

SENATE BILL No. 340

By Committee on Public Health and Welfare

1-29

1 AN ACT concerning the Kansas state board of cosmetology; relating to
2 disciplinary and enforcement actions; expanding the scope of such
3 actions to non-licensees; amending K.S.A. 65-1908, 65-1941 and 65-
4 1947 and repealing the existing sections.

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

7 Section 1. K.S.A. 65-1908 is hereby amended to read as follows: 65-
8 1908. (a) The board, in accordance with the provisions of the Kansas
9 administrative procedure act, may refuse to issue or renew a license; or
10 revoke, suspend, censure, limit or condition a license for any of the
11 following reasons:

12 (1) Failure to comply with the sanitation standards prescribed by the
13 secretary of health and environment pursuant to K.S.A. 65-1,148, and
14 amendments thereto;

15 (2) failure to comply with any provision of this act, with the rules and
16 regulations of the ~~board of cosmetology~~ or with any order issued by the
17 board;

18 (3) *the person* has become a danger to the public by reason of alcohol
19 or drug abuse;

20 (4) conviction of a felony, unless the applicant or licensee is able to
21 demonstrate to the board's satisfaction that such person has been
22 sufficiently rehabilitated to warrant the public trust;

23 (5) ~~the obtaining of, or the attempt~~ *attempting* to obtain, a license by
24 fraudulent misrepresentation or bribery;

25 (6) advertising by means of false or knowingly deceptive matter or
26 statement;

27 (7) failure to display the annual license or inspection report as
28 provided for in this act;

29 (8) gross negligence or unprofessional conduct as defined by rules
30 and regulations of the board; or

31 (9) *the person* has had a license revoked, suspended or limited, or has
32 had other disciplinary action taken, or an application for a license denied,
33 by the proper regulatory authority of another state, territory, *the* District of
34 Columbia or another country, a certified copy of the record of the action of
35 the other jurisdiction being conclusive evidence thereof.

36 (b) The board may order the remedying of any violations of rules and

1 regulations of the board or any provision of this act, and the board may
2 issue a cease and desist order upon board determination that the holder of a
3 license or any person has violated any order of the board, any rules and
4 regulations of the board or any provision of this act.

5 (c) Inspectors employed by the board shall have such powers as the
6 board may prescribe by rules and regulations to make inspections,
7 investigations; and inquiries, except that a permanent order for closing any
8 establishment licensed by the board shall be issued only by the board.

9 (d) In addition to the board's authority to refuse licensure or impose
10 discipline pursuant to subsection (a), the board shall have the authority to
11 assess a fine ~~not in excess of~~ *to exceed* \$1,000 against a ~~licensee~~ *person* for
12 each of the reasons specified in subsection (a). Such fine may be assessed
13 in lieu of or in addition to such discipline.

14 Sec. 2. K.S.A. 65-1941 is hereby amended to read as follows: 65-
15 1941. (a) No person, including a tattoo artist, cosmetic tattoo artist or body
16 piercer, shall perform tattooing, cosmetic tattooing or body piercing on
17 another person, display a sign or in any other way advertise or purport to
18 be a tattoo artist, cosmetic tattoo artist or body piercer unless that person
19 holds a valid license issued by the board. This act does not prevent or
20 affect the use of tattooing, cosmetic tattooing or body piercing by a
21 physician, a person under the control and supervision of a physician, a
22 licensed dentist, a person under the control and supervision of a licensed
23 dentist; *or* an individual performing tattooing, cosmetic tattooing or body
24 piercing solely on such individual's body.

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

26 (c) The board may bring an action to enjoin any person required to be
27 licensed under K.S.A. 65-1940 through 65-1954, and amendments thereto,
28 from practicing body piercing, tattooing or cosmetic tattooing if such
29 person does not hold a currently valid license authorizing the person to
30 engage in such practice. The board may bring an action to enjoin any
31 person from operating an establishment required to be licensed under
32 K.S.A. 65-1940 through 65-1954, and amendments thereto, if such person
33 does not hold a currently valid establishment license.

34 (d) The board may order the remedying of any violations of rules and
35 regulations of the board or any provision of this act, and the board may
36 issue a cease and desist order upon board determination that ~~the holder of a~~
37 ~~license~~ *a person* has violated any order of the board, any rules and
38 regulations of the board or any provision of K.S.A. 65-1940 through 65-
39 1954, and amendments thereto.

40 Sec. 3. K.S.A. 65-1947 is hereby amended to read as follows: 65-
41 1947. (a) The board may revoke, censure, limit-~~or~~, condition, suspend,
42 refuse to issue or renew any license issued under this act; or assess a fine,
43 not to exceed \$1,000 per violation, on any person or licensee upon proof

1 that a person or licensee *has*:

2 (1) ~~Has~~ Been convicted of a violation under K.S.A. 65-1942, and
3 amendments thereto;

4 (2) ~~has~~ been convicted of any felony offense in this or any other state
5 and fails to demonstrate, to the board's satisfaction, that such person or
6 licensee has been sufficiently rehabilitated to warrant the public's trust.
7 The board may make recommendations to an applicant as to what
8 constitutes proof of rehabilitation;

9 (3) ~~has~~ misrepresented, misstated or failed to disclose personal
10 qualifications or other information necessary to practice tattooing,
11 cosmetic tattooing or body piercing in any communication to the board;

12 (4) ~~has~~ used, caused or promoted the use of any advertising matter,
13 promotional literature, warranty, label, insignia or any other representation,
14 however disseminated or published, that is false, misleading or deceptive;

15 (5) ~~has~~ deceived the public by acting in a manner as to mislead clients
16 as to the person's professional status;

17 (6) ~~has~~ employed directly or indirectly any suspended or unlicensed
18 person to perform any tattooing, cosmetic tattooing or body piercing
19 covered by this act;

20 (7) ~~has~~ obtained or attempted to obtain a license through fraud,
21 bribery, deceit, misrepresentation, or other misconduct;

22 (8) ~~has~~ practiced tattooing, cosmetic tattooing or body piercing under
23 a false, misleading or deceptive name;

24 (9) ~~has~~ failed, if a licensed tattoo artist, cosmetic tattoo artist or body
25 piercer, to maintain a business address and telephone number at which the
26 licensee may be reached during business hours;

27 (10) ~~has~~ failed, if a nonpracticing tattoo artist, cosmetic tattoo artist or
28 body piercer, to provide the board with a home address and telephone
29 number;

30 (11) ~~has~~ failed to properly and reasonably accept responsibility for
31 the actions of employees;

32 (12) ~~has~~ practiced tattooing, cosmetic tattooing or body piercing with
33 a mental or physical illness that affects ability to perform or endangers the
34 public;

35 (13) ~~has~~ demonstrated gross incompetence in performing tattooing,
36 cosmetic tattooing or body piercing;

37 (14) ~~has~~ become a danger to the public by reason of alcohol or drug
38 abuse; or

39 (15) ~~has violated~~ *failed to comply with* any of the provisions of this
40 act ~~or~~, rules and regulations adopted by the board pursuant to this act *or*
41 *any order issued by the board.*

42 Sec. 4. K.S.A. 65-1908, 65-1941 and 65-1947 are hereby repealed.

43 Sec. 5. This act shall take effect and be in force from and after its

- 1 publication in the statute book.