

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

A Bill

HOUSE BILL 1953

By: Representative Fielding

By: Senator Elliott

For An Act To Be Entitled

AN ACT TO CREATE THE STATE BOARD OF COSMETOLOGY; AND
FOR OTHER PURPOSES.

Subtitle

TO CREATE THE STATE BOARD OF COSMETOLOGY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-26-102(a)(2), concerning the definition of "cosmetological establishment", is amended to read as follows:

(2) "Cosmetological establishment" means any premises, building, or part of a building in which is practiced any branch or any combination of branches of cosmetology or the occupation of a cosmetologist except:

(A) The branch of manicuring as practiced in barbershops licensed by the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology and complying with the provisions of this chapter; and

(B) Nursing facilities as defined under § 20-10-1401;

SECTION 2. Arkansas Code § 17-26-102(a)(7), concerning the definition of "postsecondary school of cosmetology, is amended to read as follows:

(7) "Postsecondary school of cosmetology" means a school of cosmetology that offers a postsecondary curriculum approved by the ~~Department of Health~~ State Board of Cosmetology;

SECTION 3. Arkansas Code § 17-26-104 is amended to read as follows:



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17-26-104. Unlawful practices.

(a)(1) It is unlawful for any person, firm, or corporation to violate this chapter or a rule adopted by the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology pursuant to this chapter.

(2) Evidence of a violation may result in a criminal or civil penalty.

(3) Each day of a violation is a separate offense.

(b)(1) Being found guilty of a criminal penalty is an unclassified misdemeanor and is punishable by a fine in any sum not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500) or by imprisonment in the county jail for a period of not more than ninety (90) days, or by both fine and imprisonment.

(2) After being found guilty of an unclassified misdemeanor under this section, a subsequent charge under this section is a Class C misdemeanor.

(3) All prosecuting attorneys of the state and all political subdivisions of the state shall enforce this chapter and prosecute any person or entity violating it.

(c)(1) Being found in violation of a civil penalty under this section may result in suspension of license, revocation of license, fine, or any combination.

(2) For good cause shown and pursuant to rules of the ~~committee~~ board, the ~~committee~~ board may revoke, suspend, or refuse to renew at any time any license issued under this chapter on any of the grounds for disciplinary actions under § 17-26-105.

(3)(A) The ~~committee~~ board shall suspend the license of any person licensed under this chapter who has been adjudged by a court of competent jurisdiction to be insane or legally incompetent.

(B) The record of the adjudication shall be prima facie evidence that the person is insane or legally incompetent within the meaning of subdivision (c)(3)(A) of this section.

(C) The ~~committee~~ board shall not reinstate a license that has been suspended under subdivision (c)(3)(A) of this section, except upon proof that the licensee has been restored to a mental condition that would allow the licensee to comply with the requirements of this chapter.

(4)(A) Whenever the ~~committee~~ board finds that a licensee or a

holder of a permit issued by the ~~committee~~ board is guilty of a violation of the rules of the ~~committee~~ board or the laws of this state pertaining to any occupation, profession, or business licensed or regulated by the ~~committee~~ board, the ~~committee~~ board may impose a penalty on the licensee or permit holder in lieu of suspension or revocation of the license or permit.

(B) Upon imposition of a penalty in lieu of suspension or revocation of a license or permit, the ~~committee~~ board may require that the licensee or permit holder pay a penalty to the ~~committee~~ board for the violation with the condition that the license or permit may be suspended until the penalty is paid.

(C)(i) Prior to the imposition of a penalty, the ~~committee~~ board shall hold an investigation and hearing after notice to the licensee or his or her attorney.

(ii) The penalty may be imposed in lieu of revocation or suspension of a license or permit only if the ~~committee~~ board finds that the public health, safety, welfare, and morals would not be impaired and that the penalty achieves the desired disciplinary result.

(5)(A) The ~~committee~~ board shall establish by rule the penalty system to be imposed under this section.

(B) The minimum penalty shall be twenty-five dollars (\$25.00), and a maximum penalty of one thousand dollars (\$1,000) is authorized if the penalty is imposed by the ~~committee~~ board in lieu of revocation or suspension of a license or permit.

(C) The ~~committee~~ board shall establish by rule an option that mandates a person to attend a health and safety training course in lieu of or in addition to paying a penalty.

(6) The power of the ~~committee~~ board to impose penalties shall not be affected by any other civil or criminal proceeding concerning the violation.

(d) The ~~committee~~ board may refuse to issue a license to any person upon reasonable evidence that the person would jeopardize the health and safety of the public.

(e) Any person penalized by the ~~committee~~ board under this chapter may appeal any order of the ~~committee~~ board in the manner provided by law.

(f) The ~~committee~~ board may impose a civil penalty as provided in this section against any unlicensed person, firm, or corporation practicing or

offering to practice any act that requires licensure under this chapter.

SECTION 4. Arkansas Code § 17-26-105 is amended to read as follows:

17-26-105. Grounds for disciplinary action.

The grounds for disciplinary action are as follows:

(1) Failure of a person, firm, or corporation operating a cosmetological establishment or school of cosmetology or engaged in the practice of cosmetology or any of its branches to comply with the requirements of this chapter and the regulations of the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology;

(2) Failure to comply with the rules governing health and safety adopted by the ~~committee~~ board and approved by the ~~State Board of Health board~~ for the regulation of cosmetological establishments, schools of cosmetology, or the practice of the occupation of cosmetician or cosmetologist;

(3) Obtaining practice in cosmetology or any branch thereof or money or any other thing of value by fraudulent misrepresentation;

(4) Gross malpractice;

(5) Continued practice by a person knowingly having an infectious or contagious disease;

(6) Habitual drunkenness or habitual addiction to the use of morphine or any habit-forming drug;

(7) Advertisement by means of knowingly false or deceptive statements;

(8) Permitting a certificate of registration or license to be used when the holder is not personally, actively, and continuously engaged in business;

(9) Failure to display the license;

(10) Conviction under the laws of the United States or any state or territory of the United States of a crime that:

(A) Is a felony or misdemeanor, as evidenced by a certified copy of a court record or by license application; and

(B) Involves dishonesty or is in any way related to the practice or teaching of the cosmetology industry, unless the applicant or licensee can demonstrate to the board's satisfaction that the applicant or licensee has been sufficiently rehabilitated to warrant the public trust;

(11) Engaging, outside of a licensed school of cosmetology or

cosmetological establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when such a service is necessary because of the illness or other physical incapacity of the person with respect to whom it is performed, it may be performed by a licensee obtained for the purpose from a licensed cosmetological establishment;

(12) Failure to wear clean outer garments, as prescribed by the ~~committee~~ board, to allow the safe and hygienic practice of cosmetology or any branch thereof;

(13) Any other unfair or unjust practice, method, or dealing that the ~~committee~~ board finds may justify such an action or failure to follow guidelines concerning the use of chemicals or equipment as established by rule of the ~~committee~~ board; or

(14) Fraud or deception in procuring a license.

SECTION 5. Arkansas Code Title 17, Chapter 26, Subchapter 2 is amended to read as follows:

Subchapter 2 - ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology

17-26-201. Creation - Members.

(a) There is created the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology.

(b)(1) The ~~committee~~ board shall consist of ~~seven (7)~~ ten (10) members appointed by the ~~State Board of Health~~ Governor to ~~two-year~~ five-year terms.

(2) A member may be removed from the ~~committee~~ board by the ~~board~~ Governor for cause.

(3) A member shall not serve more than ten (10) years on the ~~committee~~ board.

(c) The ~~committee~~ board shall be composed of the following representatives from within the cosmetology industry who are of good moral character and who are at least twenty-five (25) years of age:

(1) ~~One (1) member~~ Four (4) members shall be a licensed ~~cosmetologist~~ cosmetologists actively engaged in practicing the art of cosmetology for at least five (5) years at the time of appointment;

(2) One (1) member shall be a licensed nail technician;

(3) ~~One (1) member~~ Two (2) members shall be ~~an owner~~ owners of a licensed ~~school~~ schools of cosmetology ~~or shall be a director of cosmetology at a state-supported school;~~

(4) One (1) member shall be a director of cosmetology at a state-supported school who is also a licensed instructor;

(5) One (1) member shall be a licensed aesthetician; and

~~(5) Three (3) members shall represent the cosmetology industry at large or a related field~~

(6) One (1) member shall be a consumer representative who is at least sixty (60) years of age and who is not actively engaged in or retired from the cosmetology industry.

(d)(1) A member of the ~~committee~~ board shall not be directly or indirectly connected with the wholesale business of the manufacture, rental, sale, or distribution of cosmetological appliances or supplies.

(2) A member of the ~~committee~~ board shall not have a contract or a pending bid for a contract with the ~~Department of Health concerning~~ cosmetology board.

~~(e)(1) Only two (2)~~ No more than three (3) members of the ~~committee~~ board may be appointed from any one (1) congressional district.

(2) The consumer representative may be appointed from the state at large.

(f) Vacancies occurring during a term shall be filled for the unexpired term.

(g) Before entering upon the discharge of his or her duties, each member shall make and file with the Secretary of State the oath of office prescribed by Arkansas Constitution, Article 19, § 20.

(h) Each member of the ~~committee~~ board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

~~(i) The board shall promulgate by rule the duties and powers of the committee.~~

17-26-204. Inspectors and professional employees.

(a) The ~~Department of Health~~ State Board of Cosmetology, in accordance with this chapter, may employ inspectors and professional employees and fix their compensation, which compensation and all reasonable expenses incurred shall be paid from the ~~Public Health Fund from fees generated by the program~~

Cosmetology Operating Fund.

(b) Immediately upon assuming their duties, all inspectors shall give bond to the board in the amount of one thousand dollars (\$1,000) with good and sufficient sureties approved by the board and conditioned upon the faithful performance of all duties required or that may be required by law or the regulations of the board.

(c) All inspectors shall have had five (5) years' experience in the licensed practice of cosmetology.

17-26-205. Powers and duties.

(a) In addition to the other duties set forth in this chapter, the ~~Department of Health~~ State Board of Cosmetology shall:

(1) Prescribe the duties of the ~~department's~~ employees of the State Board of Cosmetology with day-to-day employment decisions to be made by the Director of Cosmetology;

(2) Establish a principal office in Pulaski County where all records of its proceedings and other records and files of the State Board of Cosmetology shall be kept and which shall, at all reasonable hours, be open to the public for inspection;

(3) Adopt a seal;

(4) Hold examinations as to the qualifications of all applicants for registration whose applications have been submitted to it in proper form, unless otherwise provided;

~~(3)~~(5) Issue permits and licenses to the applicants who are entitled thereto;

~~(4)~~(6) Register cosmetological establishments and schools of cosmetology;

~~(5) Implement the State Board of Health's~~

(7) At each regular meeting, approve disbursement of all funds;

(8) Report to the proper officials all known violations of this chapter; and

(9) Adopt reasonable rules:

(A) For carrying out the provisions of this chapter;

(B) For conducting examinations of applicants for

licensing;

(C) For governing the recognition and the credits to be

given to the study of cosmetology or any of its branches, under a cosmetologist or in a school of cosmetology, licensed under the laws of another state; and

(D) For governing health and safety, as it considers necessary, in regard to the precautions to be employed to prevent the creating or spreading of infections or contagious diseases in cosmetological establishments, in schools of cosmetology, and in the practice of a cosmetologist and in any branch of cosmetology, provided the rules meet the minimum requirements of the law and rules of the State Board of Health. A copy of all rules governing health and safety shall be made available to each licensee. The rules adopted under this subsection shall have the force and effect of law.

(b) In addition to the powers conveyed upon the ~~department~~ State Board of Cosmetology by this chapter, the ~~department~~ State Board of Cosmetology may enforce the provisions of this chapter or any reasonable rule adopted by the ~~board~~ State Board of Cosmetology through the injunctive process.

(c) The ~~department~~ State Board of Cosmetology may incur reasonable expenses and perform such other acts as may be necessary to carry out its duties and functions and to administer this chapter.

(d)(1) The ~~department~~ State Board of Cosmetology shall promulgate rules setting a standard educational curriculum for schools of cosmetology.

(2) The standard educational curriculum shall distinguish between secondary and postsecondary educational requirements for the schools of cosmetology.

17-26-206. Meetings – Examinations.

(a) The ~~Department of Health~~ inspectors for the State Board of Cosmetology or a private testing entity shall administer licensing examinations for eligible applicants on a monthly basis.

(b) A member of the ~~Cosmetology Technical Advisory Committee~~ board shall not be permitted to participate in or have the powers and duties that are related to the preparation of examinations or be permitted to give or grade the examinations of applicants for licensing.

17-26-207. Registration record.

The ~~Department of Health~~ State Board of Cosmetology shall keep a

registration record containing the names, known places of business, and the date and number of the license of every licensed cosmetologist and of those engaged in the practice of any branch of cosmetology, together with the names and addresses of all cosmetological establishments and schools of cosmetology registered under this chapter. This record shall also contain such facts as the applicants may have stated in their applications for examination for permitting and licensing.

17-26-208. Investigations, hearings, or inspections.

(a) The ~~Department of Health~~ State Board of Cosmetology shall conduct investigations and inspections as promulgated by rule.

(b)(1) Hearings conducted by the ~~Cosmetology Technical Advisory Committee~~ board may be held bimonthly for review of cases for which disciplinary action may be required.

(2)(A) Except as provided in subdivision (b)(2)(B) of this section, a hearing attended by two (2) or more members of the ~~committee~~ board is a meeting.

(B) A final order shall not be imposed by fewer than ~~three~~ (3) five (5) members.

~~(C) A final order imposed by the committee may be appealed to the State Board of Health within thirty (30) days of its receipt.~~

17-26-209. Fees – Method of payment.

(a) The ~~State Board of Health~~ State Board of Cosmetology shall promulgate a fee schedule by rule and collect fees accordingly.

(b) In addition to any other method of payment acceptable to the ~~Department of Health~~ board, the ~~department~~ board shall accept personal or business checks drawn on deposit accounts in financial institutions as payment for fees collected by the ~~department~~ board.

17-26-210. Disposition of funds.

(a) All fees, fines, and penalties collected under this chapter and on behalf of the ~~State Board of Health~~ State Board of Cosmetology and all receipts of every kind and nature collected under this chapter shall be paid into the State Treasury and shall be credited to the ~~Public Health Fund~~ Cosmetology Operating Fund.

(b)(1) The fees, fines, penalties, and receipts shall be for the general uses of the ~~Department of Health~~ board.

(2) Salaries and other expenses necessarily incurred in carrying into effect the provisions of this chapter and other programs administered by the ~~department~~ board shall be paid from the fees, fines, penalties, and receipts.

(c) Expenditures shall be substantiated by vouchers and itemized statements at the end of each fiscal year or at any other time when demand therefor is made by the Department of Finance and Administration.

SECTION 6. Arkansas Code Title 17, Chapter 26, Subchapter 2, is amended to add additional sections to read as follows:

17-26-211. Officers.

(a) The members of the State Board of Cosmetology shall annually elect from among their number, a president, first vice president, second vice president, secretary, and treasurer.

(b) The board shall by rule prescribe the duties of the officers.

17-26-112. Director.

(a) The State Board of Cosmetology shall appoint a Director of Cosmetology with secretarial qualifications, who shall:

(1) Not be a member of the board; and

(2) Have had at least five (5) years' experience in the secretarial and administrative employment in this state immediately before appointment.

(b) Upon assuming the duties of his or her office, the director shall give bond to the board in the amount of five thousand dollars (\$5,000), with good and sufficient sureties, approved by the board and conditioned upon the faithful performance of all duties required or which may be required of him or her by law or rule of the board.

SECTION 7. Arkansas Code § 17-26-302(a), concerning applications for examination and licensure as a cosmetologist, is amended to read as follows:

(a) Each application for admission to examination and each application for a license as a cosmetologist or any branch of cosmetology shall be in writing on blanks prepared and furnished by the ~~Department of Health~~ State

Board of Cosmetology.

SECTION 8. Arkansas Code § 17-26-303(c), concerning examinations, is amended to read as follows:

(c) The examination shall be consistent in both practical and technical requirements and of sufficient thoroughness to satisfy the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology as to the applicant's skill in and knowledge of the practice of the occupation or occupations for which a license is sought.

SECTION 9. Arkansas Code § 17-26-304 is amended to read as follows:

17-26-304. Prerequisites to examination for a cosmetologist, manicurist, or aesthetician.

The ~~Department of Health~~ State Board of Cosmetology shall admit to examination for a license as a cosmetologist, manicurist, or aesthetician a person who has made application to the ~~department~~ board in proper form, has paid the fee required, and who:

- (1) Is not less than sixteen (16) years of age;
- (2) Has completed two (2) years of high school in the public schools of this state or its equivalent; and
- (3) Has completed one (1) of the following:
 - (A) For a cosmetologist, training of at least one thousand five hundred (1,500) hours;
 - (B) For a manicurist, training of at least six hundred (600) hours;
 - (C) For an aesthetician, training of at least six hundred (600) hours; or
 - (D) The prescribed course of study in cosmetology under the laws of another state whose licensing requirements are equal to or stricter than those in Arkansas.

SECTION 10. Arkansas Code § 17-26-306 is amended to read as follows:

17-26-306. Electrologists – Prerequisites to examination.

The ~~Department of Health~~ State Board of Cosmetology shall admit to examination for a license as an electrologist a person who has made application to the ~~department~~ board in proper form, has paid the fee

required, and who:

- (1) Is not less than eighteen (18) years of age;
- (2) Has completed the twelfth grade or an accredited senior high school in the public schools of this state or its equivalent; and
- (3) Has completed one (1) of the following:
 - (A) A course of three hundred fifty (350) hours of practical training as a student in conjunction with a course of fifteen hundred (1500) hours in cosmetology or for a licensed cosmetologist;
 - (B) A course of six hundred (600) hours of practical training as a student, when not in conjunction with a regular course in cosmetology or for a licensed cosmetologist, extending over a period of not less than four (4) months under the immediate supervision of a licensed electrologist instructor in a school of cosmetology;
 - (C) The prescribed course of study in electrology under the laws of another state whose licensing requirements are equal to or stricter than those in Arkansas; or
 - (D) Training and practice in electrology for a period as shall be specified by rules of the ~~State Board of Health~~ board.

SECTION 11. Arkansas Code § 17-26-307 is amended to read as follows:

17-26-307. Electrology instructors – Prerequisites to examination.

The ~~Department of Health~~ State Board of Cosmetology shall admit to examination for license as an electrology instructor any person who has made application to the ~~department~~ board in proper form, has paid the fee required, and who:

- (1) Is not less than twenty-one (21) years of age;
- (2) Holds a valid Arkansas license as an electrologist; and
- (3) Has had three (3) years of practical experience as an electrologist in the State of Arkansas within the past five (5) years.

SECTION 12. Arkansas Code § 17-26-309 is amended to read as follows:

17-26-309. Examination for cosmetologists and all branches of cosmetology.

Examinations for license as cosmetologists and all other branches of cosmetology shall include a written core and law test and a practical test that embrace all phases of cosmetology as deemed necessary by the ~~Cosmetology~~

~~Technical Advisory Committee~~ State Board of Cosmetology to protect the health, safety, and welfare of the public.

SECTION 13. Arkansas Code § 17-26-310 is amended to read as follows:
17-26-310. Failure to appear for examination.

The ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology shall promulgate rules concerning an applicant for an examination who fails to appear for the examination.

SECTION 14. Arkansas Code § 17-26-312 is amended to read as follows:
17-26-312. Issuance of license.

(a) Persons who pass any examination under this chapter shall receive a license from the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology.

(b) This license, except for renewal fees, entitles the holder to engage in the practice of the specified branch of cosmetology upon the public in a licensed cosmetological establishment, except as provided in § 17-26-102(3)(B).

SECTION 15. Arkansas Code § 17-26-314 is amended to read as follows:
17-26-314. Specificity of permit or license.

Every permit or license issued by the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology shall specify the occupation or occupations that the permit and license entitle the holder to practice.

SECTION 16. Arkansas Code § 17-26-315 is amended to read as follows:
17-26-315. Reciprocity.

Upon application to the ~~Department of Health~~ State Board of Cosmetology in the form provided for the particular class of license applied for, accompanied by the required fee, a person licensed as a cosmetologist, electrologist, manicurist, aesthetician, or instructor under the laws of another state shall be granted a license to practice the occupation or occupations in this state not of greater scope than the occupation or occupations for which the applicant was previously licensed in the other state, upon the following conditions:

(1) That the applicant for a license as a cosmetologist,

manicurist, or aesthetician is not less than eighteen (18) years of age, and the applicant for a license as an instructor or electrologist is not less than twenty-one (21) years of age;

(2) That the applicant holds a current valid license upon application for reciprocity, evidenced by a certified copy of the license and an affidavit from the other state or by such other evidence as the ~~department~~ board may require;

(3) That the applicant has passed a national examination comparable to the examination given in this state; and

(4) That the applicant passes an Arkansas law examination under this chapter.

SECTION 17. Arkansas Code § 17-26-317 is amended to read as follows:
17-26-317. Notice of address change.

Every registered cosmetologist manager-operator, cosmetologist, electrologist, manicurist, or aesthetician, within thirty (30) days after changing the address of his or her place of business as designated on the books of the ~~Department of Health~~ State Board of Cosmetology, shall notify the ~~department~~ board of his or her new place of business. Upon receipt of the notification, the ~~department~~ board shall make the necessary changes in the register.

SECTION 18. Arkansas Code § 17-26-319(d)-(f), concerning expiration, renewal, and reinstatement of licenses, is amended to read as follows:

(d) A licensee whose license has lapsed for failure to renew and who is or was under the direct supervision of a physician for an extended or long-term condition may request from the ~~Department of Health~~ State Board of Cosmetology a waiver of the reinstatement fee.

(e) After five (5) years from the date of its expiration, a license may be reinstated upon the filing of an application as the ~~department~~ board may prescribe, the payment of the examination fee, and the passing of the examination required by the ~~department~~ board.

(f) The ~~department~~ board is authorized and directed to renew, upon application and the payment of the necessary fees, the license of a cosmetologist, manicurist, aesthetician, instructor, or electrologist who is also a veteran of war who possessed the license but permitted it to lapse.

The renewal license shall be issued without the applicant's being required to submit to any examination or to meet any additional schooling requirements.

SECTION 19. Arkansas Code § 17-26-321 is amended to read as follows:

17-26-321. Reissuance and reinstatement.

For good cause shown and under such reasonable rules as may be imposed, the ~~Department of Health~~ State Board of Cosmetology may reissue or reinstate the license of any person whose license has been previously revoked.

SECTION 20. Arkansas Code Title 17, Chapter 26, Subchapter 3, is amended to add an additional section to read as follows:

17-26-324. Use of funds from penalties.

Funds derived from penalties assessed by the State Board of Cosmetology under the authority granted in this chapter shall be maintained in a separate bank account and shall be used exclusively to defray the costs of disciplinary hearings and any other enforcement actions, including the investigation thereof, and all necessary costs for the development and staffing needs for educational training purposes under § 17-26-104(c)(5)(C).

SECTION 21. Arkansas Code § 17-26-401(b), concerning license requirements, is amended to read as follows:

(b) It shall be unlawful for any person to employ or to allow to be employed any person not licensed by the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology in or about a cosmetological establishment as a cosmetologist manager-operator, or as a manicurist, or as an electrologist, or as an aesthetician.

SECTION 22. Arkansas Code § 17-26-402 is amended to read as follows:

17-26-402. Cosmetological establishments – License.

(a) A person, firm, or corporation desiring to operate a cosmetological establishment shall make an application to the ~~Department of Health~~ State Board of Cosmetology for a license.

(b) The application shall be accompanied by the required licensing fee.

SECTION 23. Arkansas Code § 17-26-403 is amended to read as follows:

17-26-403. School of cosmetology – Application to operate – License.

(a) Schools of cosmetology shall be conducted as provided in this subchapter.

(b)(1) A person, firm, or corporation desiring to conduct a school of cosmetology shall apply to the ~~Department of Health~~ State Board of Cosmetology for approval.

(2) The Department of Education shall not be required to apply to the ~~Department of Health~~ board for approval.

(3)(A) When an application is made after January 1, the portion of the registration fee that the unexpired number of months in the year bears to the entire year, including the month the application is made, shall be paid to the ~~Department of Health~~ board.

(B) In such a case the ~~Department of Health~~ board shall issue a license for the fractional part of the year.

(c) The license authorizes the school of cosmetology holding it to transact operations in this state during the year or fraction thereof for which it is issued subject to the rules of the ~~Department of Health~~ board.

(d) Nothing in this section shall be construed as authorization or permission to conduct a school of cosmetology without a valid, existing, and unexpired license.

(e) A license issued by the ~~Department of Health~~ board shall designate on the written license whether the school of cosmetology is licensed as:

- (1) A school of cosmetology; or
- (2) A postsecondary school of cosmetology.

SECTION 24. Arkansas Code § 17-26-404 is amended to read as follows:
17-26-404. Licensing requirements – Expiration – Renewal.

(a) Licensing for cosmetological establishments and schools of cosmetology expires pursuant to § 17-26-319(b).

(b) An application for renewal of a license shall be filed with the ~~Department of Health~~ State Board of Cosmetology, accompanied by the required renewal fee.

(c) Thereupon, the ~~department~~ board shall renew the license for the appropriate time period.

(d) A license that has expired for failure of the registrant to renew within the time fixed by this section may for a period of one (1) year thereafter be renewed upon the filing of an application in such form as the

~~department board~~ may require and upon payment of the required renewal fee and the delinquency fee.

(e) After one (1) year from the date of its expiration, a certificate may not be renewed, and the establishment or school may again become entitled to a license only upon compliance with all of the provisions of this chapter relating to the original issuance of a license.

SECTION 25. Arkansas Code § 17-26-406 is amended to read as follows:
17-26-406. Refusal or cancellation of school license – Causes.

(a) A school shall not be licensed until the ~~Department of Health~~ State Board of Cosmetology has had ample opportunity to verify sworn statements as to the actual ownership. In this respect, if false statements are submitted to the ~~department board~~ in connection with a license application, this in itself shall constitute sufficient grounds for the refusal to grant any application under this subchapter. If an application is granted and thereafter the ~~department board~~ discovers that false statements were made in connection therewith, this shall constitute sufficient grounds for the cancellation of the school license even though the false statements are detected after a license has been issued.

(b)(1) The ~~department board~~ may deny a school license to any applicant or licensee upon reasonable evidence that the school or its officials would jeopardize the health and safety of the public.

(2) A school license shall not be issued until the real owner files with the ~~department board~~ a statement definitely designating who is authorized to accept service of notice from the ~~department board~~ and to transact all business negotiations on behalf of the school, including answers to citations for hearing and compliance with rulings issued by the ~~Cosmetology Technical Advisory Committee~~ board.

SECTION 26. Arkansas Code § 17-26-407(b), concerning inspection of cosmetology school facilities, is amended to read as follows:

(b) An applicant shall not be granted a license to operate a school unless the ~~Department of Health~~ State Board of Cosmetology finds that sufficient equipment has been installed for the requirements of enrolling a minimum of not fewer than twenty-five (25) bona fide students and that not fewer than twenty-five (25) bona fide full-time student registration requests

have been received in the case of any new school.

SECTION 27. Arkansas Code § 17-26-408(5), concerning duties of a school of cosmetology, is amended to read as follows:

(5) Fix its tuition at an amount that will enable it to furnish without further charge to the student all cosmetics, materials, and supplies used on the public and in classes. This does not include books and instruments as shall be determined from time to time by the ~~Department of Health~~ State Board of Cosmetology.

SECTION 28. Arkansas Code § 17-26-410(a)(2), concerning qualifications for an instructor of cosmetology, is amended to read as follows:

(2) Has passed an instructor's examination given by the ~~Department of Health~~ State Board of Cosmetology and has received an instructor's license.

SECTION 29. Arkansas Code § 17-26-411 is amended to read as follows:
17-26-411. Instructors – Duties – Number.

(a) All instructors shall be continuously engaged in teaching students in theoretical or practical work. Except when instructing a student, an instructor may not practice upon a client, and any instructor who does so is subject to disciplinary action by the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology.

(b) The ~~State Board of Health~~ board shall promulgate reasonable rules concerning the number of instructors necessary to properly conduct a school of cosmetology.

SECTION 30. Arkansas Code § 17-26-412(b), concerning the cosmetology curriculum, is amended to read as follows:

(b) It shall so arrange the courses devoted to each branch or practice of cosmetology as the ~~Department of Health~~ State Board of Cosmetology may from time to time adopt as the course to be followed by the schools.

SECTION 31. Arkansas Code § 17-26-413(b), concerning an electrology course, is amended to read as follows:

(b) The course shall be in accordance with a curriculum established by the ~~Department of Health~~ State Board of Cosmetology.

SECTION 32. Arkansas Code § 17-26-414(b), concerning special cosmetology programs, is amended to read as follows:

(b) When a student completes the required number of hours for a special program and reenrolls for a cosmetology program or when a student transfers from a special program to a cosmetology program prior to completion of the special program, he or she shall be given credit for the number of hours spent in connection with the special program, but not to exceed the maximum hours required thereof, toward the satisfaction of the time required for the cosmetology program as determined by rules of the ~~Cosmetology Technical Advisory Committee~~ State Board of Cosmetology.

SECTION 33. Arkansas Code § 17-26-415 is amended to read as follows:

17-26-415. Student registration – Reregistration on transfer.

(a)(1) All students of cosmetology, manicuring, electrology, aesthetics, and instructor training shall be registered with the ~~Department of Health~~ State Board of Cosmetology before accredited hours can be obtained.

(2) The enrollment application shall be accompanied by a copy of a method of identification containing a photograph of the applicant.

(3) A student shall not earn hours prior to the date in which the ~~department~~ board has issued a student permit.

(b) A student who has completed the registration process and whose information is on file with the ~~department~~ board shall complete a reenrollment form without submitting additional documents other than the student permit fee and a method of identification containing a photograph of the student.

SECTION 34. Arkansas Code § 17-26-417(d)(3) and (4) and (e), concerning student work required by cosmetology schools, is amended to read as follows:

(3) A school shall provide a thirty-day notice to the ~~Department of Health~~ State Board of Cosmetology, unless the special event involves a natural disaster as proclaimed by the Governor.

(4) A student shall not provide services to an elderly person who is confined to a hospital or nursing home.

(e)(1) A student providing services under this section shall apply for

a student permit from the ~~department~~ board.

(2) The ~~State Board of Health~~ board shall promulgate rules concerning the issuance of student permits.

(3) A student permit shall contain a photograph of the student.

(4) The student permit shall be:

(A) Maintained by the owner of the school attended by the student during the student's enrollment; and

(B) Returned to the ~~department~~ board along with a copy of the student's Certificate of Training upon the conclusion of the student's enrollment in the school.

SECTION 35. Arkansas Code § 17-26-418 is amended to read as follows:
17-26-418. Cosmetology courses in public schools.

(a)(1) All public educational institutions operating cosmetological schools shall comply with the standards and rules promulgated by the ~~State Board of Health~~ State Board of Cosmetology.

(2)(A) However, the responsibility for approval of cosmetological schools in public educational institutions shall be the sole responsibility of the State Board of Career Education.

(B) In approving a cosmetological school in a public educational institution, the State Board of Career Education shall use the same application process and requirements as the ~~State Board of Health~~ State Board of Cosmetology uses for approval of all other cosmetological schools.

(b) Such schools shall not be required to obtain a license as prescribed in this chapter.

(c) Each person who successfully completes the courses in cosmetology given in a school under the public school system of this state is eligible for a license under this chapter the same as though he or she had graduated from a licensed private school of cosmetology approved by the State Board of ~~Health~~ Cosmetology. For this purpose, successful completion of courses in cosmetology given in public schools equal to and the equivalent of the courses required to be given in licensed private schools of cosmetology approved by the State Board of ~~Health~~ Cosmetology shall be deemed to be the fulfillment of the requirements of this chapter in regard to completion of courses in licensed schools of cosmetology approved by the ~~State Board of Health~~ State Board of Cosmetology.

SECTION 36. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:

19-6-829. Cosmetology Operating Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Cosmetology Operating Fund"

(b)(1) The fund shall consist of those special revenues as specified in § 19-6-301(401).

(2) The fund shall also consist of any other revenues authorized by law.

(c) The fund shall be used exclusively for the maintenance, operation, and improvement of the State Board of Cosmetology.