

No. 1984-101

AN ACT

HB 1851

Amending the act of June 19, 1931 (P.L.589, No.202), entitled, as amended, "An act to promote the public health and safety, by providing for the examination and licensure of those who desire to engage in the occupation of barbering; regulating barber shops and barber schools, and students therein; regulating compensation for service rendered; conferring certain powers and duties on the Department of State; and providing penalties," reestablishing the State Board of Barber Examiners; and further providing for provisions relating to barbering.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act of June 19, 1931 (P.L.589, No.202), referred to as the Barbers' License Law, amended December 2, 1976 (P.L.1267, No.282), is amended to read:

AN ACT

To promote the public health and safety, by providing for the examination and licensure of those who desire to engage in the **[occupation] profession** of barbering; regulating barber shops and barber schools, and students therein; regulating compensation for service rendered; conferring certain powers and duties on the Department of State; and providing penalties.

Section 2. Section 1 of the act is amended to read:

Section 1. Be it enacted, &c., That it shall be unlawful for any person to **[follow] engage in** the **[occupation] profession** of barber in this Commonwealth unless he or she shall have first passed an examination and obtained a **[certificate of registration] license** as provided in this act. **[Nothing contained in this act, however, shall apply to or affect any person who is now actually engaged in such occupation, except as hereinafter provided.]**

Section 3. Section 2 of the act is repealed.

Section 4. The act is amended by adding sections to read:

Section 2.1. The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Affiliation." For purposes of section 2.2, means any person who is an owner, a stockholder, a member of the board of trustees or board of governors, any professional employe, or consultant, or any nonprofessional employe and any part-time personnel employed by a school of barbering.

"Barber." An individual who is engaged in the practice of barbering.

"Barbering." To shave or trim the beard; to cut, shape, trim or blend the hair with the proper tools or instruments designed for this purpose; to shape the eyebrows, to give facial and scalp massaging, facial and scalp treatment, with any preparations made for this purpose, either by hand or by

mechanical or electrical appliances; to singe and shampoo the hair or apply any makes of hair cream, hair lotions or hair tonics; to dye, color or bleach the hair and to perform any service on a wig or hairpiece; to style and to render hair straightening, hair processing, hair weaving, hair waving and curling, with such methods as: manual, mechanical, chemical or electrical with the proper devices or proper chemical compounds developed and designed for this purpose. The term shall not include any or all of the above services when performed by a member of one's immediate household.

"Board." The State Board of Barber Examiners.

"Bureau." The Bureau of Professional and Occupational Affairs.

"Department." The Department of State acting through the Commissioner of Professional and Occupational Affairs.

Section 2.2. (a) The State Board of Barber Examiners shall consist of the Commissioner of Professional and Occupational Affairs; the Director of the Bureau of Consumer Protection in the Office of the Attorney General, or his designee; three members who shall be persons representing the public at large and six members, each of whom shall be a citizen of the United States and a resident of the Commonwealth of Pennsylvania, shall have been a registered barber under the laws of this Commonwealth and shall have engaged in the profession of barbering in this Commonwealth for a period of at least five years immediately preceding his appointment. Each professional and public member shall be appointed by the Governor with the advice and consent of the Senate.

(b) Not more than two members of any one organization, association or group composed of barbers or persons interested primarily in the welfare and advancement of barbers or barber shops shall serve on the board at the same time. Not more than one member who is affiliated with any school of barbering shall serve on the board at any given time. No other member may serve on the board who has been affiliated with a school of barbering within three years prior to his nomination.

(c) The board shall elect one of its members as chairman, one of its members as vice chairman and one of its members as secretary.

(d) Six members of the board shall constitute a quorum.

(e) The members of the board, other than the Commissioner of Professional and Occupational Affairs or the Director of the Bureau of Consumer Protection in the Office of the Attorney General, or his designee, shall receive sixty dollars per diem for each day actually devoted to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties.

(f) Those members currently serving on the board shall continue to serve until the expiration of their terms and until successors are appointed and qualified according to law, but not longer than six months beyond the expiration of their terms. This section shall not prohibit the reappointment of existing members.

(g) Professional and public members appointed after the expiration of the terms of current board members shall serve the following terms: two professional members and one public member shall serve one year, two profes-

sional members and one public member shall serve two-year terms and two professional members and one public member shall serve three-year terms. Thereafter, all public and professional members shall serve three-year terms. No member may serve more than two consecutive terms.

(h) In the event that any member of the board shall die or resign during his term of office, his successor shall be appointed in the same way and with the same qualifications as above set forth and shall hold office for the unexpired term.

(i) A member who fails to attend three consecutive meetings shall forfeit his seat unless the Commissioner of Professional and Occupational Affairs, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.

Section 5. Section 3 of the act, amended July 19, 1951 (P.L.1134, No.251), June 14, 1961 (P.L.367, No.201), July 19, 1961 (P.L.796, No.351) and December 2, 1976 (P.L.1267, No.282), is amended to read:

Section 3. **[(a) Any person not holding a certificate of registration under the provisions of the preceding section, and desiring to obtain a license under this act, shall make application under oath or affirmation, in such form as the State Board of Barber Examiners, hereinafter referred to as the board, shall prescribe. Such application shall be accompanied by an affidavit, which shall be made by a practicing physician, and shall set forth that the applicant was examined, that a test of his or her blood was made, and that he or she is free from all contagious and infectious disease, is a citizen of the United States or has filed a declaration of intention. The applicant, at the time of filing such application and affidavit, shall pay to the department an examination fee of five dollars or such other fee as may be fixed by the board, and shall present himself or herself at the next examination of applicants as hereinafter provided. The board shall thereupon proceed to examine such person, after being satisfied that he or she is above the age of seventeen years, free from contagious and infectious disease, has a certificate showing satisfactory completion of the eighth grade or its equivalent, and has studied the occupation and trained as a registered student under a qualified licensed teacher in a barber shop or in a registered and properly appointed and conducted barber school under the instruction of a registered teacher, for a period of at least one thousand two hundred fifty (1250) hours and not less than nine months. Under no circumstances shall a student in a registered barber's school receive wages, directly or indirectly, for service rendered. If the board is satisfied as a result of the examination the applicant is possessed of requisite skill in said occupation to properly perform all the duties thereof, including his or her knowledge and ability in the sterile preparation of tools, shaving, hair cutting, and all the duties and services incident thereto, and is possessed of sufficient knowledge concerning the common diseases of the face and skin to avoid the aggravation and spreading thereof in the practice of said occupation, and the knowledge of the Barber's Licensing Laws, and rules and regulations of the department adopted thereunder, it shall enter his or her name in the register hereinafter provided for, and shall**

issue a certificate of registration to him or her authorizing him or her to practice such occupation, or to teach in registered barber schools as the case may be. Any person holding a certificate as a teacher may practice as a barber in any registered barber shop.

(b) Any person who has been honorably discharged from service with the armed forces of the United States, and who takes an examination for licensure under the provisions of this act, shall have ten per centum added to his or her examination score.

(c) Any person, registered as an apprentice barber prior to induction into the armed forces of the United States, may be admitted to an examination for licensure under the provisions of this act upon presentation of his or her certificate of honorable discharge from such service within one year from date thereof.

(d) For any person to be registered as a teacher in a barber school, he must be at least twenty-three years of age, a graduate from an approved high school or its equivalent, and have had at least five years' experience as a registered barber in a registered barber shop in the State of Pennsylvania. The examination for a teacher's certificate shall differ from the examination for a barber's certificate in that it shall be of a more exacting nature and require higher standards of knowledge of the practice and theories of barbering, including ability to teach properly the various practices and theories of barbering, physiology, hygiene, elementary chemistry, relating to sterilization and antiseptics, massaging and manipulating the muscles of the face, neck, scalp, hair cutting, bobbing, shaving, and trimming the beard, dyeing the hair, and the barber laws of this State, and the rules and regulations adopted by the board. The registration fee for teachers shall be ten dollars, and the biennial renewal fee shall be ten dollars.] *(a) Each applicant for a barber's license shall, as a condition precedent to obtaining a license, take the barber's license examination and score a passing grade. Prior to taking the examination the applicant shall be at least sixteen years of age, have completed the eighth grade or its equivalent and have completed a barbering study and training period of at least one thousand two hundred fifty (1250) hours and not less than nine months either in a licensed barber school under the instruction of a licensed teacher, or in a licensed barber shop under the instruction of a licensed teacher. A notarized application for a license as a barber shall be made in such form as the board shall prescribe. The application shall be accompanied by a notarized statement from a licensed physician that the applicant was examined by the physician, a test of the applicant's blood was made and the results of that test and the applicant is free from all contagious and infectious diseases. The application shall also be accompanied by a notarized statement, from either the licensed barber school the applicant attended or the licensed barber-teacher in the licensed barber shop in which the applicant studied and trained, that the student has completed the study and training period required in this subsection. At the time of filing the application and accompanying notarized statements, the applicant shall pay to the department an examination fee to be determined by regulation and shall present himself or herself at the next examination of applicants as pro-*

vided in section 6. The board shall not have the power to require a photograph as part of an application for a barber's license.

(b) Any person who has been honorably discharged from service with the armed forces of the United States, and who takes an examination for licensure as a barber under the provisions of this act, shall have ten per centum added to his or her examination score. Any person, registered as an apprentice barber prior to induction into the armed forces of the United States, may be admitted to an examination for licensure as a barber under the provisions of this act upon presentation of his or her certificate of honorable discharge from such service within one year from date thereof.

(c) Each applicant for a manager-barber's license shall, as a condition precedent to obtaining a license, take the manager-barber's license examination and score a passing grade. Prior to taking the examination, the applicant shall have completed the eighth grade or its equivalent and actively engaged in the practice of barbering, as a licensed barber, for one or more years. The board shall properly notify every licensed barber that if he or she has been actively engaged in the practice of barbering he or she shall, upon filing an application therefor prior to January 1, 1981, be licensed as a manager-barber without examination. A notarized application for a license as a manager-barber shall be made in such form as the board shall prescribe. The application shall be accompanied by a notarized statement, from either the owner or manager of the licensed barber shop or shared shop as set forth in section 15-A.3 in which the applicant has been employed, that the applicant has been actively engaged in the practice of barbering, as a licensed barber, for one or more years. The board shall not have the power to require a photograph as part of an application for a manager-barber's license. At the time of filing the application and accompanying notarized statement, the applicant shall pay to the department an examination fee to be determined by regulation and shall present himself or herself at the next examination of applicants as provided in section 6.

(d) The applicant for a barber-teacher's license shall, as a condition precedent to obtaining a license, take the barber-teacher's license examination and score a passing grade. Prior to taking the examination, the applicant shall be at least twenty-three years of age, be a high school graduate or its equivalent, and either have had five years' experience as a licensed barber in a licensed barber shop or shared shop as set forth in section 15-A.3 in Pennsylvania, or be a manager-barber who has trained for one thousand two hundred fifty (1250) hours under a licensed teacher in a licensed barber school as a teacher-trainee. A notarized application for a license as a barber-teacher shall be made in such form as the board shall prescribe. The application shall be accompanied by a notarized statement from a licensed physician that the applicant was examined by the physician, a test of the applicant's blood was made and the results of that test and the applicant is free from all contagious and infectious diseases. The application shall be accompanied by a notarized statement, by either the owner or manager of the shop in which the applicant has been employed that the applicant has had five years experience as a licensed barber in a licensed barber shop or shared shop as set forth

in section 15-A.3 in this Commonwealth or by the licensed barber school the teacher-trainee attended, that the applicant has been licensed as a manager-barber and trained for one thousand two hundred fifty (1250) hours under a licensed teacher in a licensed barber school as a teacher-trainee. The board shall not have the power to require a photograph as part of an application for a barber-teacher's license. At the time of filing the application and accompanying notarized statements, the applicant shall pay to the department an examination fee to be determined by regulation and shall present himself or herself at the next examination of applicants as provided in section 6.

Section 6. Section 3.1 of the act is repealed.

Section 7. Section 3.2 of the act, added November 17, 1982 (P.L.675, No.191), is amended to read:

Section 3.2. If a **[registered] licensed** cosmetologist wishes to become a licensed barber, he or she shall have successfully completed the one thousand two hundred fifty (1,250)-hour cosmetology training course or shall possess a current **[certificate of registration] license** as a cosmetologist. Upon application to the board he or she shall be given five hundred fifty-five (555) hours of credit for subjects previously covered in the cosmetology training course, which subjects shall be enumerated by joint regulation of the State **[Cosmetology] Board of Cosmetology** and the **[State Board of Barber Examiners] board**. Before such person is permitted to take the barber practical and theory State Board examination, he or she shall have successfully passed both the theory and practical portions of the State **Board of Cosmetology [Board]** examination.

Section 8. Section 4(b) and (c) of the act, amended October 16, 1980 (P.L.981, No.168), are amended to read:

Section 4. * * *

(b) A barber applicant currently licensed in another state not recognized by a reciprocal agreement shall be eligible for the barber examination upon approval of the board which approval shall not be arbitrarily withheld. The examination shall consist of barber law, rules and regulations. Should the examinee fail to pass the examination, upon payment of the required fee, the examinee may take another examination if the examinee so desires. In no event shall the examinee be permitted to practice barbering until the examinee has received a **[certificate of registration as a registered barber] barber's license**.

(c) A barber licensed in another country shall be eligible for the barber examination. Should the examinee fail to pass the examination, upon payment of the required fee, the examinee may take another examination if the examinee so desires. In no event shall the examinee be permitted to practice barbering until the examinee has received a **[certificate of registration as a registered barber] barber's license**.

Section 9. Sections 5 and 5.2 of the act, amended December 2, 1976 (P.L.1267, No.282), are amended to read:

Section 5. Nothing in this act shall prohibit any person from serving in such **[occupation] profession** in this Commonwealth, as a student in any

[registered] *licensed* barber school for the training of students in said [occupation] *profession* under the training of a duly [registered] *licensed* teacher authorized to teach such [occupation] *profession* in this Commonwealth or under a qualified and [registered] *licensed* barber-teacher[: **Provided, That such] in a licensed barber shop. Such** student shall [apply to the department to] have his or her name registered with the [department, in a book which shall be kept by the board, and secure a permit, upon] *barber school or shop: Provided, That the student has submitted to the barber school or shop* proof that he or she has reached the age of sixteen, has completed the eighth grade in a secondary school or its equivalent, *and* that a test of his or her blood was made[, and upon the payment of a fee of two dollars, which permit shall be valid for one year, to practice as a student under a duly registered teacher—such permit to be displayed in front of his or her working chair]. *The barber school or shop shall keep a daily record of the attendance of each student.* Students, upon graduation from a [registered] *licensed* barber school, or upon completion of training under a qualified and [registered] *licensed* barber-teacher shall make application for examination at the next regular period specified in this act. [In case the applicant fails to pass such examination, he or she shall secure a new student permit upon the payment of the required fee, which shall be valid until the next succeeding examination. The fee for each examination shall be as hereinbefore prescribed.

Student permits, not exceeding four, may be issued at the discretion of the board.]

Section 5.2. Any person who practiced barbering during any period while a resident at the Scotland School for Veterans Children shall receive credit for such period of practice toward the registered student period required by this act upon furnishing [affidavits] *a notarized statement* from the person in charge of such school or such other official documents as may be proof to the board that he or she did practice barbering for such period, and such person was registered with the board [prior to beginning such practice.] *while practicing.*

Section 10. Section 6 of the act, amended July 19, 1951 (P.L.1134, No.251), is amended to read:

Section 6. [The board shall hold public examinations] *(a) Examinations shall be held* on the second Mondays in March, June, September and December, in the [cities] *metropolitan areas* of Philadelphia, Pittsburgh, Scranton, Harrisburg and Erie, at such hours as the board shall prescribe.

(b) The bureau, after consultation with the board, shall contract with a professional testing organization for the preparation and administration of the written and practical examinations in accordance with section 812.1(a) of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929." In addition to the requirements of section 812.1(a), the testing organization shall provide for proctors and testing support staff.

Section 11. Section 7 of the act, amended May 25, 1945 (P.L.1040, No.392), is amended to read:

Section 7. The department shall furnish to each **[person to whom a certificate of registration is issued a certificate,]** *licensee a license* stating that the holder thereof is entitled to practice the **[occupation]** *profession* of barbering, *to manage a barber shop* or to teach in **[registered]** *licensed* schools of barbering *or licensed barber shops*, as the case may be. The holder of such **[certificate]** *license* shall display the same in a conspicuous place in front of his or her working chair where it may be readily seen by all persons whom he or she may serve.

Section 12. Section 8 of the act, amended June 14, 1961 (P.L.367, No.201) and July 19, 1961 (P.L.796, No.351), is amended to read:

Section 8. (a) The **[certificate]** *license* shall be renewed on or before the thirtieth day of April, 1962, for a period of two years and biennially thereafter, and the holders of said **[certificates of registration]** *licenses* shall pay to the department **[the sum of five dollars or such other sum as may be fixed by the department]** *a fee to be determined by regulation* for **[a]** renewal **[card]**. Any holder of a **[certificate of registration,]** *license* who shall fail to apply for a renewal of his or her **[certificate]** *license* and who continues the practice of barbering or any of its branches, shall, on conviction thereof **[before any magistrate, alderman, or justice of the peace,]** *in a summary proceeding* be subject to a fine **[of not less than ten dollars and not more than ninety dollars,]** *not to exceed three hundred dollars* to be collected by summary conviction as like fines are collected by law, or **[in case of non-payment of the fine]** to undergo an imprisonment for a period *of* not **[less than ten days and not]** more than ninety days, *or both*. Any such person shall have the right of appeal, as in other cases of summary conviction. **[Any barber or teacher failing to renew his license for four consecutive years shall be required to take an examination. One dollar of each renewal certificate fee, or as much thereof as may be necessary, is hereby appropriated to the Department of Public Instruction for use of the State Board of Barber Examiners.]**

(b) *A barber who is not engaged in the practice of barbering may request the board, in writing, to place his or her license in escrow and thus protect his or her right to obtain a license at such time within a five-year period as he or she may again become engaged in the practice of barbering.*

(c) *Any person who fails to renew his license or has escrowed his license for a period of five years without renewing his license shall, prior to receiving a license, submit to and pass an examination appropriate to the license being sought.*

Section 13. Section 9 of the act, amended October 16, 1980 (P.L.981, No.168), is amended to read:

Section 9. (a) The board may suspend or revoke any **[permit or certificate of registration]** *license* granted by the department under this act to any person who **[(a)] (1)** habitually indulges in the use of **[ardent spirits,]** *alcohol*, narcotics, or other stimulants to such an extent as, in the opinion of the board, incapacitates such person from the duties of a barber; **[(b)] (2)** has or imparts any contagious or infectious disease to any recipient of such person's services as a barber; **[(c)] (3)** performs work in an unsanitary or filthy manner or place of business; **[(d)] (4)** who is grossly incompetent; **[(g)] (5)**

engages in unethical or dishonest practice or conduct, *or violates any of the provisions of this act, or any rules or regulations of the board*; [(h)] (6) employs an unlicensed person; [or (i)] (7) charges tuition to a student in a [registered] *licensed* barber shop; *or (8) fails to submit to an inspection of his or her shop during hours of the shop*. Before any such [permit or certificate] *license* shall be suspended or revoked for any of the reasons contained in this section, the holder thereof shall have notice in writing of the charge or charges against him or her, and shall at a day specified in said notice[, **which shall be at least five days after the service thereof,**] be given a public hearing before a duly authorized representative of the board with a full opportunity to produce testimony in his or her behalf and to confront the witnesses against him or her. Any person whose [permit or certificate of registration] *license* has been so suspended [or revoked] may, on application, have the same reissued to him or her upon satisfactory showing that the disqualification has ceased[, **except where such certificate**]. *Any person whose license was suspended [or revoked] for having or imparting any contagious or infectious disease [in which case a new certificate] shall not [be issued] have his or her license reissued* for a period of at least one year, and then only after the [provisions of this act have been fully complied with by such person in the same manner as if he or she had never been registered] *person has submitted to the board a notarized statement from a licensed physician that he or she is free from contagious or infectious disease*.

(b) *Unless ordered to do so by a court, the board shall not reinstate the license of a person to practice as a barber which has been revoked and such person shall be required to apply for a license after a five-year period in accordance with section 3 if he desires to practice at any time after such revocation.*

Section 14. Section 10 of the act, amended October 10, 1974 (P.L.698, No.234) and December 13, 1974 (P.L.931, No.307), is amended to read:

Section 10. The board shall adopt reasonable rules and regulations prescribing the sanitary requirement of each barber shop or barber school, in co-operation with the Department of Health, and shall transmit a copy thereof to the proprietor or person operating such barber shop or school, which shall at all times be kept conspicuously displayed in such shop or school. It shall be unlawful [or] for any person to open either a new barber shop or move his *or her* shop to another place, or take over as owner an existing barber shop, until he or she has filed an application with the board for the inspection, approval and registration of such shop. It is further provided that no barber shop may open for business until said inspection has been had and the shop approved. The inspector shall, immediately upon his inspection and approval, issue a temporary registration of such shop whereupon it shall be lawful for the shop to be opened for business. The temporary [registration] *license* shall be effective until the issuance of either a permanent license or an official rejection of the application. It shall be unlawful for any person to sleep in, or for any owner or manager to permit any person to sleep in or use for residential purposes, any room used as a barber shop or a school of barbering. All rooms used for such purposes shall be used for barbering pur-

poses, manicuring, shoe shining and such allied business, as may be approved by the board. *No member of the board may inspect or be physically present during the inspection of a barber shop or a school of barbering.* Any [officer or] duly authorized agent of the board may enter and make reasonable examination of any barber shop or barber school during the business hours, for the purpose of ascertaining the sanitary conditions thereof, and ascertaining whether the shop or school, and all persons working therein, are properly licensed and registered. Any barber shop, barber school, or tools, appliances, and furnishings in use therein, kept in an unclean and unsanitary condition as to be a danger to health or to the creation and spreading of infectious and contagious diseases, is hereby declared to be a public nuisance, and the board may suspend or revoke the [certificate] license of the proprietor thereof or any person operating in such barber shop or school, or the permit hereinafter required for such shop, or school, **or both the certificate and permit**. Any [officer or] duly authorized agent of the board shall, following an examination and inspection of the premises under this section, affix a seal or sticker, in a conspicuous place, of such design and size as may be prescribed by the board attesting to the fact that the premises have passed such examination and inspection and, further, indicating the date thereof. *Each shop shall have displayed in a conspicuous place at the shop entrance a notice to consumers listing the phone number at which a consumer may report a complaint to the State Board of Barber Examiners.*

Section 15. Section 11 of the act, amended December 2, 1976 (P.L.1267, No.282), is amended to read:

Section 11. The department shall keep a **[register in which shall be entered] record** of the names and addresses of the barber shops to which, and the names of all persons to whom, **[certificates of registration or permits for serving as students] licenses** are issued under this act, **which register shall be open to public inspection during the business hours of the department**. *The department shall furnish copies of such records to the public upon request and may establish a reasonable fee for such copies which shall not exceed the cost of reproduction.*

Section 16. Section 12 of the act, amended July 19, 1961 (P.L.796, No.351), December 2, 1976 (P.L.1267, No.282), July 11, 1980 (P.L.636, No.131) and October 16, 1980 (P.L.981, No.168), is amended to read:

Section 12. (a) (1) Except for one barber, barber shops which shall be under the immediate supervision of a **[registered] licensed** barber, who has been a **[registered] licensed** barber for one year, all other barber shops shall at all times be under the immediate supervision of a manager-barber. In no barber shop shall there be more than one student. All barber schools shall keep prominently displayed at every entrance to said school a sign reading "Barber School." Any copartnership, corporation, or person desiring to operate or conduct a barber shop or barber school, shall first secure from the board a **[permit or registration certificate] license** to do so, and shall keep the same prominently displayed. **[The] Both the** fee for registration of each barber school **[shall be one hundred dollars,]** and the annual renewal fee **[therefor]** shall be **[fifty dollars] determined by regulation.** The board may

pass upon the qualifications, appointments, and course of study in said school, which shall be not less than one thousand two hundred fifty (1250) hours and not less than nine months. All barber schools shall have not less than one **[registered] licensed** teacher for every twenty students, and in no case less than one full-time teacher, who shall be in attendance at all times during the hours the school is open for instruction. *This section does not prohibit an owner who is a cosmetologist from employing a barber without the requirement that a manager-barber also be employed.*

(2) Any person who holds a **[permit or registration certificate] license** to operate or conduct a barber shop or barber school, who shall fail to apply for a renewal of his or her **[permit or registration certificate] license** and who continues to operate or conduct a barber shop or barber school, shall, on summary conviction thereof, be sentenced to pay a fine **[of not less than ten dollars nor more than ninety] not to exceed three hundred** dollars, **[and in case of non-payment of the fine and costs of prosecution] or** to undergo an imprisonment for a period not exceeding **[ten] ninety** days, *or both.*

[Any licensed manager-barber may become a teacher-trainee in a licensed barber school provided that he or she has all the qualifications to become a barber-teacher. After he has trained for one thousand two hundred fifty (1,250) hours under a licensed teacher in a licensed barber school, the trainee may make application to the board for a teacher's certificate.]

(b) No school of barbering shall be granted a **[certificate of registration] license or renewal** unless it requires as a prerequisite to admission thereto, graduation from the eighth grade in a secondary school or its equivalent, **[as determined by an examination conducted by the department,]** and it shall attach to its staff, as a part-time teacher, a person licensed by the Commonwealth to practice medicine, and employ and maintain a sufficient number of **[competent] licensed** teachers, **[registered as such,]** and shall possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum; shall keep a daily record of the attendance of each student; shall maintain regular class and instruction hours, which shall not be less than seven nor more than eight hours per day~~[,]~~ *when* the school is open for instruction; shall establish grades and hold examination before issuance of diplomas; and shall be required to maintain a course of study requiring not less than one thousand two hundred fifty hours for completion in not less than nine months; and shall comprise all of the subjects pertaining to barbering, the barber laws of this State, and the rules and regulations adopted by the board; and shall include practical demonstrations and theoretical studies and studies in sanitation, sterilization and the use of antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements as applicable to barbering or any practice thereof.

(b.1) Upon renewal of the license, the school owner shall supply an affidavit stating at the time of renewal that the school is in compliance with this act and the rules and regulations promulgated under this act.

(c) No school of barbering shall permit its students to practice barbering on the public under any circumstances, except by way of clinical work upon persons willing to submit themselves to such practice, after first being prop-

erly informed that the operator is a student. No school of barbering shall directly or indirectly charge any money whatsoever for treatment by its students[, or for] *and shall only charge the reasonable costs of materials used in such treatment.*

[(d) Every qualified and registered barber-teacher under whom a student is studying or practicing and every school of barbering in which a student is studying shall file with the board on the tenth of each and every month a report on forms furnished by the board. Each such report shall show, for the preceding month, the name, address of each and every student, the number of days served by him during said preceding month, and such other information as the board may require.]

Section 17. Section 13 of the act, amended October 10, 1974 (P.L.698, No.234), is amended to read:

Section 13. **[To shave or trim the beard, to cut, shape, trim or blend the hair with the proper tools or instruments designed for this purpose, to shape the eyebrows, to give facial and scalp massaging, facial and scalp treatment, with any preparations made for this purpose, either by hand or by mechanical or electrical appliances, to singe and shampoo the hair or apply any makes of hair cream, hair lotions or hair tonics, to dye, color or bleach the hair and to perform any service on a wig or hairpiece. To style and to render hair straightening, hair processing, hair weaving, hair waving and curling, with such methods as: manual, mechanical, chemical or electrical with the proper devices or proper chemical compounds developed and designed for this purpose, and to dye hair of any person, not a member of one's immediate household, the person performing such service, shall be construed as practicing the occupation of barbering within the meaning of this act.] No person shall practice[,] *barbering who is not a licensed barber. No licensed barber shall practice,* or attempt to practice, barbering in any place other than a **[registered] licensed barber shop or licensed cosmetology shop,** except that any **[registered] licensed barber in a [registered] licensed barber shop or licensed cosmetology shop** may furnish barber services to persons at their place of residence or in institutions in cases of sickness, incapacitation, confinement, and other emergencies: Provided, however, That nothing contained in this section shall be construed to include family members of the same household, hospitals or colleges, and private schools for children, **[so-called beauty shops or hair-dressing parlors or schools of beauty culture,] cosmetology shops or schools of cosmetology,** except that it shall be unlawful and a violation of this act for any person to employ or to accept employment, in any such shops, parlors or schools, who has been refused a **[certificate] license** by the board.**

Section 18. Section 14 of the act is amended to read:

Section 14. **(a)** All fees, fines and penalties, or other moneys collected, received, recovered or imposed under this act, shall be paid into the **[State Treasury, through the Department of Revenue] Professional Licensure Augmentation Account.**

(b) *All fees required pursuant to this act shall be fixed by the board by regulation and shall be subject to the act of June 25, 1982 (P.L.633, No.181),*

known as the "Regulatory Review Act." If the revenues raised by fees, fines and civil penalties imposed pursuant to this act are not sufficient to meet expenditures over a two-year period, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures.

(c) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board pursuant to subsection (b) are inadequate to meet the minimum enforcement efforts required by ~~this act~~, then the bureau, after consultation with the board and subject to the Regulatory Review Act, shall increase the fees by regulation in an amount that adequate revenues are raised to meet the required enforcement effort.

(d) Current fees charged by the board shall continue until such time as changes are made in accordance with the Regulatory Review Act.

Section 19. Section 15 of the act, amended July 19, 1951 (P.L.1134, No.251), August 24, 1951 (P.L.1335, No.318), October 10, 1974 (P.L.698, No.234) and December 2, 1976 (P.L.1267, No.282), is amended to read:

Section 15. (a) Any manager-barber, barber, teacher, *teacher-trainee* or student, who shall practice the [occupation] *profession* of barber while suffering from contagious or infectious disease, or who shall knowingly serve any person afflicted with such disease, shall be guilty of a [misdemeanor] *summary offense*, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding [one] *three* hundred dollars, or undergo an imprisonment not exceeding thirty days, or both, at the discretion of the court.

(b) Any manager-barber, barber, teacher, *teacher-trainee* or student, who shall infect any person, or who shall impart any contagious or infectious disease by reason of carelessness or negligence in the practice of such [occupation] *profession*, shall be guilty of a [misdemeanor] *summary offense*, and, upon conviction, shall be sentenced to pay a fine not exceeding [five] *three* hundred dollars *for the first offense*, or to undergo an imprisonment not exceeding [six months] *ninety days*, or both, at the discretion of the court.

(b.1) Any person who shall violate any of the provisions of this act, or any rules or regulations of the board promulgated under the provisions of this act, except as herein otherwise provided, shall, upon summary conviction thereof, be sentenced to pay a fine not exceeding three hundred dollars for the first offense or to undergo an imprisonment not exceeding ninety days, or both, at the discretion of the court.

(b.2) A second and subsequent violation of this act shall constitute a summary offense and any person, upon conviction, shall be sentenced to pay a fine not exceeding six hundred dollars or suffer imprisonment not exceeding six months, or both.

(b.3) In addition to any other civil remedy or criminal penalty provided for in this act, the board, by a vote of the majority of the maximum number of the authorized membership of the board as provided by law, or by a vote of the majority of the duly qualified and confirmed membership or a minimum of five members, whichever is greater, may levy a civil penalty of

up to one thousand dollars on any current licensee who violates any provision of this act or on any person who practices barbering or owns or operates a barber shop without being properly licensed to do so under this act. The board shall levy this penalty only after affording the accused party the opportunity for a hearing, as provided in Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure). All fines and civil penalties imposed in accordance with this section shall be paid into the Professional Licensure Augmentation Account.

(c) Nothing contained in this act, or the act to which this is an amendment, shall be construed as prohibiting any municipality or any county department of health or joint-county department of health from adopting appropriate ordinances or regulations, not inconsistent with the provisions of this act or the rules and regulations adopted thereunder, as may be deemed necessary to promote the public health and safety and regulate the conduct of barber shops and schools, and any municipality shall have power, by proper ordinances, to fix the days and hours during which barber shops in the said cities may be open for business. All municipalities with proper ordinances shall have power to enforce the provisions of this section.

(d) It shall be unlawful—

(1) To own, manage, operate or control any barber shop, unless continuously hot and cold running water be provided for therein, except in communities lacking such facilities.

(2) To own, manage, operate or control any barber school, or part or portion thereof, whether connected therewith or in a separate building, wherein the practice of barbering is engaged in or carried on, unless all entrances to the place wherein the practice of barbering is so engaged in or carried on, shall display a sign indicating that the work is done by students exclusively.

(3) To own, manage, control or operate any barber shop or school, unless the same displays a recognized sign indicating that it is a registered barber shop or school, which shall be clearly visible at the main entrance to said shop.

(4) For the owner of any barber shop to display a permit or certificate of registration of any barber not employed in such shop.

(5) For the owner of any barber school to display a certificate of registration of any teacher not employed in such school.

(e) The board shall have power to make such other rules and regulations and prescribe such other sanitary requirements as shall be deemed necessary to carry out the provisions of this act.

(f) Any person who shall violate any of the provisions of this act, or any rules or regulations of the board promulgated under the provisions of this act, except as herein otherwise provided, shall, upon summary conviction thereof, be sentenced to pay a fine of not less than ten dollars nor more than ninety dollars, or to undergo an imprisonment of not less than ten days nor more than sixty days, or both, at the discretion of the court. Any such person shall have the right of appeal as in other cases of summary conviction.]

Section 20. The act is amended by adding sections to read:

Section 15-A.1. (a) The board shall submit annually to the House and Senate Appropriations Committees, fifteen days after the Governor has submitted his budget to the General Assembly, a copy of the budget request for the upcoming fiscal year which the board previously submitted to the department.

(b) The board shall submit annually a report to the Professional Licensure Committee of the House of Representatives and to the Consumer Protection and Professional Licensure Committee of the Senate a description of the types of complaints received, status of cases, board action which has been taken and the length of time from the initial complaint to final board resolution.

Section 15-A.2. Nothing contained in this act, or the act to which this is an amendment, shall be construed as prohibiting any municipality or any county department of health or joint-county department of health from adopting appropriate ordinances or regulations, not inconsistent with the provisions of this act or the rules and regulations adopted thereunder, as may be deemed necessary to promote the public health and safety and regulate the conduct of barber shops and schools, and any municipality shall have power, by proper ordinances, to fix the days and hours during which barber shops in the said cities may be open for business. All municipalities with proper ordinances shall have power to enforce the provisions of this section.

Section 15-A.3. (a) A licensed barber and a licensed cosmetologist shall be permitted to work in the same shop if the requirements of this section are met. Any licensed shop which employs a licensed barber and a licensed cosmetologist shall not be required to erect or install any physical barriers which separate the barber and the cosmetologist. All licensed shops shall conform with the provisions of section 12(a) of this act.

(b) A barber shop licensee who shall employ a licensed cosmetologist shall also be a licensed barber-manager and a cosmetologist or employ a barber-manager who is licensed as a cosmetologist.

(c) All shops licensed one year prior to the effective date of this section shall not be required to comply with subsection (b), but shall comply with all other provisions of this act.

(d) All owners licensed as barbers or managers of shops licensed within one year prior to or after the effective date of this section who shall employ licensed cosmetologists shall themselves or their barber-managers be eligible for the cosmetologist license examination if they have a current barber manager's license or own as an owner-operator a current licensed barber shop. No additional curriculum hours or educational experience as specified in section 6 of the act of May 3, 1933 (P.L.242, No.86), referred to as the Beauty Culture Law, shall be required. If the owner or the manager fails the examination, they shall be required to obtain an additional six hundred ninety-five (695) curriculum hours as prescribed in section 9.2 of the Beauty Culture Law.

(e) For the purpose of this section only, when a licensee under this act and a licensee under the Beauty Culture Law are subject to formal proceed-

ings for violations of this act or the Beauty Culture Law, the board and the State Board of Cosmetology shall consolidate all formal actions against such licensees for the purpose of prosecution and hearing provided that the board shall retain to itself exclusively the power to revoke or suspend licenses after such prosecution and hearing.

Section 15-A.4. (a) It shall be unlawful (1) to own, manage, operate or control any barber shop, unless continuously hot and cold running water be provided for therein, (2) to own, manage, operate or control any barber school, or part or portion thereof, whether connected therewith or in a separate building, wherein the practice of barbering is engaged in or carried on, unless all entrances to the place wherein the practice of barbering is so engaged in or carried on shall display a sign indicating that the work is done by students exclusively, (3) to own, manage, control or operate any barber shop or school, unless the same displays a recognized sign indicating that it is a licensed barber shop or school, which shall be clearly visible at the main entrance to said shop, (4) for the owner of any barber shop to display a license of any barber not employed in such shop, or (5) for the owner of any barber school to display a certificate of registration of any teacher not employed in such school.

(b) The board shall have power to make such other rules and regulations and prescribe such other sanitary requirements as shall be deemed necessary to carry out the provisions of this act.

Section 21. This act, with respect to the State Board of Barber Examiners, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 22. (a) Section 462 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 23. A person who holds a certificate of registration under the act of June 19, 1931 (P.L.589, No.202), known as the Barbers' License Law, which certificate is not suspended, revoked or expired on the effective date of this act shall be deemed to be a "current licensee" and the holder of a "license" under this act.

Section 24. Persons who are members of the State Board of Barber Examiners on the effective date of this act shall serve until their current terms would have expired and until their successors are duly appointed and qualified, but no longer than six months after the expiration of their terms.

Section 25. Each rule and regulation of the board in effect on June 30, 1984, shall remain in effect after such date until repealed or amended by the board.

Section 26. This act shall take effect July 1, 1984.

APPROVED—The 30th day of June, A. D. 1984.

DICK THORNBURGH