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BILL



ANALYSIS

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House Bill 4798 (Substitute H-1 as passed by the House)
 House Bill 4799 (Substitute H-2 as passed by the House)
 Sponsor: Representative Ilona Varga
 House Committee: Regulatory Affairs
 Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 11-13-96

CONTENT

The bills would amend the State License Fee Act and the Occupational Code to provide for separate licensing requirements for estheticians (skin care specialists) and natural hair culturists and for various instructors' licenses; to create a limited instructor's license and a limited specialist instructor's license; to require the Department of Consumer and Industry Services to inspect cosmetology establishments and schools; and to change some of the licensure application requirements for the establishments and schools.

The bills are tie-barred to each other.

Following is a more detailed description of the bills.

House Bill 4798 (H-1)

The bill would amend the State License Fee Act to specify that the license fees for estheticians and natural hair culturists would be the same as those in current law for cosmetologists, manicurists, and electrologists, i.e., an application processing fee of \$10; an examination fee of \$25; and an annual license fee of \$12.

House Bill 4799 (H-2)

Definitions

The Occupational Code defines "cosmetology" as one of the following practices or a combination of the following practices: arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, or similar work upon hair with the hands, or with mechanical or electrical apparatus or appliances, or by any means; cleansing, massaging, stimulating, manipulating,

exercising, beautifying, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, or similar work upon the scalp, neck, face, arms, bust, or upper part of the body of a person; or the removing of superfluous hair from the upper part of the body of a person by the use of electrolysis, depilatories, waxes, or tweezers or manicuring the nails of a person. The bill would delete this definition and instead would define "cosmetology" as one or more of the following services or a combination of the following services: hair care services, skin care services, manicuring services, electrology, and natural hair cultivation.

"Hair care services" would mean arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, braiding, plaiting, weaving, crimping, tinting, trimming, styling, relaxing, perming, straightening, or similar work on the hair of the head or a wig worn by an individual. "Braiding" would mean providing or offering to the general public for compensation any of the following services solely for development or improvement of physical qualities of the natural hair structure:

- Intertwining in a systematic motion to create patterns in a three-dimensional form.
- Inversion or outversion flat against the scalp along the part of a straight or curved row.
- Twisting in a systematic motion.
- Extension with natural or synthetic fibers.

"Natural hair culturist" would mean a person who engaged in natural hair cultivation techniques. "Natural hair cultivation" would mean techniques that resulted in tension on hair strands such as twisting, wrapping, weaving, extending, locking, or braiding of the hair by hand, which work would not include the application of dyes, reactive chemicals,

or other preparations to alter the color or to straighten, curl, or alter the structure of the hair.

“Manicuring services” would mean the cleansing, filing, shaping, buffing, polishing, or beautifying of the nails of the hands or feet, and the cleansing, massaging, stimulating, exercising, or beautifying of the skin of the hands, arms, and feet, manually or with the use of tools, appliances, or cosmetic preparations, including the repair of nails, or the creation or decoration of artificial nails. Manicuring services would not include the practice of podiatric medicine and surgery.

“Esthetician” would mean an individual who rendered or offered to render skin care services. “Skin care services” would include the following services or combination of services:

- Beautifying the skin of the body of an individual by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams, including body wrapping.
- Cleansing or stimulating the skin of the body by the use of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- The temporary removal of hair from the body of an individual by the use of depilatories, waxes, razors, scissors, clippers, or tweezers.
- Giving facials, applying removable makeup, applying eyelashes, or any other application of a preparation or beauty enhancement to the body of an individual, but not including the application of permanent makeup or the use of tanning equipment.

Licensing

The bill would amend Article 12 of the Occupational Code to prohibit an individual from rendering any form of cosmetology services, with or without compensation, on any individual other than a member of his or her immediate family without a license under the article. The article, however, would not apply to an individual, person, or premises licensed under Article 11 while rendering the services of a barber.

An individual licensed as a cosmetologist would be allowed to render hair care services, skin care services, natural hair cultivation, and manicuring services as part of the practice of cosmetology, but could not render electrology without being licensed as an electrologist.

The Department of Consumer and Industry Services (DCIS) could license an individual to render natural hair cultivation, manicuring services, or skin care services in accordance with his or her training. An individual licensed as a manicurist, esthetician, or natural hair culturist could render only that particular service and could not render any other cosmetology service without being licensed for that service. An individual licensed as a natural hair culturist, manicurist, or esthetician could not render electrology without being licensed as an electrologist. An individual licensed as an electrologist could render only electrology services and could not render any other cosmetology services without separately being licensed to render those services.

Currently, a person may obtain a license as an electrologist or a manicurist without having to be licensed as a cosmetologist. The bill would delete this provision.

Cosmetological Establishments

Currently, the Code defines “cosmetological establishment” or “school of cosmetology” as a building, or part of a building, completely partitioned off from any other business or dwelling, except a barbershop licensed under Article 11 of the Code, at which any of the occupations regulated by Article 12 are practiced or taught for hire or compensation. The bill would delete this definition and would define “cosmetology establishment” as the premises on which cosmetology or one or more of its services were rendered or were offered to be rendered. Cosmetology establishment would not include a school of cosmetology. Further, the bill would require a cosmetology establishment to be completely separated by full partitions and doors from a dwelling or a school of cosmetology and would prohibit it from being occupied for lodging or residential purposes. This requirement would replace the current requirement that a cosmetology establishment be completely separated by full partitions and doors from every other activity, business, or dwelling, except for a licensed barbershop or an area in which the sale of clothing and accessories is made.

The bill would require the DCIS to issue a license to a person for the operation of a cosmetology establishment if all of the following requirements were met:

- An application was made by the owners or managers of the establishment.

- The application included a drawing or diagram indicating the premises to be licensed and the location of required equipment and facilities.
- The premises had satisfactorily passed an inspection conducted by the DCIS for the purpose of determining whether the establishment had met sanitation and equipment standards prescribed in rules promulgated by the Department.

The Code currently requires a cosmetological establishment to be under the daily attendance and supervision of a licensed cosmetologist who is at least 18 years old and has had at least one year's practical experience in all practices of cosmetology. The bill would allow the DCIS to issue a limited cosmetology establishment license to a person who wanted to perform only one or more services of cosmetology on the premises. If the establishment license were limited to only manicuring services or skin care services, the supervising licensee could be an individual licensed only in that service. A licensed cosmetologist working in a limited licensed cosmetology establishment could not perform cosmetology services for which the premises were not licensed. If the cosmetology establishment license were limited to electrology, the supervising licensee would have to be licensed with one year of experience in electrology. A licensed cosmetologist could not supervise a cosmetology establishment whose cosmetology license was limited to rendering electrology unless the cosmetologist were licensed as an electrologist,

The DCIS could grant a temporary establishment license to a person who had fulfilled all licensure requirements except for the completion of the inspection. The transfer of ownership or location of a cosmetology establishment would void the license. The filing of a new license application would be a predicate to the change in ownership or location of an establishment.

The license of the establishment and of each individual working in the establishment would have to be displayed in a prominent place that was visible to the public at all times. The license of an individual working in the establishment could be posted at the individual's work station.

The bill would require a cosmetology establishment that conducted an apprenticeship program without charging a fee for the teaching of cosmetology to comply with the Code's current requirements concerning attendance records,

grades, and examinations for cosmetology students. A cosmetology establishment that successfully trained one apprentice would be eligible to train additional apprentices except that (as currently provided) a cosmetology establishment could not have more than two apprentices at the same time.

Cosmetology Schools

The Code currently requires a person wishing to conduct a school of cosmetology to apply to the DCIS for a license. A school of cosmetology must be completely separated by a full partition and door from every other activity, business, or dwelling. The bill would delete these requirements and instead would require the Department to issue a license to a person for the operation of a school of cosmetology if all of the following requirements were met:

- An application were made by the owner, identifying the owners and managers of the school.
- The application included a drawing or diagram that indicated the premises to be licensed, showing that the premises were fully partitioned from any other activity, business, or dwelling. The location of required equipment and facilities also would have to be shown on the diagram.
- The currently required bond of \$10,000 was furnished.
- Provisions were made for the school to be under the daily supervision of a licensed instructor who had at least three years' experience in all services of cosmetology being taught in the school.
- The premises had successfully passed an inspection by the DCIS conducted for the purpose of determining whether the school had met the standards set forth in the article and rules promulgated by the Board of Cosmetology.

The Code requires a cosmetology school to maintain a school term of not less than 1,500 hours, extending over a period of 10 consecutive months, and to maintain a course of practical training and technical instruction, as outlined in the Department-approved curriculum equal to the requirements for examination for licensure as a cosmetologist. The bill would delete this requirement and instead would require a school to maintain a course of practical training and technical instruction, as outlined in the various curricula set forth in rules promulgated by the

board, equal to the requirements for prelicensure training under Article 12. A school of cosmetology would have to teach hair care services, skin care services, and manicuring services and could hold a limited license for the teaching of electrology. A cosmetological school with a limited license to teach electrology, however, could teach only electrology and no other cosmetology service. Further, a school with a limited license to teach electrology would have to adhere to the Code's provisions concerning cosmetological schools except that the daily supervision of the school would have to be provided by an electrology instructor and the curriculum offered and equipment and facilities required would be only those required for the teaching of electrology.

The Code prohibits a cosmetology student from practicing on the public until after he or she has completed at least 350 hours of instruction in the cosmetology curriculum. The bill would apply this provision to both cosmetology students and to apprentices in cosmetology establishments and specifies that the curriculum would include both theory and practical hours. Further, a student or apprentice in a manicuring, natural hair cultivation, skin care, or electrology curriculum could practice on the public only after completing at least one-quarter of the hours required by the applicable curriculum, including both theory and practical hours. The bill would allow instructors to practice on the public only to demonstrate techniques to students and to correct the work of students.

The bill also would require a cosmetology school to display its license and the licenses of its instructors in a prominent place that was visible to the public at all times. A sign indicating the services rendered by students of the school also would have to be displayed.

The bill specifies that the transfer of ownership or location of a school of cosmetology would void the license. The filing of a new license application would be a predicate to the change in ownership or location of a school.

Instructors' Licenses

The Code currently requires a cosmetology school to be in the charge of and under the supervision and daily attendance of an individual who meets all of the following criteria:

- Is licensed as an instructor who has had at least three years' practical experience in all practices of cosmetology in a licensed

cosmetological establishment or at least one year's practical experience in all practices of cosmetology in a licensed cosmetological establishment and at least two years' practical experience in teaching all practices of cosmetology.

- Is a licensed cosmetologist with at least 500 hours of instructor training.
- Has a high school diploma or its equivalent.
- Has passed an examination approved by the Department and the board.
- Is of good moral character.

The bill would provide for separate licenses for cosmetology instructors, electrology instructors, and limited specialist instructors, but would require cosmetology instructors and electrology instructors to meet the current instructor criteria except for the experience requirements. The bill would require that a cosmetology instructor have at least three years of practical experience in hair care services, skin care services, and manicuring services, including at least one year in a cosmetological establishment. An electrology instructor would have to have at least three years of practical experience in electrology, including at least one year in a cosmetological establishment holding a limited license for the practice of electrology. A limited specialist instructor would have to meet the current good character, high school education, instructor training, and examination requirements but would have to be licensed as a manicurist, natural hair culturist, or esthetician rather than as a cosmetologist and would not be subject to a practical experience requirement. Moreover, a specialist instructor's license would limit the instruction given by the licensee to only the service in which he or she was licensed.

The DCIS also could issue a limited instructor's license to an individual who met all of the requirements for a cosmetology instructor's license or an electrology instructor's license except for the practical experience requirements. A limited instructor licensee could not supervise a school of cosmetology at any time.

Cosmetologists

Currently, the DCIS must issue a cosmetologist license to an individual who fulfills all of the following requirements:

- Passes an examination prescribed by the Department and the Board of Cosmetology that includes both a practical demonstration

and a written or oral test and that is not confined to a specific system or method.

- Presents a diploma, issued to the applicant by a licensed school of cosmetology or furnishes proof of having completed the required time in a licensed school of cosmetology.
- Is at least 17 years old.
- Is of good moral character.
- Has an education equivalent to the completion of the ninth grade in public school.
- Has had training of at least 1,500 hours extending over a period of at least 10 months in an approved cosmetology school or has served at least two years in a licensed cosmetological establishment in which cosmetology is practiced.

The bill would retain the minimum age, character, and ninth grade education requirements but would delete the requirement concerning the presentation of a diploma and specifies that the examination would have to be prescribed by the DCIS and the board. Further, the bill would delete the 10-month time period for completion of the training and would require that the training include a minimum number of practical applications as prescribed in rules promulgated by the board.

Electrologists

The Code requires an applicant for an electrologist licensee to be at least 18 years old and of good moral character and to have had a minimum of 300 hours of training in a cosmetology school under the immediate supervision of a licensed electrologist, or to have studied for at least 12 months under a licensed electrologist who has had at least three years of practical experience. The bill would increase to 400 the minimum number of training hours, retain the option of a 12-month apprenticeship, and require that the training be in a licensed cosmetological school. The bill, however, would delete the requirement that the training be under the direct supervision of a licensed electrologist. Further, the bill would require that the training include a minimum number of practical applications. The bill also would require that the licensee applicant have a ninth-grade education and pass an examination prescribed by the department and the board.

Manicurists

Currently, an applicant for a manicurist license must meet the same age and character

requirements as an applicant for an electrologist license or a cosmetologist license and must have a minimum of 300 hours of training under a licensed manicurist or a licensed cosmetologist or must have spent at least six months in a licensed cosmetological establishment where manicuring is practiced. The bill would increase to 400 the minimum number of training hours, require the training to include a minimum number of practical applications, and require the applicant to have a ninth-grade education and to pass an examination.

Estheticians and Natural Hair Culturists

The bill would establish substantially the same age, character, minimum education, minimum training hours, and examination requirements for estheticians and natural hair culturists as it would for cosmetologists, electrologists, and manicurists. Estheticians, however, could opt for an apprenticeship of at least eight months in a licensed cosmetology establishment instead of the minimum 400 training hours. Further, until December 31, 1998, the DCIS would be required to issue an esthetician license to an individual who met the age, character, examination, and education criteria and who provided evidence of having been trained in skin care services in this or any other state prior to January 1, 1996.

In addition, the bill specifies that the minimum of 400 training hours required for natural hair culturists would have to extend over a period of at least three months in an approved cosmetology school where natural hair cultivation services were rendered. Natural hair culturists would have the option, however, of serving an apprenticeship of at least one year instead of the training hours. Further, the bill provides that the examination for natural hair culturists would have to include both a practical demonstration and a written or oral test and could not be confined to a specific system or method.

Prohibited Acts

The Code currently prohibits a licensee from practicing cosmetology on the public outside of a licensed cosmetological establishment or school of cosmetology. The bill would allow a licensed cosmetologist to serve a patron in premises not licensed as a cosmetology establishment provided that the services rendered involved a special event in which the cosmetology service was required to be performed for an on-site participant of the event.

Inspections

The Code requires each cosmetological establishment to be inspected at least once annually and each cosmetological school to be inspected at least twice annually. The Code also specifies that a board member or an inspector or investigator from the DCIS may enter and inspect the school or establishment. The bill specifically would require the Department to conduct the inspections and provides that a representative of the DCIS could enter and inspect the premises. Further, the bill would allow a representative of the Department, when inspecting the premises, to require an individual working in the establishment or school to present identification in order to substantiate his or her identity as the holder of a posted license.

MCL 338.2225 (H.B. 4798)
339.1201 et al. (H.B. 4799)

Legislative Analyst: L. Burghardt

FISCAL IMPACT

These bills would create two new categories of occupations for licensure under the Occupational Code for cosmetology--estheticians and natural hair culturalists. The current fee structure established for cosmetologists and manicurists would be applied to these new professions for examinations, applications, and license renewals. According to the Department of Consumer and Industry Services, it is difficult to determine how many additional licenses this change would generate, but the additional revenue these fees generated would be used to offset the additional administrative costs incurred by the Department for the regulation of these occupations.

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.