

CHAPTER 98-323

Committee Substitute for House Bill No. 3343

An act relating to barbering and cosmetology; amending ss. 476.114 and 476.124, F.S.; revising provisions relating to examination for licensure as a barber; amending s. 476.134, F.S.; revising provisions relating to examination of applicants for licenses as barbers; amending s. 476.144, F.S.; revising requirements for licensure to practice barbering; amending s. 476.204, F.S.; prohibiting allowing an employee to practice barbering unless licensed or otherwise authorized by law; providing penalties; amending s. 476.214, F.S.; providing for denial of issuance or renewal of barber or barbershop license or certificate of registration under certain circumstances; amending s. 477.013, F.S.; revising the definition of the term "hair braiding"; defining the terms "hair wrapping" and "photography studio salon"; amending s. 477.0132, F.S.; providing registration requirements for hair wrappers; providing requirements for hair braiding and hair wrapping outside a cosmetology salon or specialty salon; providing circumstances for practicing as a hair wrapper or hair braider pending receipt of registration; amending s. 477.0135, F.S., and repealing paragraph (1)(g), relating to an exemption from regulation applicable to graduates of certain cosmetology schools or programs; exempting photography studio salons from licensure as a cosmetology salon or specialty salon and providing requirements with respect thereto; amending s. 477.019, F.S.; revising provisions relating to applicants for licensure to practice cosmetology; providing for supervised practice by graduates of certain cosmetology schools or programs; providing continuing education requirements for cosmetologists and cosmetology specialists; providing for privatization of such continuing education; exempting hair braiders and hair wrappers from such continuing education requirements; amending s. 477.0201, F.S.; providing circumstances for practicing as a specialist pending receipt of registration; amending s. 477.022, F.S.; revising provisions relating to examinations; amending s. 477.025, F.S.; authorizing the board to adopt rules for mobile cosmetology salons and providing requirements therefor; providing for fees; amending s. 477.026, F.S.; providing registration fees for hair wrappers; amending s. 477.0263, F.S.; authorizing the performance of cosmetology services in a photography studio salon; amending s. 477.028, F.S.; providing for denial of issuance or renewal of cosmetology, specialty, and salon license or certificate of registration under certain circumstances; amending s. 477.029, F.S.; revising prohibitions relating to unlicensed or other unauthorized practice; providing penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 476.114, Florida Statutes, is amended to read:

476.114 Examination; prerequisites.—

(1) A person desiring to be licensed as a barber shall apply to the department for licensure.

(2) An applicant shall be eligible for ~~entitled to take the~~ licensure by examination to practice barbering if the applicant:

- (a) Is at least 16 years of age;
- (b) Pays the required application fee; and

(c)1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or

2. Has received a minimum of 1,200 hours of training as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

- a. A school of barbering licensed pursuant to chapter 246;
- b. A barbering program within the public school system; or
- c. A government-operated barbering program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person passes the examination, she or he shall have satisfied this requirement; but if the person fails the examination, she or he shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

(3) An applicant who meets the requirements set forth in subparagraphs (2)(c)1. and 2. who fails to pass the examination may take subsequent examinations as many times as necessary to pass, except that the board may ~~shall~~ specify by rule reasonable timeframes for rescheduling the examination and ~~shall adopt rules specifying~~ additional training requirements for applicants who, after the third attempt, fail to pass the examination. Prior to reexamination, the applicant must file the appropriate form and pay the reexamination fee as required by rule.

Section 2. Subsection (2) of section 476.124, Florida Statutes, is amended to read:

476.124 Application for examination.—Each applicant for an examination shall:

(2) Furnish to the department two signed photographs of the applicant, that are of sufficient size to identify the applicant, ~~one photograph to accompany the application and one photograph to be returned to the applicant for~~

presentation to the examiners when the applicant appears for examination; and

Section 3. Section 476.134, Florida Statutes, is amended to read:

476.134 Examinations Time, place, and subjects of examination.—

(1) ~~The department shall conduct~~ Examinations of applicants for licenses as barbers shall be offered not less than four times each year at ~~such time and place as the department may determine~~. The examination of applicants for licenses as barbers may include both a practical demonstration and a written test. The board shall have the authority to adopt ~~promulgate~~ rules with respect to the examination of applicants for licensure. The board may provide rules with respect to written or practical examinations in such manner as the board may deem fit.

(2) The board shall adopt rules specifying the areas of competency to be covered by the examination. Such rules shall include the relative weight assigned in grading each area. All areas tested shall be reasonably related to the protection of the public and the applicant's competency to practice barbering in a manner which will not endanger the public. ~~The department may employ professional testing services to formulate or to assist in administering the examinations.~~

(3) ~~The department shall be in charge of administering all the examinations and shall control the personnel assisting in giving the examinations.~~ The written examination shall be identifiable by number only until completion of the grading process. Each applicant shall be informed of her or his grade on the examination ~~by the department as soon as practicable~~.

(4) An accurate record of each examination shall be made,[;] and that record, ~~together with all examination papers, shall be filed with the department and shall be kept for reference and inspection following the examination. The department shall make a record of the grade of each applicant on each subject covered by that examination, and that grade shall be part of the examination papers to be preserved.~~

~~(5) The board shall ensure that examinations comply with state and federal equal employment opportunity guidelines.~~

~~(6) The department shall, in accordance with rules established by the board, examine persons who file applications for licensure under this chapter in all matters pertaining to the practice of barbering.~~

Section 4. Subsections (2) and (6) of section 476.144, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

476.144 Licensure.—

(2) The board shall certify for licensure any applicant who satisfies the requirements of s. 476.114, and who passes the required examination ~~administered by the department~~, achieving a passing grade as established by board rule.

(6) A person may apply for a restricted license to practice barbering. The board shall adopt rules specifying procedures for an applicant to obtain a restricted license if the applicant:

(a)1. Has successfully completed a restricted barber course, as established by rule of the board, at a school of barbering licensed pursuant to chapter 246, a barbering program within the public school system, or a government-operated barbering program in this state; or

2.a. Holds or has within the previous 5 years held an active valid license to practice barbering in another state or country or has held a Florida barbering license which has been declared null and void for failure to renew the license and the applicant fulfilled the requirements of s. 476.114(2)(c)2. for initial licensure; and

b.(b) Has not been disciplined relating to the practice of barbering in the previous 5 15 years; and

(b)(c) Passes a written examination on the laws and rules governing the practice of barbering in Florida, as established by the board, and a practical examination approved by the board administered by the department.

The restricted license shall limit the licensee's practice to those specific areas in which the applicant has demonstrated competence pursuant to rules adopted by the board.

(7) Pending results of the first licensing examination taken and upon submission of an application for licensure that includes proof of successful completion of the educational requirements specified in this chapter and payment of the applicable licensure fees, a person is eligible to practice as a barber, provided such person practices under the supervision of a licensed barber in a licensed barbershop. A person who fails the examination may continue to practice under the supervision of a licensed barber in a licensed barbershop, provided the person applies for the next available examination, and may continue such practice until receipt of the results of that second examination are received by the person. No person may continue to practice as a barber under this subsection upon failure to pass the examination on the second attempt.

Section 5. Paragraph (c) of subsection (1) of section 476.204, Florida Statutes, is amended to read:

476.204 Penalties.—

(1) It is unlawful for any person to:

(c) Permit an employed person to practice barbering unless duly licensed, or otherwise authorized, as provided in this chapter.

Section 6. Subsection (4) is added to section 476.214, Florida Statutes, to read:

476.214 Grounds for suspending, revoking, or refusing to grant license or certificate.—

(4) The department shall not issue or renew a license or certificate of registration under this chapter to any person against whom or barbershop against which the board has assessed a fine, interest, or costs associated with investigation and prosecution until the person or barbershop has paid in full such fine, interest, or costs associated with investigation and prosecution or until the person or barbershop complies with or satisfies all terms and conditions of the final order.

Section 7. Subsection (9) of section 477.013, Florida Statutes, is amended, and subsections (10) and (11) are added to said section, to read:

477.013 Definitions.—As used in this chapter:

(9) “Hair braiding” means the weaving or interweaving of natural human hair for compensation without cutting, coloring, permanent waving, relaxing, removing, or weaving, and chemical treatment and does not include the use of hair extensions or wefts.

(10) “Hair wrapping” means the wrapping of manufactured materials around a strand or strands of human hair, for compensation, without cutting, coloring, permanent waving, relaxing, removing, weaving, chemically treating, braiding, using hair extensions, or performing any other service defined as cosmetology.

(11) “Photography studio salon” means an establishment where the hair-arranging services and the application of cosmetic products are performed solely for the purpose of preparing the model or client for the photographic session without shampooing, cutting, coloring, permanent waving, relaxing, or removing of hair or performing any other service defined as cosmetology.

Section 8. Section 477.0132, Florida Statutes, is amended to read:

477.0132 Hair braiding and hair wrapping registration.—

(1)(a) Persons whose occupation or practice is confined solely to hair braiding must register with the department, pay the applicable registration fee, and take a two-day 16-hour course. The course shall be board approved and consist of 5 hours of HIV/AIDS and other communicable diseases, 5 hours of sanitation and sterilization, 4 hours of disorders and diseases of the scalp, and 2 hours of studies regarding laws affecting hair braiding cosmetology.

(b) Persons whose occupation or practice is confined solely to hair wrapping must register with the department, pay the applicable registration fee, and take a one-day 6-hour course. The course shall be board approved and consist of education in HIV/AIDS and other communicable diseases, sanitation and sterilization, disorders and diseases of the scalp, and studies regarding laws affecting hair wrapping.

(2) Hair braiding and hair wrapping are not required to be practiced in a cosmetology salon or specialty salon. When hair braiding or hair wrapping is practiced outside a cosmetology salon or specialty salon, disposable implements must be used or all implements must be sanitized in a disinfectant

approved for hospital use or approved by the federal Environmental Protection Agency.

(3) Pending issuance of registration, a person is eligible to practice hair braiding or hair wrapping upon submission of a registration application that includes proof of successful completion of the education requirements and payment of the applicable fees required by this chapter.

Section 9. Paragraph (g) of subsection (1) of section 477.0135, Florida Statutes, is repealed, and subsection (4) is added to said section, to read:

477.0135 Exemptions.—

(1) This chapter does not apply to the following persons when practicing pursuant to their professional or occupational responsibilities and duties:

~~(g) Graduates of licensed cosmetology schools or cosmetology programs offered in public school systems, which schools or programs are certified by the Department of Education, pending the result of the first licensing examination for which such graduates are eligible following graduation, provided such graduates shall practice under the supervision of a licensed cosmetologist in a licensed cosmetology salon. A graduate who fails the examination may continue to practice under the supervision of a licensed cosmetologist in a licensed cosmetology salon if she or he applies for the next available examination and until she or he receives the results of that examination. No graduate may continue to practice under this exemption if she or he fails the examination twice.~~

(4) A photography studio salon is exempt from the licensure provisions of this chapter. However, the hair-arranging services of such salon must be performed under the supervision of a licensed cosmetologist employed by the salon. The salon must use disposable hair-arranging implements or use a wet or dry sanitizing system approved by the federal Environmental Protection Agency.

Section 10. Section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(1) A person desiring to be licensed as a cosmetologist shall apply to the department for licensure.

(2) An applicant shall be eligible for ~~entitled to take the licensure by~~ examination to practice cosmetology if the applicant:

- (a) Is at least 16 years of age or has received a high school diploma;
- (b) Pays the required application fee; and

(c)1. Holds an active valid license to practice cosmetology in another state or country, has held the license for at least 1 year, and does not qualify for licensure by endorsement as provided for in subsection ~~(6)~~ (5); or

2. Has received a minimum of 1,200 hours of training as established by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of cosmetology at one of the following:

- a. A school of cosmetology licensed pursuant to chapter 246.
- b. A cosmetology program within the public school system.
- c. The Cosmetology Division of the Florida School for the Deaf and the Blind, provided the division meets the standards of this chapter.
- d. A government-operated cosmetology program in this state.

The board shall establish by rule procedures whereby the school or program may certify that a person is qualified to take the required examination after the completion of a minimum of 1,000 actual school hours. If the person then passes the examination, he or she shall have satisfied this requirement; but if the person fails the examination, he or she shall not be qualified to take the examination again until the completion of the full requirements provided by this section.

(3) Upon an applicant receiving a passing grade, as established by board rule, on the examination and paying the initial licensing fee, the department shall issue a license to practice cosmetology.

(4) Following the completion of the first licensing examination and pending the results of that examination and issuance of a license to practice cosmetology, graduates of licensed cosmetology schools or cosmetology programs offered in public school systems, which schools or programs are certified by the Department of Education, are eligible to practice cosmetology, provided such graduates practice under the supervision of a licensed cosmetologist in a licensed cosmetology salon. A graduate who fails the first examination may continue to practice under the supervision of a licensed cosmetologist in a licensed cosmetology salon if the graduate applies for the next available examination and until the graduate receives the results of that examination. No graduate may continue to practice under this subsection if the graduate fails the examination twice.

~~(5)~~(4) Renewal of license registration shall be accomplished pursuant to rules adopted by the board.

~~(6)~~(5) The board shall adopt rules specifying procedures for the licensure by endorsement of practitioners desiring to be licensed in this state who hold a current active license in another state and who have met qualifications substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state.

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to,

the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.

(b) The department may privatize provider and course approval and the monitoring of continuing education requirements under a contract which ensures that the services will be without cost to the department or board, including the cost of appropriate oversight by the department. The department may contract with one or more private entities for the provision of such services, including the collection of fees for the services rendered. The department and board shall retain final authority for licensure decisions, rulemaking related to continuing education system requirements, noncompliance noticing, and overall implementation of any privatization project under this subsection.

(c) Any person whose occupation or practice is confined solely to hair braiding or hair wrapping is exempt from the continuing education requirements of this subsection.

(d) Notwithstanding any provision of law to the contrary, enforcement of mandatory continuing education requirements pursuant to this chapter shall be accomplished only as a secondary action when a person is investigated for another violation. However, the board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.

Section 11. Subsection (6) is added to section 477.0201, Florida Statutes, to read:

477.0201 Specialty registration; qualifications; registration renewal; endorsement.—

(6) Pending issuance of registration, a person is eligible to practice as a specialist upon submission of a registration application that includes proof of successful completion of the education requirements and payment of the applicable fees required by this chapter, provided such practice is under the supervision of a registered specialist in a licensed specialty or cosmetology salon.

Section 12. Section 477.022, Florida Statutes, is amended to read:

477.022 Examinations.—

(1) The board shall specify by rule the general areas of competency to be covered by examinations for the licensing under this chapter of cosmetologists. The rules shall include the relative weight assigned in grading each

area, the grading criteria to be used by the examiner, and the score necessary to achieve a passing grade. The board shall ensure that examinations adequately measure both an applicant's competency and her or his knowledge of related statutory requirements. Professional testing services may be utilized to formulate the examinations. The board may, by rule, offer a written clinical examination or a performance examination, or both, in addition to a written theory examination.

(2) The board shall ensure that examinations comply with state and federal equal employment opportunity guidelines.

~~(3) The department shall, in accordance with rules established by the board, examine persons who file applications for licensure under this chapter in all matters pertaining to the practice of cosmetology. The examination shall be given at least once a year yearly and at such other times as the department deems necessary.~~

(4) The board shall adopt rules providing for reexamination of applicants who have failed the examinations.

(5) All licensing examinations shall be conducted in such manner that the applicant shall be known to the department by number only until her or his examination is completed and the proper grade determined. An accurate record of each examination shall be made; and that record, ~~together with all examination papers,~~ shall be filed with the secretary of the department and shall be kept for reference and inspection for a period of not less than 2 years immediately following the examination.

~~(6) Effective April 21, 1982, the board shall maintain testing facilities in the cities in which testing facilities have been located for the past 5 years.~~

Section 13. Subsection (10) is added to section 477.025, Florida Statutes, to read:

477.025 Cosmetology salons; specialty salons; requisites; licensure; inspection; mobile cosmetology salons.—

(10)(a) The board shall adopt rules governing the licensure, operation, and inspection of mobile cosmetology salons, including their facilities, personnel, and safety and sanitary requirements.

(b) Each mobile salon must comply with all licensure and operating requirements specified in this chapter or chapter 455 or rules of the board or department that apply to cosmetology salons at fixed locations, except to the extent that such requirements conflict with this subsection or rules adopted pursuant to this subsection.

(c) A mobile cosmetology salon must maintain a permanent business address, located in the inspection area of the local department office, at which records of appointments, itineraries, license numbers of employees, and vehicle identification numbers of the licenseholder's mobile salon shall be kept and made available for verification purposes by department personnel, and at which correspondence from the department can be received.

(d) To facilitate periodic inspections of mobile cosmetology salons, prior to the beginning of each month each mobile salon licenseholder must file with the board a written monthly itinerary listing the locations where and the dates and hours when the mobile salon will be operating.

(e) The board shall establish fees for mobile cosmetology salons, not to exceed the fees for cosmetology salons at fixed locations.

(f) The operation of mobile cosmetology salons must be in compliance with all local laws and ordinances regulating business establishments, with all applicable requirements of the Americans with Disabilities Act relating to accommodations for persons with disabilities, and with all applicable OSHA requirements.

Section 14. Paragraph (f) of subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

(f) For hair braiders and hair wrappers, fees for registration shall not exceed \$25.

Section 15. Subsection (3) of section 477.0263, Florida Statutes, is amended to read:

477.0263 Cosmetology services to be performed in licensed salon; exception.—

(3) Any person who holds a valid cosmetology license in any state or who is authorized to practice cosmetology in any country, territory, or jurisdiction of the United States may perform cosmetology services in a location other than a licensed salon when such services are performed in connection with the motion picture, fashion photography, theatrical, or television industry; a photography studio salon; a manufacturer trade show demonstration; or an educational seminar.

Section 16. Subsection (4) is added to section 477.028, Florida Statutes, to read:

477.028 Disciplinary proceedings.—

(4) The department shall not issue or renew a license or certificate of registration under this chapter to any person against whom or salon against which the board has assessed a fine, interest, or costs associated with investigation and prosecution until the person or salon has paid in full such fine, interest, or costs associated with investigation and prosecution or until the person or salon complies with or satisfies all terms and conditions of the final order.

Section 17. Paragraphs (a) and (c) of subsection (1) of section 477.029, Florida Statutes, are amended to read:

477.029 Penalty.—

(1) It is unlawful for any person to:

(a) Hold himself or herself out as a cosmetologist, ~~or specialist, hair wrapper, or hair braider~~ unless duly licensed or registered, or otherwise authorized, as provided in this chapter.

(c) Permit an employed person to practice cosmetology or a specialty unless duly licensed or registered, or otherwise authorized, as provided in this chapter.

Section 18. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 30, 1998.

Filed in Office Secretary of State May 29, 1998.