

AMENDMENTS TO LB790

Introduced by Health and Human Services.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 38-1001, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           38-1001 Sections 38-1001 to 38-10,171 and sections 4, 5, and 7 to 22  
6 of this act shall be known and may be cited as the Cosmetology,  
7 Electrology, Esthetics, Nail Technology, and Body Art Practice Act.

8           Sec. 2. Section 38-1004, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10          38-1004 For purposes of the Cosmetology, Electrology, Esthetics,  
11 Nail Technology, and Body Art Practice Act and elsewhere in the Uniform  
12 Credentialing Act, unless the context otherwise requires, the definitions  
13 found in sections 38-1005 to 38-1056 and sections 4 and 5 of this act  
14 apply.

15          Sec. 3. Section 38-1017, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17          38-1017 Cosmetology establishment means a cosmetology salon, a  
18 mobile cosmetology salon, an esthetics salon, a school of cosmetology, a  
19 school of esthetics, an apprentice salon, ~~cosmetic establishment,~~ or any  
20 other place in which any or all of the practices of cosmetology are  
21 performed on members of the general public for compensation or in which  
22 instruction or training in any or all of the practices of cosmetology is  
23 given, except when such practices constitute nonvocational training.

24          Sec. 4. Mobile cosmetology salon means a self-contained, self-  
25 supporting, enclosed mobile unit licensed under the Cosmetology,  
26 Electrology, Esthetics, Nail Technology, and Body Art Practice Act as a  
27 mobile site for the performance of the practices of cosmetology by

1 persons licensed under the act.

2       Sec. 5. Mobile nail technology salon means a self-contained, self-  
3 supporting, enclosed mobile unit licensed under the Cosmetology,  
4 Electrology, Esthetics, Nail Technology, and Body Art Practice Act to  
5 serve as a mobile site for the performance of the practices of nail  
6 technology by persons licensed under the act.

7       Sec. 6. Section 38-1036, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9       38-1036 Nail technology establishment means a nail technology salon,  
10 a mobile nail technology salon, a nail technology school, or any other  
11 place in which the practices of nail technology are performed on members  
12 of the general public for compensation or in which instruction or  
13 training in the practices of nail technology is given, except when such  
14 practices constitute nonvocational training.

15       Sec. 7. In order to be licensed as a mobile cosmetology salon by  
16 the department, an applicant shall meet, and present to the department  
17 evidence of meeting, the following requirements:

18       (1) The proposed salon is a self-contained, self-supporting,  
19 enclosed mobile unit;

20       (2)(a)(i) The mobile unit has a global positioning system tracking  
21 device that enables the department to track the location of the salon  
22 over the Internet;

23       (ii) The device is on board the mobile unit and functioning at all  
24 times the salon is in operation or open for business; and

25       (iii) The owner of the salon provides the department with all  
26 information necessary to track the salon over the Internet; or

27       (b) The owner of the salon submits to the department, in a manner  
28 specified by the department, a weekly itinerary showing the dates, exact  
29 locations, and times that cosmetology services are scheduled to be  
30 provided. The owner shall submit the itinerary not less than seven  
31 calendar days prior to the beginning of the service described in the

1 itinerary and shall submit to the department any changes in the itinerary  
2 not less than twenty-four hours prior to the change. A salon shall follow  
3 the itinerary in providing service and notify the department of any  
4 changes;

5 (3) The salon has insurance coverage which meets the requirements of  
6 the department for the mobile unit;

7 (4) The salon is clearly identified as such to the public by a sign;

8 (5) The salon complies with the sanitary requirements of the  
9 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art  
10 Practice Act;

11 (6) The entrance into the proposed salon used by the general public  
12 provides safe access by the public;

13 (7) The proposed salon has at least one hundred fifty square feet of  
14 floor space. If more than one practitioner is to be employed in the salon  
15 at the same time, the salon shall contain an additional space of at least  
16 fifty square feet for each additional practitioner; and

17 (8) The proposed salon includes a functional sink and toilet  
18 facilities and maintains an adequate supply of clean water and wastewater  
19 storage capacity.

20 Sec. 8. Any person seeking a license to operate a mobile  
21 cosmetology salon shall submit a completed application to the department,  
22 and along with the application, the applicant shall submit a detailed  
23 floor plan or blueprint of the proposed salon sufficient to demonstrate  
24 compliance with the requirements of section 7 of this act.

25 Sec. 9. Each application for a license to operate a mobile  
26 cosmetology salon shall be reviewed by the department for compliance with  
27 the requirements of the Cosmetology, Electrology, Esthetics, Nail  
28 Technology, and Body Art Practice Act. If an application is denied, the  
29 applicant shall be informed in writing of the grounds for denial, and  
30 such denial shall not prejudice future applications by the applicant. If  
31 an application is approved, the department shall issue the applicant a

1 certificate of consideration to operate a mobile cosmetology salon  
2 pending an operation inspection. The department shall conduct an  
3 operation inspection of each salon issued a certificate of consideration  
4 within six months after the issuance of such certificate. A salon which  
5 passes the inspection shall be issued a permanent license. A salon which  
6 fails the inspection shall submit within fifteen days evidence of  
7 corrective action taken to improve those aspects of operation found  
8 deficient. If evidence is not submitted within fifteen days or if after a  
9 second inspection the salon does not receive a satisfactory rating, it  
10 shall immediately relinquish its certificate of consideration and cease  
11 operation.

12       Sec. 10. In order to maintain its license in good standing, each  
13 mobile cosmetology salon shall operate in accordance with the following  
14 requirements:

15       (1) The salon shall at all times comply with all applicable  
16 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,  
17 and Body Art Practice Act and all rules and regulations adopted and  
18 promulgated under the act;

19       (2) The salon owner or his or her agent shall notify the department  
20 of any change of ownership, name, or office address and if a salon is  
21 permanently closed;

22       (3) No salon shall permit any unlicensed person to perform any of  
23 the practices of cosmetology within its confines or employment;

24       (4) The salon shall display a name upon, over, or near the entrance  
25 door distinguishing it as a salon;

26       (5) The salon shall permit any duly authorized agent of the  
27 department to conduct an operation inspection or investigation at any  
28 time during the normal operating hours of the salon, without prior  
29 notice, and the owner and manager shall assist the inspector by providing  
30 access to all areas of the salon, all personnel, and all records  
31 requested by the inspector;

1       (6) The salon shall display in a conspicuous place the following  
2 records:

3       (a) The current license or certificate of consideration to operate a  
4 salon;

5       (b) The current licenses of all persons licensed under the act who  
6 are employed by or working in the salon; and

7       (c) The rating sheet from the most recent operation inspection;

8       (7) At no time shall a salon employ more employees than permitted by  
9 the square footage requirements of the Cosmetology, Electrology,  
10 Esthetics, Nail Technology, and Body Art Practice Act;

11       (8) No cosmetology services may be performed in a salon while the  
12 salon is moving. The salon must be safely and legally parked in a legal  
13 parking space at all times while clients are present inside the salon. A  
14 salon shall not park or conduct business within three hundred feet of  
15 another licensed cosmetology establishment. The department is not  
16 responsible for monitoring for enforcement of this subdivision but may  
17 discipline a license for a reported and verified violation;

18       (9) The owner of the salon shall maintain a permanent business  
19 address at which correspondence from the department may be received and  
20 records of appointments, license numbers, and vehicle identification  
21 numbers shall be kept for each salon being operated by the owner. The  
22 owner shall make such records available for verification and inspection  
23 by the department; and

24       (10) The salon shall not knowingly permit its employees or clients  
25 to use, consume, serve, or in any manner possess or distribute  
26 intoxicating beverages or controlled substances upon its premises.

27       Sec. 11. The procedure for renewing a mobile cosmetology salon  
28 license shall be in accordance with section 38-143, except that in  
29 addition to all other requirements, the salon shall submit evidence of  
30 minimal property damage, bodily injury, and liability insurance coverage  
31 for the salon and evidence of coverage which meets the requirements of

1 the Motor Vehicle Registration Act for the salon.

2 Sec. 12. The license of a mobile cosmetology salon that has been  
3 revoked or expired for any reason shall not be reinstated. An original  
4 application for licensure shall be submitted and approved before such  
5 salon may reopen for business.

6 Sec. 13. Each mobile cosmetology salon license issued shall be in  
7 effect solely for the owner or owners and motor home named thereon and  
8 shall expire automatically upon any change of ownership or motor home. An  
9 original application for licensure shall be submitted and approved before  
10 such salon may reopen for business.

11 Sec. 14. The owner of each mobile cosmetology salon shall have full  
12 responsibility for ensuring that the salon is operated in compliance with  
13 all applicable laws, rules, and regulations and shall be liable for any  
14 and all violations occurring in the salon.

15 Sec. 15. In order to be licensed as a mobile nail technology salon  
16 by the department, an applicant shall meet, and present to the department  
17 evidence of meeting, the following requirements:

18 (1) The proposed salon is a self-contained, self-supporting,  
19 enclosed mobile unit;

20 (2)(a)(i) The mobile unit has a global positioning system tracking  
21 device that enables the department to track the location of the salon  
22 over the Internet;

23 (ii) The device is on board the mobile unit and functioning at all  
24 times the salon is in operation or open for business; and

25 (iii) The owner of the salon provides the department with all  
26 information necessary to track the salon over the Internet; or

27 (b) The owner of the salon submits to the department, in a manner  
28 specified by the department, a weekly itinerary showing the dates, exact  
29 locations, and times that nail technology services are scheduled to be  
30 provided. The owner shall submit the itinerary not less than seven  
31 calendar days prior to the beginning of the service described in the

1 itinerary and shall submit to the department any changes in the itinerary  
2 not less than twenty-four hours prior to the change. A salon shall follow  
3 the itinerary in providing service and notify the department of any  
4 changes;

5 (3) The salon has insurance coverage which meets the requirements of  
6 the department for the mobile unit;

7 (4) The salon is clearly identified as such to the public by a sign;

8 (5) The salon complies with the sanitary requirements of the  
9 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art  
10 Practice Act;

11 (6) The entrance into the proposed salon used by the general public  
12 provides safe access by the public;

13 (7) The proposed salon has at least one hundred fifty square feet of  
14 floor space. If more than one practitioner is to be employed in the salon  
15 at the same time, the salon shall contain an additional space of at least  
16 fifty square feet for each additional practitioner; and

17 (8) The proposed salon includes a functional sink and toilet  
18 facilities and maintains an adequate supply of clean water and wastewater  
19 storage capacity.

20 Sec. 16. Any person seeking a license to operate a mobile nail  
21 technology salon shall submit a completed application to the department,  
22 and along with the application, the applicant shall submit a detailed  
23 floor plan or blueprint of the proposed salon sufficient to demonstrate  
24 compliance with the requirements of section 15 of this act.

25 Sec. 17. Each application for a license to operate a mobile nail  
26 technology salon shall be reviewed by the department for compliance with  
27 the requirements of the Cosmetology, Electrology, Esthetics, Nail  
28 Technology, and Body Art Practice Act. If an application is denied, the  
29 applicant shall be informed in writing of the grounds for denial, and  
30 such denial shall not prejudice future applications by the applicant. If  
31 an application is approved, the department shall issue the applicant a

1 certificate of consideration to operate a mobile nail technology salon  
2 pending an operation inspection. The department shall conduct an  
3 operation inspection of each salon issued a certificate of consideration  
4 within six months after the issuance of such certificate. A salon which  
5 passes the inspection shall be issued a permanent license. A salon which  
6 fails the inspection shall submit within fifteen days evidence of  
7 corrective action taken to improve those aspects of operation found  
8 deficient. If evidence is not submitted within fifteen days or if after a  
9 second inspection the salon does not receive a satisfactory rating, it  
10 shall immediately relinquish its certificate of consideration and cease  
11 operation.

12       Sec. 18. In order to maintain its license in good standing, each  
13 mobile nail technology salon shall operate in accordance with the  
14 following requirements:

15       (1) The salon shall at all times comply with all applicable  
16 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,  
17 and Body Art Practice Act and all rules and regulations adopted and  
18 promulgated under the act;

19       (2) The salon owner or his or her agent shall notify the department  
20 of any change of ownership, name, or office address and if a salon is  
21 permanently closed;

22       (3) No salon shall permit any unlicensed or unregistered person to  
23 perform any of the practices of nail technology within its confines or  
24 employment;

25       (4) The salon shall display a name upon, over, or near the entrance  
26 door distinguishing it as a salon;

27       (5) The salon shall permit any duly authorized agent of the  
28 department to conduct an operation inspection or investigation at any  
29 time during the normal operating hours of the salon, without prior  
30 notice, and the owner and manager shall assist the inspector by providing  
31 access to all areas of the salon, all personnel, and all records



1 requested by the inspector;

2 (6) The salon shall display in a conspicuous place the following  
3 records:

4 (a) The current license or certificate of consideration to operate a  
5 salon;

6 (b) The current licenses of all persons licensed under the act who  
7 are employed by or working in the salon; and

8 (c) The rating sheet from the most recent operation inspection;

9 (7) At no time shall a salon employ more employees than permitted by  
10 the square footage requirements of the Cosmetology, Electrology,  
11 Esthetics, Nail Technology, and Body Art Practice Act;

12 (8) No nail technology services may be performed in a salon while  
13 the salon is moving. The salon must be safely and legally parked in a  
14 legal parking space at all times while clients are present inside the  
15 salon. A salon shall not park or conduct business within three hundred  
16 feet of another licensed cosmetology establishment. The department is not  
17 responsible for monitoring for enforcement of this subdivision but may  
18 discipline a license for a reported and verified violation;

19 (9) The owner of the salon shall maintain a permanent business  
20 address at which correspondence from the department may be received and  
21 records of appointments, license numbers, and vehicle identification  
22 numbers shall be kept for each salon being operated by the owner. The  
23 owner shall make such records available for verification and inspection  
24 by the department; and

25 (10) The salon shall not knowingly permit its employees or clients  
26 to use, consume, serve, or in any manner possess or distribute  
27 intoxicating beverages or controlled substances upon its premises.

28 Sec. 19. The procedure for renewing a mobile nail technology salon  
29 license shall be in accordance with section 38-143, except that in  
30 addition to all other requirements, the salon shall submit evidence of  
31 minimal property damage, bodily injury, and liability insurance coverage

1 for the salon and evidence of coverage which meets the requirements of  
2 the Motor Vehicle Registration Act for the salon.

3 Sec. 20. The license of a mobile nail technology salon that has  
4 been revoked or expired for any reason shall not be reinstated. An  
5 original application for licensure shall be submitted and approved before  
6 such salon may reopen for business.

7 Sec. 21. Each mobile nail technology salon license issued shall be  
8 in effect solely for the owner or owners and motor home named thereon and  
9 shall expire automatically upon any change of ownership or motor home. An  
10 original application for licensure shall be submitted and approved before  
11 such salon may reopen for business.

12 Sec. 22. The owner of each mobile nail technology salon shall have  
13 full responsibility for ensuring that the salon is operated in compliance  
14 with all applicable laws, rules, and regulations and shall be liable for  
15 any and all violations occurring in the salon.

16 Sec. 23. Section 71-202.01, Revised Statutes Cumulative Supplement,  
17 2016, is amended to read:

18 71-202.01 For purposes of the Barber Act, unless the context  
19 otherwise requires:

20 (1) Barber shall mean any person who engages in the practice of any  
21 act of barbering;

22 (2) Barber pole shall mean a cylinder or pole with alternating  
23 stripes of red, white, and blue or any combination of them which run  
24 diagonally along the length of the cylinder or pole;

25 (3) Barber shop shall mean (a) an establishment or place of business  
26 properly licensed as required by the act where one or more persons  
27 properly licensed are engaged in the practice of barbering or (b) a  
28 mobile barber shop. Barber shop ~~but~~ shall not include barber schools or  
29 colleges;

30 (4) Barber school or college shall mean an establishment properly  
31 licensed and operated for the teaching and training of barber students;

1 (5) Board shall mean the Board of Barber Examiners;

2 (6) Manager shall mean a licensed barber having control of the  
3 barber shop and of the persons working or employed therein;

4 (7) License shall mean a certificate of registration issued by the  
5 board;

6 (8) Barber instructor shall mean a teacher of the barber trade as  
7 provided in the act;

8 (9) Assistant barber instructor shall mean a teacher of the  
9 barbering trade registered as an assistant barber instructor as required  
10 by the act;

11 (10) Mobile barber shop shall mean a self-contained, self-  
12 supporting, enclosed mobile unit licensed under the act as a mobile site  
13 for the performance of the practice of barbering by persons licensed  
14 under the act;

15 (11) ~~(10)~~ Registered or licensed barber shall mean a person who has  
16 completed the requirements to receive a certificate as a barber and to  
17 whom a certificate has been issued;

18 (12) ~~(11)~~ Secretary of the board shall mean the director appointed  
19 by the board who shall keep a record of the proceedings of the board;

20 (13) ~~(12)~~ Student shall mean a person attending an approved,  
21 licensed barber school or college, duly registered with the board as a  
22 student engaged in learning and acquiring any and all of the practices of  
23 barbering, and who, while learning, performs and assists any of the  
24 practices of barbering in a barber school or college; and

25 (14) ~~(13)~~ Postsecondary barber school or college shall mean an  
26 establishment properly licensed and operated for the teaching and  
27 training of barber students who have successfully completed high school  
28 or its equivalent as determined by successfully passing a general  
29 educational development test prior to admittance.

30 Sec. 24. Section 71-203, Reissue Revised Statutes of Nebraska, is  
31 amended to read:

1           71-203 The following persons are exempt from the Barber Act while in  
2 the proper discharge of their professional or occupational duties: (1)  
3 Persons authorized by the laws of this state to practice medicine and  
4 surgery; (2) commissioned medical or surgical officers of the United  
5 States military services; (3) registered or licensed practical nurses;  
6 and (4) persons engaged in operating or employed in cosmetology  
7 establishments salons, except that nothing contained in this section  
8 shall authorize a cosmetologist to perform barbering as defined in  
9 section 71-202 in any licensed barber shop.

10           Sec. 25. In order to be licensed as a mobile barber shop by the  
11 board, an applicant shall, in addition to the requirements of the Barber  
12 Act, meet, and present to the board evidence of meeting, the following  
13 requirements:

14           (1) The proposed barber shop is a self-contained, self-supporting,  
15 enclosed mobile unit;

16           (2)(a)(i) The mobile unit has a global positioning system tracking  
17 device that enables the board to track the location of the barber shop  
18 over the Internet;

19           (ii) The device is on board the mobile unit and functioning at all  
20 times the barber shop is in operation or open for business; and

21           (iii) The owner of the barber shop provides the board with all  
22 information necessary to track the barber shop over the Internet; or

23           (b) The owner of the barber shop submits to the board, in a manner  
24 specified by the board, a weekly itinerary showing the dates, exact  
25 locations, and times that barbering services are scheduled to be  
26 provided. The owner shall submit the itinerary not less than seven  
27 calendar days prior to the beginning of the service described in the  
28 itinerary and shall submit to the board any changes in the itinerary not  
29 less than twenty-four hours prior to the change. A barber shop shall  
30 follow the itinerary in providing service and notify the board of any  
31 changes;

1       (3) The barber shop has insurance coverage which meets the  
2 requirements of the department for the mobile unit;

3       (4) The barber shop is clearly identified as such to the public by a  
4 sign;

5       (5) The barber shop complies with the sanitary requirements of the  
6 Barber Act and the rules and regulations adopted and promulgated under  
7 the act;

8       (6) The entrance into the proposed barber shop used by the general  
9 public provides safe access by the public; and

10       (7) The proposed barber shop includes a functional sink and toilet  
11 facilities and maintains an adequate supply of clean water and wastewater  
12 storage capacity.

13       Sec. 26. Any person seeking a license to operate a mobile  
14 barbershop shall submit a completed application to the board as provided  
15 in section 71-219.02, and along with the application, the applicant shall  
16 submit a detailed floor plan or blueprint of the proposed barber shop  
17 sufficient to demonstrate compliance with the requirements of section 25  
18 of this act.

19       Sec. 27. In addition to the requirements of the Barber Act, each  
20 application for a license to operate a mobile barber shop shall be  
21 reviewed by the board for compliance with the requirements of the Barber  
22 Act. If an application is denied, the applicant shall be informed in  
23 writing of the grounds for denial, and such denial shall not prejudice  
24 future applications by the applicant. If an application is approved, the  
25 board shall issue the applicant a certificate of consideration to operate  
26 a mobile barber shop pending an operation inspection. The board shall  
27 conduct an operation inspection of each barber shop issued a certificate  
28 of consideration within six months after the issuance of such  
29 certificate. A barber shop which passes the inspection shall be issued a  
30 permanent license. A barber shop which fails the inspection shall submit  
31 within fifteen days evidence of corrective action taken to improve those

1 aspects of operation found deficient. If evidence is not submitted within  
2 fifteen days or if after a second inspection the barber shop does not  
3 receive a satisfactory rating, it shall immediately relinquish its  
4 certificate of consideration and cease operation.

5       Sec. 28. In order to maintain its license in good standing, each  
6 mobile barber shop shall operate in accordance with the following  
7 requirements:

8       (1) The barber shop shall at all times comply with all applicable  
9 provisions of the Barber Act and all rules and regulations adopted and  
10 promulgated under the act;

11       (2) The barber shop owner or his or her agent shall notify the board  
12 of any change of ownership, name, or office address and if a barbershop  
13 is permanently closed;

14       (3) No barber shop shall permit any unlicensed person to perform any  
15 of the practices of barbering within its confines or employment;

16       (4) The barber shop shall display a name upon, over, or near the  
17 entrance door distinguishing it as a barber shop;

18       (5) The barber shop shall permit any duly authorized agent of the  
19 board to conduct an operation inspection or investigation at any time  
20 during the normal operating hours of the barber shop, without prior  
21 notice, and the owner and manager shall assist the inspector by providing  
22 access to all areas of the barber shop, all personnel, and all records  
23 requested by the inspector;

24       (6) The barber shop shall display in a conspicuous place the  
25 following records:

26       (a) The current license or certificate of consideration to operate a  
27 barber shop;

28       (b) The current licenses of all persons licensed under the act who  
29 are employed by or working in the barber shop; and

30       (c) The rating sheet from the most recent operation inspection;

31       (7) No barbering practices may be performed in a barber shop while

1 the barbershop is moving. The barber shop must be safely and legally  
2 parked in a legal parking space at all times while clients are present  
3 inside the barber shop. A barber shop shall not park or conduct business  
4 within three hundred feet of another licensed barber shop. The board is  
5 not responsible for monitoring for enforcement of this subdivision but  
6 may discipline a license for a reported and verified violation; and

7 (8) The owner of the barber shop shall maintain a permanent business  
8 address at which correspondence from the board may be received and  
9 records of appointments, license numbers, and vehicle identification  
10 numbers shall be kept for each barber shop being operated by the owner.  
11 The owner shall make such records available for verification and  
12 inspection by the board.

13 Sec. 29. The license of a mobile barber shop that has been revoked  
14 or expired for any reason shall not be reinstated. An original  
15 application for licensure shall be submitted and approved before such  
16 barber shop may reopen for business.

17 Sec. 30. Each mobile barber shop license issued shall be in effect  
18 solely for the owner or owners and motor home named thereon and shall  
19 expire automatically upon any change of ownership or motor home. An  
20 original application for licensure shall be submitted and approved before  
21 such barber shop may reopen for business.

22 Sec. 31. The owner of each mobile barber shop shall have full  
23 responsibility for ensuring that the barber shop is operated in  
24 compliance with all applicable laws, rules, and regulations and shall be  
25 liable for any and all violations occurring in the barber shop.

26 Sec. 32. Section 71-224, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 71-224 Sections 71-201 to 71-248 and sections 25 to 31 of this act  
29 shall be known and may be cited as the Barber Act.

30 Sec. 33. This act becomes operative on January 1, 2019.

31 Sec. 34. Original sections 38-1001, 38-1004, 38-1017, 38-1036,

- 1 71-203, and 71-224, Reissue Revised Statutes of Nebraska, and section
- 2 71-202.01, Revised Statutes Cumulative Supplement, 2016, are repealed.