

## LEGISLATIVE BILL 722

Approved by the Governor April 17, 1978

Introduced by Government, Military and Veterans Affairs Committee, Rasmussen, 41, Chmn.; George, 16; Maxey, 46; Stoney, 4; Chambers, 11; Simon, 31; Duis, 39

AN ACT relating to barbering; to provide for the continued existence of the Board of Barber Examiners; to revise statutes regulating barbering; to amend sections 71-201, 71-202, 71-202.01, 71-203, 71-206, 71-208, 71-208.07, 71-209, 71-210, 71-212, 71-216, 71-218, 71-219, 71-219.02, 71-222, 71-222.01, 71-223.01, 71-223.04, 71-225, 71-227, and 71-232, Reissue Revised Statutes of Nebraska, 1943, and section 81-193, Revised Statutes Supplement, 1977; to repeal the original sections, and also sections 71-201.01, 71-226, 71-229, and 71-233, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 71-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-201. No person shall practice or attempt to practice barbering as defined in section 71-202, without a ~~certificate of registration as a registered barber license~~ issued pursuant to the provisions of ~~sections 71-201 to 71-224~~ Chapter 71, article 2, by the Board of Barber Examiners. No person shall serve or attempt to serve as an apprentice barber without a certificate of registration as a registered apprentice issued by the board. It shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a registered barber. Each barber shop employing an apprentice barber shall have at least one registered barber for each apprentice barber employed. † ~~Provided, that in no event may any barber shop employ more than two apprentice barbers at one time. Each barber shop may have one apprentice.~~ No person, partnership, or corporation shall operate a barber shop or barber school until a license has been obtained for that purpose from the Board of Barber Examiners. All barber shop licenses shall be issued on or before June 30, effective as of July 1 of each year, shall be good

for one year, and shall expire on the succeeding June 30. Any such license may be suspended, revoked, or renewal denied by the Board of Barber Examiners for violation of any provision of the statutes or rule of the board pertaining to the operation of barber shops or barber schools, or any regulation of the Department of Health pertaining to sanitation, after due notice and hearing before the board.

Sec. 2. That section 71-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-202. Any one or any combination of the following practices, when done upon the human body by the use of chemical products for cosmetic or grooming purposes and not for the treatment of disease or physical or mental ailments, on any person, other than a member of the immediate family, constitutes the practice of barbering: (1) Shaving or trimming the beard or cutting the hair; (2) dressing, arranging, styling, curling, waving, straightening, and relaxing of the hair by chemical or mechanical means; (3) giving face and scalp massages or treatment with oils, creams, lotions, or other preparations either by hand, or mechanical appliances, or electrical appliances, including the applying of chemical and toiletry preparations, antiseptics, powders, oils, clays or lotions to scalp, face, neck or upper part of the body; (4) patterning, fitting, cleaning, styling, coloring, waving, or other similar work upon male hair pieces, or wigs; and (5) singeing, shampooing, bleaching, coloring, rinsing, hair weaving, or similar work upon the hair; and (6) removing hair from the body by means of electrolysis.

Sec. 3. That section 71-202.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-202.01. As used in Chapter 71, article 2, unless the context otherwise requires:

(1) Barber shall mean any person duly licensed as required by Chapter 71, article 2, who engages in the practice of any act of barbering;

(2) Barber shop shall mean an establishment or place of business properly licensed as required by Chapter 71, article 2, where one or more persons properly licensed are engaged in the practice of barbering, but does not include barber schools or colleges;

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

(4) Board shall mean the Board of Barber Examiners;

(5) Manager shall mean a registered barber having control of the barber shop and of the persons working or employed therein;

(6) License shall mean a certificate of registration issued by the board;

(7) Instructor shall mean a teacher of the barber trade as provided in Chapter 71, article 2;

(8) Assistant instructor shall mean a teacher of the barbering trade licensed as an assistant instructor, as required by Chapter 71, article 2;

(9) Immediate personal supervision shall mean the supervision by the actual presence of a registered barber while barber service is being performed by an apprentice;

(10) Apprentice barber shall mean any person issued a certificate to perform the act of barbering under immediate personal supervision in a registered barber shop in this state;

(11) Registered barber shall mean a person who has completed the requirements to receive a certificate as a barber and to whom a certificate has been issued;

(12) Secretary of the board shall mean the ~~manager-inspector~~ director appointed by the board who shall keep a record of the proceedings of the board; and

(13) Student shall mean a person attending an approved, licensed barber school or college and duly registered with the board as a student engaged in learning and acquiring any and all of the practices of barbering, and while learning performs and assists any of the practices of barbering in a school registered and approved by the board.

Sec. 4. That section 71-203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-203. The following persons are exempt from the provisions of ~~sections-74-204-to-74-224~~ Chapter 71, article 2, while in the proper discharge of their

professional or occupational duties: (1) Persons authorized by the laws of this state to practice medicine and surgery; (2) commissioned medical or surgical officers of the United States military services; (3) registered or licensed practical nurses; and (4) persons engaged in operating or employed in ~~beauty--shops--or hairdressing-parlors-patronized-by--women--and--children;~~ Provided, cosmetology salons; except, that nothing contained in this section shall authorize a cosmetologist to perform barbering as defined in section 71-202 upon any-male-person in any licensed barber shop.

Sec. 5. That section 71-206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-206. A person is qualified to receive a certificate of registration as a registered apprentice (1) when he has a diploma showing graduation from high school, or an equivalent education as determined by an examination conducted by the ~~Board-of-Barber-Examiners-or~~ county superintendent of schools, or by successfully passing a general educational development test, either of which examination shall be optional with the applicant; (2) who is of good moral character and temperate habits; (3) who has graduated from a school of barbering approved by the Board of Barber Examiners; (4) who has completed one two thousand eight one hundred and--fifty hours of training in a school of barbering; (5) who has passed a satisfactory examination conducted by the Board of Barber Examiners to determine his fitness to practice as a registered apprentice, which examination must be taken within two years after the date of his entry into barber school; and (6) if a graduate of a barber school in a state other than Nebraska that he has an apprentice certificate from the state in which he attended barber school and has completed and graduated from a school of barbering requiring not less than the number of hours required in Nebraska.

Sec. 6. That section 71-208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-208. No school or college of barbering shall be approved by the Board of Barber Examiners unless it requires, as a prerequisite to graduation, graduation from high school or its equivalent as determined by an examination conducted by the county superintendent of schools or successfully passing a general educational development test, and unless it requires as a prerequisite to graduation a course of instruction of not less than ~~one-thousand--eight--hundred--fifty--hours~~ two

thousand one hundred hours, to be completed in a period of not less than nine-months one year, of not more than ten hours in any one working day, and unless that school meets the standards of this act and such standards as are herewith authorized to be set up by rules and regulations of the board. Such course of instruction shall include scientific fundamentals for barbering, hygiene, massaging, sterilization, haircutting, and shaving; Provided, that where a school or college of barbering is a part of a high school accredited by the State Board of Education or the University of Nebraska, the Board of Barber Examiners shall provide in its rules and regulations that credit in the school of barbering shall be given for hours spent and courses pursued in the high school, and the board shall also provide that credit shall be given for courses in barbering taken in such high school prior to formal enrollment in such school of barbering.

Sec. 7. Cosmetologists licensed in the State of Nebraska attending a school or college of barbering shall be given one thousand hours credit toward the course hours required for graduation.

Sec. 8. That section 71-208.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-208.07. Any barber instructor who desires to withdraw from the active practice of the teaching of barbering may request that he be placed on inactive status and he shall, on or before July 1 of each year, pay an inactive status license fee in an amount to be set by the board. Any Any barber instructor on inactive status as of the effective date of this act may restore his or her license anytime before June 30, 1979, by paying the prescribed annual renewal fee. After June 30, 1979, any barber instructor on inactive status or who is on the inactive status for not more than five years withdraws from the active practice of barber instructing may renew his certificate of registration license within five years of its expiration date upon the payment of the required restoration fee. No fee shall be charged for the period between the expiration of the last license issued and the time of renewal. Any barber instructor who fails to renew his license for five consecutive years shall be required to successfully complete the examination for issuance of a new license.

Sec. 9. That section 71-209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-209. Each applicant for an examination shall (1) make application to the Board of Barber Examiners on blank forms prepared and furnished by the board, such application to contain proof under the applicant's oath of the particular qualifications of the applicant; (2) furnish to the board two portrait type photographs of the applicant not less than two by three and one-half inches in size at least passport size but not to exceed three by five inches showing a sufficient portion of the applicant's face with sufficient clarity so as to permit the Board of Barber Examiners to identify the applicant, each of which photographs shall be signed by the applicant, one such photograph to accompany the application and to be attached thereto, and one to be returned to the applicant, to be presented to the board when the applicant appears for examination; and (3) pay to the board the required fee. The applicant shall not be entitled to the return of the required fee by reason of his failure to report for the examination.

Sec. 10. That section 71-210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-210. The Board of Barber Examiners shall conduct examinations of applicants for certificates of registration to practice as registered barber instructors, registered barbers, or registered apprentices and applicants to enter barber schools to determine their educational fitness, not less than four times each year at such time and places as the board may determine. The examination of applicants for certificates of registration as registered barbers and registered apprentices shall include both a practical demonstration and a ~~written and oral~~ test, and shall embrace the subjects usually taught in schools of barbering approved by the board. If the applicant fails either the practical demonstration or the written test, reexamination shall be necessary for only the test that was failed. Every student entering a recognized school must have the date of his entrance registered with the board.

Sec. 11. That section 71-212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-212. A person who is of good moral character and temperate habits and has a diploma showing graduation from high school or its equivalent as determined by an examination conducted by the county superintendent of schools or successfully passing a general educational development test either of which shall be optional with

the applicant, and (1) has a license and certificate of registration as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by sections 71-201 to 71-224, and (2) who can prove by sworn affidavits that he has practiced as a barber in another state or country for at least two years immediately prior to making application in this state; Chapter 71, article 2, shall upon payment of the required fee be given an examination by the board at the next regular examination to determine his fitness to receive a certificate of registration to practice barbering. If any person fails to pass a required examination, he shall be entitled to submit himself for examination by the Board of Barber Examiners at the next examination given by the board. If he fails at the third examination, no further examination shall be granted. Should an applicant, when requested to appear for an examination, fail to appear, he shall be notified by the board as to the time of the next regular examination, at which he shall appear.

Sec. 12. That section 71-216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-216. Every registered barber instructor, registered assistant barber instructor, registered barber, and every registered apprentice who continues in active practice or service, shall on or before June 30 of each year renew his certificate of registration, which certificate shall be effective as of July 1 of each year, and which certificate shall terminate on June 30 of the next succeeding year and shall pay the required fee. Every barber school shall annually, on or before June 30 of each year, obtain renewal of its approval and pay the required fee, which renewal of approval shall be effective as of July 1 of each year and shall expire on June 30 of the next succeeding year. ~~Any barber desiring to withdraw from the active practice of barbering may request that he be placed on inactive status and shall, on or before July 1 of each year, pay an inactive status license fee in an amount to be set by the board. Any barber on inactive status as of the effective date of this act may restore his or her license anytime before June 30, 1979, by paying the prescribed annual renewal fee. After June 30, 1979, any registered barber on inactive status or who is on an inactive status for not more than five years may renew his certificate of registration withdraws from the active practice of barbering may renew his license within five years of its expiration date upon the payment of the required restoration fee. No fee shall be charged for the period between the expiration of the last license issued and the~~

time of renewal. Any barber who fails to renew his license for five consecutive years shall be required to successfully complete the examination for issuance of a new license. No apprentice barber may renew an apprentice license more than three times.

Sec. 13. That section 71-218, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-218. The Board of Barber Examiners may ~~neither not~~ refuse to ~~issue~~ ~~or~~ ~~refuse~~ to renew, nor suspend, nor or revoke any certificate of registration or approval under the provisions of section 71-217 unless the person accused has been given at least twenty days' notice in writing of the charge against him and a public hearing by the board. Upon the hearing of any such proceeding, the board may administer oaths and may procure, by its subpoena, the attendance of witnesses and the production of relevant books and papers. Any district court, or any judge of the district court, either in term time or in vacation, upon application either of the accused or of the board may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the board in any hearing relating to the refusal, suspension or revocation of certificates of registration or approval.

Sec. 14. That section 71-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-219. The Board of Barber Examiners shall set the fee to be paid:

(1) By an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering or as a barber instructor, and for the issuance of the certificate;

(2) By an applicant for registration as an assistant barber instructor;

(3) For the renewal of a certificate of registration to practice barbering, and for restoration of an expired certificate;

(4) For the renewal of a certificate of registration to practice as a barber instructor or assistant barber instructor, and for the restoration of an expired certificate;

(5) By an applicant for an examination to receive a certificate of registration to practice as an apprentice, and for the issuance of a certificate;

(6) For the renewal of a certificate of registration to practice as an apprentice, and for the restoration of an expired certificate;

(7) For an application for a license to establish a barber shop or barber school;

(8) For the transfer of license or change of ownership of a barber shop;

(9) For a license to conduct a school of barbering; and

(10) For a license to conduct a barber shop, and for restoration of an expired license; -

(11) For an application for a temporary license to conduct classes of instruction in barbering; and

(12) For a certification of licensure.

Sec. 15. That section 71-219.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-219.02. Application for a license to establish a barber shop or barber school shall be made on a form furnished by the Board of Barber Examiners. It shall contain such information relative to ownership, management, sanitation, and other data concerning such business as may be required by the board. The board shall collect with such application, in addition to the annual license fee paid for that year, a fee to be set by the board. A fee shall be collected for the transfer of license or change of ownership of a barber shop, but no fee shall be collected if the ownership results merely from a present license holder incorporating his business. Every barber shop shall be inspected called upon by the state barber inspector at least once each year for the purpose of inspection in order to be eligible for an annual permit to conduct a barber shop, and no license shall be issued unless all deficiencies found by inspection of such shop have been corrected.

Sec. 16. That section 71-222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-222. The Board of Barber Examiners shall annually elect a president and vice president, and the board shall then appoint a manager-inspector director who shall serve as secretary of the board. The board shall be furnished with suitable quarters in the State Capitol or elsewhere. It shall adopt and use a common seal for the authentication of its orders and records. The manager-inspector director shall keep a record of all proceedings of the board. A majority of the board, in a meeting duly assembled, may perform and exercise all the duties and powers devolving upon the board. Each member of the board shall receive a compensation of forty dollars per diem, and shall be reimbursed for his necessary traveling expenses incurred in the discharge of his duties, not to exceed two thousand dollars per annum and not to exceed the amounts allowed by state administrative departments. Both salaries and expenses are to be paid only from the fund created by fees collected in the administration of sections 71-201 to 71-237; Provided, that no other funds or state money except as collected in the administration of such sections shall be drawn upon to pay the expense of administration. The board shall report each year to the Governor a full statement of its receipts and expenditures and also a full statement of its work during the year, together with such recommendations as it may deem expedient. The board may employ one field inspector and such other inspectors, clerks, and other assistants as it may deem necessary to carry out the provisions of sections 71-201 to 71-237 and prescribe their qualifications. No owner, agent, or employee of any barber school shall be eligible to membership on the board.

Sec. 17. That section 71-222.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-222.01. The manager-inspector director, under the supervision of the Board of Barber Examiners, shall administer the provisions of sections 71-201 to 71-237, and shall serve at the pleasure of the board. His salary shall be fixed by the board. He shall devote full time to the duties of his office. No person shall be eligible to the office of manager-inspector director who has not been engaged in the active practice of barbering as a registered barber in the state for at least five years immediately preceding his appointment. No member of the Board of Barber Examiners shall be eligible to the office of manager-inspector director during his term. The manager-inspector director shall execute and file with the Board of Barber Examiners a surety bond, running to the state in the penal sum of ten thousand dollars, with

corporate surety authorized to transact business in this state and conditioned for the faithful performance of his duties and that he will account for and pay over, pursuant to law, all state money received by him in the performance of his official duties. The premium on such bond shall be paid as an expense of the board.

Sec. 18. That section 71-223.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-223.01. The Department of Health shall by regulations duly adopted, prescribe sanitary requirements for barber shops and barber schools. The Board of Barber Examiners or its employees shall regularly inspect all barber shops and barber schools in this state to insure compliance with such regulations. A written report of each such inspection made shall be submitted to the barber board. Each school or barber shop shall be inspected called upon at least once each year for the purpose of inspection prior to the issuance of its license to be eligible for annual renewal of certification or registration. A report of any violation of the prescribed sanitary requirements shall be submitted to the Department of Health.

Sec. 19. \* That section 71-223.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-223.04. Any person ~~not--holding--a---valid license from the State of Nebraska as a registered barber~~ who desires to conduct any class or classes of instruction, other than a free demonstration, shall, before engaging in such instruction, make application to the Board of Barber Examiners for a temporary permit authorizing the applicant to conduct such class or classes. In order to be qualified for such temporary license, the applicant must (1) hold a valid license as a registered barber in some state in the United States; (2) have filed with the Board of Barber Examiners an application setting forth the type of classes to be conducted, the period of time the classes will be conducted, the place in which such classes are to be conducted, and the amount of tuition, if any, to be charged; and (3) pay the fee set by the board for issuance of a temporary permit. Upon being satisfied that the applicant does hold a valid license as a barber in some state in the United States, is qualified to conduct such classes, and has made arrangements to conduct such classes in facilities which otherwise meet the requirements as to health and sanitation required of a barber school in the State of Nebraska, the board shall

issue a temporary license to such applicant to permit the conducting of such classes. The license shall be valid only for the classes and times set forth in the application. Before such application is delivered to the an applicant other than a barber or barber school or college currently licensed in Nebraska, the applicant must post with the Board of Barber Examiners a good and sufficient surety bond, issued by a reputable bonding company licensed to do business in the State of Nebraska, for the benefit of the persons taking such class or classes in a sufficient amount to assure to such students a refund of any portion of their tuition paid but not used, in the event that such class or classes shall discontinue operation for any reason prior to the time that all of such classes have been conducted.

Sec. 20. That section 71-225, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-225. The Legislature declares that: (1) The provisions and regulations of ~~sections 71-225 to 71-237 Chapter 71, article 2,~~ are enacted in the interest of public health, public safety, and the general welfare; and (2) the skilled trade of barbering and the operation of barber shops is affected with a public interest. ; ~~and (3) in order to attain the purposes of sections 71-225 to 71-237, in promoting and conserving fair competition and salutary and sanitary practices among barbers, reasonable minimum prices should prevail for services customarily performed by barbers in barber shops under the provisions hereof.~~

Sec. 21. That section 71-227, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-227. Whenever it shall appear to the Board of Barber Examiners that ~~unfair or unreasonable economic practices prevail among barbers, in any county of the State of Nebraska, which may tend to make insecure the economic status of the barbers therein,~~ which tend to impair the health or efficiency of barbers or to endanger the health or safety of their patrons, it shall be the duty of the board to investigate and determine whether the conditions or practices above mentioned, or any of them, prevail ~~in such county~~ and if found to exist or to be threatened by conditions existing therein, the board may, by official order, ~~or, upon the petition of sixty-five per cent of the barbers in such county,~~ shall, after due notice and hearing as provided for herein, ~~promulgate scales of reasonable minimum prices to be charged for barber services in such county by barber~~

shops therein and may make and promulgate such other reasonable orders, rules and regulations as may be calculated to promote the purposes of sections 71-225 to 71-237 Chapter 71, article 2 as herein expressed. If upon investigation, the board finds that any such regulations should be made applicable to two or more adjoining counties, the board may include all such counties in one order or, if the board finds that the regulations to be imposed should vary in different localities within the same county in order to equitably attain the objectives of sections 71-225 to 71-237, the board may make such different regulations for such different localities as will make such order adjustable to differing economic or social conditions therein.

Sec. 22. That section 71-232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-232. The Board of Barber Examiners shall adopt and enforce all rules and orders necessary to carry out the provisions of sections 71-225 to 71-237 Chapter 71, article 2. All orders approving minimum prices shall be printed and posted for public inspection in the office of the secretary of the board. Notice thereof shall be mailed to the last known address of each licensed barber directly affected by such order, but the failure to receive such notice shall not relieve any person from the duty to comply therewith.

Sec. 23. That section 81-193, Revised Statutes Supplement, 1977, be amended to read as follows:

81-193. The following agencies, boards, or commissions shall terminate on July 1, 1978:

(1) Board of Cosmetologist Examiners, created by section 71-316;

~~(2) Board of Barber Examiners, created by section 71-224;~~

~~(3) (2) Board of Examiners in Massage, created by section 71-2703;~~

~~(4) (3) Board of Hearing Aid Dealers and Fitters, created by section 71-4715;~~

~~(5) (4) Board of Registration for Sanitarians, created by section 71-3701; and~~

~~(6) (5) Department of Economic Development, created by section 81-1201.~~

Sec. 24. That original sections 71-201, 71-202, 71-202.01, 71-203, 71-206, 71-208, 71-208.07, 71-209, 71-210, 71-212, 71-216, 71-218, 71-219, 71-219.02, 71-222, 71-222.01, 71-223.01, 71-223.04, 71-225, 71-227, and 71-232, Reissue Revised Statutes of Nebraska, 1943, and section 81-193, Revised Statutes Supplement, 1977, and also sections 71-201.01, 71-226, 71-229, and 71-233, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 25. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.