

HOUSE BILL No. 2456

AN ACT concerning state boards; relating to the state board of cosmetology; state board of barbering; powers, duties and functions thereof; regulation of tanning facilities; regulation of barbering; amending K.S.A. 65-1810, 65-1812, 65-1819, 65-1820a and 2015 Supp. 65-1824 and repealing the existing sections.

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

New Section 1. (a) No tanning facility shall provide access to a tanning device for any person under 18 years of age.

(b) In addition to the board's authority to impose discipline pursuant to K.S.A. 65-1920, and amendments thereto, the board shall have the authority to assess a fine not in excess of \$250 against a licensee for each violation. Such fine may be assessed in lieu of or in addition to such discipline.

(c) The board shall adopt rules and regulations as necessary to effectuate the provisions of this section. Such rules and regulations shall be adopted no later than January 1, 2017.

New Sec. 2. K.S.A. 65-1920 through 65-1929 and section 1, and amendments thereto, shall be known and may be cited as the Kansas tanning facilities act.

Sec. 3. K.S.A. 65-1810 is hereby amended to read as follows: 65-1810. (a) No barber school or barber college shall be approved by the board unless:

(1) The school or college requires, as a prerequisite to graduation, a course of instruction of not less *than 1,200 hours and not more than 1,500 hours, as prescribed in rules and regulations by the board*, to be completed within 18 months of not more than eight hours in any one working day;

(2) the course of instruction required by the school or college includes scientific fundamentals of barbering; hygiene; histology of the hair and skin; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; massages and manipulations of the muscles of the scalp, skin and neck; cutting, shaving, arranging, perming, waving, curling, coloring, bleaching, tinting and dyeing the hair; and barbering practices for all major ethnic groups residing in the state;

(3) all instructors of the school or college have been licensed practicing barbers ~~for not less than three years~~ and hold instructors licenses; and

(4) no practice or policy of discrimination is in effect against applicants for admission to the school or college by reason of race, religion, color, national origin or ancestry.

(b) An instructor's license shall be granted by the board only after the applicant has passed a two-part examination, prescribed by the board for such purpose, with a grade of not less than 75% on each part of the examination, and has paid the prescribed fee for such examination.

(c) Every barber school and every barber college shall designate to the public that it is a barber school or barber college by posting a sign on the front window or entrance with letters not less than six inches in height.

(d) No barber school or barber college shall enroll or admit any student ~~thereto~~ unless such student shall make and file in duplicate an application upon a form prescribed and furnished by the board. One copy of such application shall be retained by the school or college, and the school or college shall file the other with the board. Upon enrollment, a student shall pay to the board the fee prescribed for a student learning license. Such license shall be used by the student while enrolled in the school or college and shall be placed next to or near the working area of the student.

(e) ~~No barber school or barber college shall enroll or admit any student to a postgraduate course for the purpose of qualifying persons to pass the examination conducted by the board to determine fitness to practice barbering.~~ *Barber schools or barber colleges may 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 to determine fitness to practice barbering or for other purposes as prescribed by the board, including courses of study for professionals in related industries.*

(f) It shall be unlawful for any person, firm or corporation to operate a barber school or barber college without first obtaining a license from the board, fully complying with the provisions of this act and paying an annual fee ~~for the operation thereof~~.

Sec. 4. K.S.A. 65-1812 is hereby amended to read as follows: 65-1812.

(a) Any person shall be qualified to receive a license to practice barbering if such person:

(1) Is at least 16 years of age and of good moral character and temperate habits;

(2) has graduated from a high school accredited by the appropriate accrediting agency or has otherwise obtained the equivalent of a high school education;

(3) is a graduate of a barber school or barber college approved by the board or has satisfactorily completed the barber course at an institution under the control of the secretary of corrections or the disciplinary barracks at Fort Leavenworth *or has been certified in a related industry, such as barbering in any branch of the United States military service, and has completed a course of study in a licensed Kansas barber college or barber school as prescribed by the board under K.S.A. 65-1810(e), and amendments thereto, 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 barber school as prescribed by the board under K.S.A. 65-1810(e), and amendments thereto;* and

(4) has paid an examination fee and has passed the examination conducted by the board to determine the fitness of such person to practice barbering.

(b) Any person who fails to pass an examination conducted by the board to determine such person's fitness to practice barbering shall be entitled to take the next examination conducted by the board.

(c) The board may issue a temporary license to practice barbering to any person who has graduated from an approved barber school or barber college and who makes application to take the next examination for licensure to practice barbering. Such license shall be effective only until the results of the examination are announced. No more than three temporary licenses shall be issued to any one person.

Sec. 5. K.S.A. 65-1819 is hereby amended to read as follows: 65-1819.

(a) Every licensed barber, instructor, operator of a barber shop and operator of a barber school or barber college shall annually renew the license and pay the required fee. The expiration date of each license which is issued, restored or renewed by the board shall be established by rules and regulations of the board so that licenses are renewed by the board throughout the year on a continuing basis. In each case in which a license is issued, restored or renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-1817, and amendments thereto.

(b) A barber, *instructor or operator of a barber shop* whose license has expired for a period of less than three years may have the license renewed ~~immediately~~ upon *filing with the board a renewal application and payment of the required restoration fee.* Any barber, *instructor or operator of a barber shop* whose license has been expired for a period of three or more years; may renew the license ~~after a successful~~ *by filing with the board an application for reexamination, successfully completing such reexamination by the board and upon the payment of paying the required examination and license fees. Upon receipt of such application, payment of fees and passage of reexamination, if applicable, the board may grant a new license according to the provisions of K.S.A. 65-1820a, and amendments thereto.*

Sec. 6. K.S.A. 65-1820a is hereby amended to read as follows: 65-

1820a. (a) ~~The board may issue orders which require the remedying of any of the violations specified in subsection (b). If the violations are not remedied in a reasonable time after the order is issued, the board shall issue an order suspending the license of the violator. The board shall follow the procedure provided in the Kansas administrative procedure act to suspend a license.~~

~~(b) The board may refuse to issue, renew, suspend or revoke a license for any one or combination of the following reasons: 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:~~

~~(1) Has committed malpractice or incompetency;~~

~~(2) when an applicant or a licensed barber is or becomes has become afflicted with an infectious or communicable disease;~~

- (3) ~~advertising~~ *has advertised* by knowingly false or deceptive statements;
- (4) ~~advertising, practicing or attempting~~ *has advertised, practiced or attempted* to practice under a trade name other than one's own;
- (5) ~~habitual drunkenness or habitual addiction to habit-forming drugs~~ *is unable to practice barbering with skill and safety due to current abuse of drugs or alcohol;*
- (6) *has committed unprofessional conduct as defined in rules and regulations adopted by the board;*
- (7) ~~obtaining or attempting~~ *has obtained or attempted* to obtain a license for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations;
- (8) ~~the willful failure~~ *has willfully failed* to display a license to practice barbering as required by K.S.A. 65-1818, and amendments thereto;
- (9) ~~practicing or attempting~~ *has practiced or attempted* to practice barbering by fraudulent misrepresentations;
- (10) ~~the violation of~~ *has violated* any of the sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto, for the regulation of barber shops, barber schools and barber colleges; ~~or~~
- (11) ~~the violation of~~ *has violated any lawful* rules and regulations of the board concerning the operation or management of a barber shop, barber school or barber college; *or*
- (12) *has 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.*

(b) *The board, in lieu of or addition to any other penalty prescribed under the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, may assess a civil fine against a licensee for a violation of the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, in an amount not to exceed \$1,000.*

(c) *In all matters pending before the board, the board shall have the power 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.*

(d) *All proceedings under the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall be in accordance with the Kansas judicial review act.*

Sec. 7. K.S.A. 2015 Supp. 65-1824 is hereby amended to read as follows: 65-1824. The board is hereby authorized, empowered, and directed to administer and enforce the provisions of this act and the board is hereby granted such specific powers as are necessary for the purpose of administering and enforcing the same. In addition thereto, the board shall have power:

(a) To supervise and regulate the barbering industry in this state. Nothing contained in this act shall be construed to abrogate, affect the status, force or operation of any provision of the general laws of this state relating to public health or any lawful rule, regulation or order promulgated thereunder, the law regulating the practice of barbering or any local health ordinance or regulation.

(b) To investigate all matters pertaining to the proper supervision and control of barber shops and the practice of barbering in this state.

(c) To subpoena barber shop owners, operators, managers or employees, their books and accounts, and other persons from whom such information may be desired, to carry out the purposes and intent of this act, and may issue commissions to take depositions from witnesses absent from the state. Any member of the board may sign and issue subpoenas and administer oaths to witnesses.

(d) To act as mediator and arbitrator in any controversy or issue that may arise among or between barbers as individuals or that may arise

between them as groups. Nothing herein contained shall be construed as authorizing any interference with the authority of the state department of labor or the United States department of labor.

The operation and effect of any provisions of this act which confer a general power upon the board shall not be impaired or qualified because a specific power has been granted to the board by this act.

(e) *To issue a cease and desist order against any individual, operator or licensee if the board determines 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 article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder.*

(f) *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 article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder. Upon a showing by the board that such person has engaged or attempted to engage in any such act or practice, an injunction, restraining order or such other order as may be appropriate shall be granted by such court without bond.*

Sec. 8. K.S.A. 65-1810, 65-1812, 65-1819 and 65-1820a and K.S.A. 2015 Supp. 65-1824 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by 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.