.

Written-only neutral testimony was provided by a representative of the Kansas Department of Health and Environment. The testimony provided data on skin cancer and behavioral data of high school students as it relates to indoor tanning device use.

According to the fiscal note prepared by the Division of the Budget on HB 2369 during the 2015 Legislative Session, the Board indicates additional revenues would be generated by the fine established in the bill. The amount of additional revenues cannot be estimated, as the Board is unable to estimate the number of violations that would occur if HB 2369

were enacted. Any fiscal effect associated with HB 2369 was not reflected in *The FY 2016 Governor's Budget Report*.

HB 2471 Background

At the House Committee on Health and Human Services hearing on HB 2471, the administrator for the Board testified in favor of the bill stating the proposed changes would enable the Board to achieve its goals to effectively protect the consuming public and effectively supervise the barbering industry. There was no other testimony provided.

According to the fiscal note prepared by the Division of the Budget, the Board states enactment of HB 2471 would increase revenues and expenditures for the agency. Revenues would increase due to licensing for four new barbering schools, \$2,250 in FY 2016 and \$4,500 in FY 2017, and the expenditures could be paid out of existing resources. Any fiscal effect associated with the HB 2471 not reflected in *The FY 2017 Governor's Budget Report*.

barbering; tanning beds; Board of Barbering; Board of Cosmetology

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