

HOUSE BILL NO. 5438

February 04, 2020, Introduced by Reps. Steven Johnson, Miller and Cynthia Johnson and referred to the Committee on Regulatory Reform.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending sections 411, 1102, 1106, 1109, 1110, 1111, 1114, 1117,
and 1118 (MCL 339.411, 339.1102, 339.1106, 339.1109, 339.1110,
339.1111, 339.1114, 339.1117, and 339.1118), section 411 as amended
by 2014 PA 265, sections 1106, 1109, 1111, and 1114 as amended by
1988 PA 463, section 1110 as amended by 2014 PA 137, section 1117
as amended by 2003 PA 207, and section 1118 as added by 1984 PA 25;
and to repeal acts and parts of acts.



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 411. (1) Subject to subsection (2), a person that fails
2 to renew a license or registration on or before the expiration date
3 shall not practice the occupation, operate, or use the title of
4 that occupation after the expiration date printed on the license or
5 registration. A license or registration shall lapse on the day
6 after the expiration date.

7 (2) A person that fails to renew a license or registration on
8 or before the expiration date is permitted to renew the license or
9 registration by payment of the required license or registration fee
10 and a late renewal fee within 60 days after the expiration date.

11 (3) Except as otherwise provided in this act, a person that
12 fails to renew a license or registration within the time period set
13 forth in subsection (2) may be relicensed or reregistered without
14 examination and without meeting additional education or training
15 requirements in force at the time of application for relicensure or
16 reregistration if all of the following conditions are met:

17 (a) The person applies within 3 years after the expiration
18 date of the last license or registration.

19 (b) The person pays an application processing fee, the late
20 renewal fee, and the per year license or registration fee for the
21 upcoming licensure or registration period, subject to subsection
22 (8).

23 (c) Any penalties or conditions imposed by disciplinary action
24 in this state or any other jurisdiction have been satisfied.

25 (d) The person submits proof of having completed the
26 equivalent of 1 year of continuing education within the 12 months
27 immediately preceding the date of application or as otherwise
28 provided in a specific article or by rule, if continuing education



1 is required of licensees or registrants under a specific article.

2 (4) Except as otherwise provided in this act, a person may be
3 relicensed or reregistered subsequent to 3 or more years after the
4 expiration date of the last license or registration if the person
5 shows that the person meets the requirements for licensure or
6 registration as established by the department in rules or
7 procedures, which may require a person to pass all or part of a
8 required examination, to complete continuing education
9 requirements, or to meet current education or training
10 requirements.

11 (5) Unless otherwise provided in this act, a person that seeks
12 reinstatement of a license or registration shall file an
13 application on a form provided by the department, pay the
14 application processing fee, and file a petition to the department
15 and the appropriate board stating reasons for reinstatement and
16 including evidence that the person can and is likely to serve the
17 public in the regulated activity with competence and in conformance
18 with all other requirements prescribed by law, rule, or an order of
19 the department or board. The procedure for conducting the review of
20 a petition for reinstatement is prescribed in article 5. If
21 approved for reinstatement, the person shall pay the per year
22 license or registration fee for the upcoming license or
23 registration period if appropriate, in addition to completing any
24 requirements imposed under section 203(2).

25 (6) The department shall issue an initial or renewal license
26 or registration not later than 90 days after the applicant files a
27 completed application. The application is considered received on
28 the date the application is received by any agency or department of
29 this state. If the application is considered incomplete by the



1 department, the department shall notify the applicant in writing,
2 or make information electronically available, within 30 days after
3 receipt of the incomplete application, describing the deficiency
4 and requesting the additional information. The 90-day period is
5 tolled from the date the department notifies the applicant of a
6 deficiency until the date the requested information is received by
7 the department. The determination of the completeness of an
8 application does not operate as an approval of the application for
9 the license or registration and does not confer eligibility of an
10 applicant determined otherwise ineligible for issuance of a license
11 or registration.

12 (7) Notwithstanding the time periods described in subsection
13 (6), in the case of a real estate broker and associate broker
14 licensed under article 25, the time period for approval by the
15 department of a completed application is 30 days and the time
16 period for notification sent in writing, or made electronically
17 available, by the department to the applicant regarding an
18 incomplete application is 15 days after the receipt of the
19 application by any agency or department of this state.

20 (8) If the department fails to issue or deny a license or
21 registration within the time required by this section, the
22 department shall return the license or registration fee, and shall
23 reduce the license or registration fee for the applicant's next
24 renewal application, if any, by 15%. A failure to issue or deny a
25 license or registration within the time required under this section
26 does not allow the department to otherwise delay the processing of
27 the application, and the department shall place that application,
28 when completed, in sequence with other completed applications
29 received at that same time. The department shall not discriminate



1 against an applicant in the processing of an application based on
2 the fact that the license or registration fee was refunded or
3 discounted under this subsection.

4 (9) The director shall submit a report by December 1 of each
5 year to the standing committees and appropriations subcommittees of
6 the senate and house of representatives concerned with occupational
7 issues. The director shall include all of the following information
8 in the report concerning the preceding fiscal year:

9 (a) The number of initial and renewal applications the
10 department received and completed within the 90-day time period
11 described in subsection (6) and the 30-day time period described in
12 subsection (7).

13 (b) The number of applications denied by the department.

14 (c) The number of applicants not issued a license or
15 registration within the applicable time period and the amount of
16 money returned to licensees and registrants under subsection (8).

17 (10) Subsection (6) does not apply to a license or
18 registration for any of the following:

19 (a) A certified public accountant and registered accountant
20 under article 7.

21 (b) An agency non-owner manager of a collection agency under
22 article 9.

23 (c) A ~~barber, student barber, student instructor , or barber~~
24 instructor under article 11.

25 (d) An employment and consulting agent of a personnel agency
26 under article 10.

27 (e) A cosmetologist, manicurist, natural hair culturist,
28 esthetician, electrologist, instructor, or registered student under
29 article 12.



(f) A hearing aid salesperson and trainee under article 13.

(g) A mortuary science licensee, embalmer, or resident trainee in mortuary science under article 18.

(h) An individual architect, surveyor, or engineer under article 20.

(i) An individual landscape architect under article 22.

(j) An individual residential builder and alteration and maintenance contractor or a salesperson for a residential builder and alteration and maintenance contractor under article 24.

(k) A real estate salesperson under article 25.

(l) A real estate appraiser under article 26.

(11) Notwithstanding any provision in this act to the contrary, an individual or qualifying officer who is a licensee or registrant under this act and who is mobilized for military duty in the armed forces of the United States by the president of the United States is temporarily exempt from any renewal license fee, continuing education requirements, or other related requirements of this act applicable to that license or registration. It is the obligation of the licensee or registrant to inform the department by written or electronic mail of the desire to exercise the temporary exemption under this subsection. If the licensee applying for the temporary exemption is the individual responsible for supervision and oversight of licensed activities, the licensee shall provide notice of arrangements for adequate provision of that supervision and oversight to the department. The licensee or registrant shall accompany the request with proof, as determined by the department, to verify the mobilized duty status. If it receives a request for a temporary exemption under this subsection, the department shall make a determination of the requestor's status and



1 grant the temporary exemption after verification of mobilized duty
2 status under this subsection. A temporary exemption is valid until
3 90 days after the licensee's or registrant's release from the
4 mobilized duty on which the exemption was based, but shall not
5 exceed 36 months from the date of expiration of the license or
6 registration.

7 (12) As used in this section, "completed application" means an
8 application that is complete on its face and submitted with any
9 applicable licensing or registration fees and any other
10 information, records, approval, security, or similar item required
11 by law or rule from a local unit of government, a federal agency,
12 or a private entity but not from another department or agency of
13 this state.

14 Sec. 1102. The board of barber examiners is created. Six
15 members of the board shall have practiced as a barber for 3 years
16 before appointment. One of those members shall be a journeyman
17 barber. **The provision in section 301 that requires 6 members of a**
18 **board to be licensed does not apply to a board of barber examiners.**

19 Sec. 1106. (1) The department shall issue a license as a
20 student instructor to an individual who fulfills all of the
21 following requirements:

22 (a) Has graduated from high school or provided documentation
23 of an equivalent education acceptable to the department and the
24 board.

25 (b) Is of good moral character.

26 (c) Is a ~~licensed~~ barber with not less than 2 years'
27 experience.

28 (2) A student instructor shall not render barber services to
29 the public in a barber college except incidentally as a teaching



1 example or to correct or complete the work of a student.

2 (3) With the approval of the board, a student instructor may
3 renew his or her license for an additional year.

4 Sec. 1109. (1) The department shall issue a license as an
5 instructor to an individual who fulfills all of the following
6 requirements:

7 (a) Is a ~~licensed~~ barber with not less than 2 years of
8 experience.

9 (b) Except as provided in subsection (2), has completed 1 year
10 of instruction in the teaching of barbering at a licensed barber
11 college or has successfully completed 60 semester hours or 90 term
12 hours in a course of instruction approved by the board at an
13 accredited college or university and has 6 months of instruction in
14 the teaching of barbering at a barber college.

15 (c) Has graduated from high school or has an equivalent
16 education as approved by the department.

17 (d) Has passed an examination approved by the board and the
18 department to determine the individual's fitness to practice as an
19 instructor.

20 (e) Is of good moral character.

21 (2) For the purposes of fulfilling the requirements of
22 subsection (1)(b), an individual who has been duly authorized under
23 the laws of another state, jurisdiction, or country to instruct
24 others in barbering may substitute 1 year of experience in barber
25 instruction for the required training. The requirements of
26 subsection (1)(a) and (d) shall not be waived on the basis of prior
27 experience as an instructor.

28 Sec. 1110. (1) The department shall license a barber college
29 that meets all of the following requirements:



1 (a) Through its owners or managers, has applied to the
2 department for a license.

3 (b) Provides an educational program requiring completion of
4 225 hours of classroom study, demonstrations, and recitations and
5 1,575 hours of practical barber training.

6 (c) Meets the sanitation standards required of barbershops as
7 set forth in rules promulgated by the board and determined by
8 inspection by the department.

9 (d) Files and maintains a corporate surety or cash bond of
10 \$10,000.00 conditioned on the faithful performance and satisfaction
11 of the contractual rights of students enrolled in the barber
12 college.

13 (e) Employs or contracts with not fewer than 2 full-time,
14 licensed instructors and ensures that both of the following are
15 met:

16 (i) At any time classroom study or theory training is given to
17 any number of students, at least 1 instructor is present.

18 (ii) If practical training occurs, there is at least 1
19 instructor present for every 30 students at all times.

20 (f) Is completely partitioned from any other place of business
21 or dwelling. A person shall not conduct any other business from a
22 barber college than the rendering of barber services and the
23 teaching of barbering, although a barber college may sell at retail
24 to patrons those preparations used on patrons who are receiving
25 barbering services from students.

26 (g) Provides reasonable classroom facilities and other
27 equipment for the proper instruction of students described in this
28 subdivision and rules promulgated by the board, including 1
29 stationary wash basin with hot and cold running water and a



1 connected drain for every 2 barber chairs. A barber college shall
2 arrange its enrollment and course scheduling so that students are
3 not required to share the use of a training station during any
4 practical training period.

5 (2) Except as provided in this subsection, a student
6 instructor may not instruct without a supervising instructor
7 present in the room. In case of emergency, a student instructor may
8 instruct up to 30 students, but the barber college shall provide
9 notice of the emergency to the department in writing and ensure
10 that an instructor is on the premises at all times. Use of a
11 student instructor as a substitute instructor under this subsection
12 shall not continue for more than 7 consecutive days without written
13 approval of the department certifying the emergency circumstances.

14 (3) The license of a barber college is automatically revoked
15 if there is a transfer of ownership or change of location of a
16 barber college. The department shall not grant a new license to new
17 owners or for a new location unless the requirements of subsection
18 (1) are met.

19 (4) The classroom courses of a barber college shall include at
20 least all of the following: scientific fundamentals for barbering;
21 hygiene; bacteriology; histology of hair, skin, and nails;
22 structure of the head, face, and neck, including muscles and
23 nerves; elementary chemistry relating to sterilization and
24 antiseptics; diseases of the skin, hair, glands, and nails;
25 massaging and manipulating the head, face, and neck; haircutting
26 and shaving; cosmetic therapy; arranging, styling, dressing,
27 coloring, bleaching, curling, permanent waving, and tinting of the
28 hair; elements of business training; and barber laws and rules of
29 the state.



(5) The department by rule shall prescribe the number of hours of instruction a barber college is required to provide for each subject set forth in subsection (4). Each barber college shall provide a written copy of the rules to each student at the beginning of his or her instruction.

(6) A barber college shall display the license of the barber college and all instructors ~~and~~ student instructors ~~and~~ ~~students~~ in a prominent place visible to the public at all times. An individual's license may be displayed at the individual's work station.

Sec. 1111. (1) The department shall issue a license to a barbershop which fulfills all of the following requirements:

(a) Has made, through its owner, application to the department. The application shall include a description of the premises for which licensure is sought.

(b) Has satisfactorily passed an inspection to determine that the barbershop has met sanitation and establishment standards prescribed in rules promulgated under this article.

(2) A barbershop shall be completely partitioned from a dwelling and shall not be occupied for lodging or residential purposes.

(3) The transfer of ownership or location of a barbershop shall automatically revoke its license. A new license shall not be granted to a new owner or at a new location unless the requirements of subsection (1) have been fulfilled.

(4) The ~~licenses~~ **license** of the barbershop ~~and all barbers working in the barbershop~~ shall be displayed in a prominent place visible to the public at all times. ~~The license of an individual barber may be posted at the barber's work station.~~



1 Sec. 1114. A student instructor, barber, instructor,
2 barbershop or barber college license shall be renewed by completing
3 a form provided by the department on or before the date prescribed
4 in rules promulgated by the department. ~~A barber or~~ **An** instructor
5 who fails to renew a license for 3 or more years shall be required
6 by the board to complete the licensing examination.

7 Sec. 1117. (1) Except as otherwise provided in this section,
8 barber services shall only be rendered in premises licensed by the
9 department under this article. A barber may render services outside
10 of a barbershop to a patient in a hospital, nursing home, home for
11 the aged, or similar facility or to a person in the person's home
12 if it is impractical or unsafe for the patient or person to travel
13 due to frailty, age, injury, or illness.

14 (2) The department may issue a demonstration permit, valid for
15 not longer than 1 year, to allow demonstrations on premises not in
16 use as a barbershop. The holder of a demonstration permit shall
17 maintain health, safety, and sanitation standards as set forth in
18 rules authorized under this article. ~~The department may issue a~~
19 ~~demonstrator permit, valid for no longer than 1 week, to a person~~
20 ~~not licensed in this state to perform barbering services solely for~~
21 ~~the purposes of demonstration, provided that the demonstrator is~~
22 ~~duly authorized to perform barbering services under the laws of~~
23 ~~another state, jurisdiction, or country.~~

24 Sec. 1118. In addition to other penalties prescribed by law, a
25 licensee who commits 1 or more of the following shall be subject to
26 the strictures set forth in article 6:

27 (a) As a student, receiving compensation for performing the
28 services of a barber.

29 (b) Continuing to practice while knowingly having an



1 infectious or communicable disease.

2 (c) Operating in an unsanitary ~~manner; failure~~ **manner and**
 3 **failing** to abide by sanitation standards set forth in rules
 4 authorized under this article.

5 (d) ~~Wilfully~~ **Willfully** violating the health and safety rules
 6 of any political subdivision.

7 (e) Aiding an applicant for licensure by misrepresenting a
 8 material fact.

9 (f) Failing to notify the department within 30 days of a
 10 change of name or address.

11 (g) Allowing a license to be used by an unlicensed person.

12 ~~(h) Hiring or permitting an unlicensed person or student to~~
 13 ~~work in a barbershop as a barber or permitting an unlicensed person~~
 14 ~~to attend barber college as a student.~~

15 (h) ~~(i)~~ Operating as a barber from premises not licensed under
 16 this article, except as otherwise provided in this article.

17 (i) ~~(j)~~ Refusal to allow a board member or representative of
 18 the department to inspect during regular business hours premises
 19 where barbering services are rendered.

20 (j) ~~(k)~~ Negligent, incompetent, or careless practice causing
 21 damage to a person's hair, skin, scalp, nails, or organs.

22 Enacting section 1. Sections 1104, 1105, and 1108 of the
 23 occupational code, 1980 PA 299, MCL 339.1104, 339.1105, and
 24 339.1108, are repealed.

