

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 410

By: Senator J. Cooper

For An Act To Be Entitled

AN ACT TO REPEAL THE ARKANSAS BARBER LAW; TO ABOLISH THE STATE BOARD OF BARBER EXAMINERS; TO AMEND THE LAW GOVERNING THE PRACTICE OF COSMETOLOGY; AND FOR OTHER PURPOSES.

Subtitle

TO REPEAL THE ARKANSAS BARBER LAW; TO ABOLISH THE STATE BOARD OF BARBER EXAMINERS; AND TO AMEND THE LAW GOVERNING THE PRACTICE OF COSMETOLOGY.

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

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Arkansas is taking a leading role in the nationwide pursuit of reforms to the system of occupational licensing;

(2) Arkansas became one (1) of eleven (11) states chosen to participate in the Occupational Licensing Policy Learning Consortium, an initiative funded by a grant from the United States Department of Labor and supported in partnership with the National Conference of State Legislatures, the Council of State Governments, and the National Governors Association;

(3) Governor Asa Hutchinson appointed seventeen (17) individuals to the Red Tape Reduction Working Group to review and address occupational licensing regulations that create unnecessary barriers to labor market entry;

(4) The Red Tape Reduction Working Group issued a final report to the Governor in the fall of 2018 with five (5) recommendations for



substantive legislative reform, which are to:

(A) Establish an expedited procedure for occupational licensing entities to collectively submit administrative rules that are responsive to new legislation;

(B) Expand Acts 2017, No. 781, to allow repeal of subsections of rules;

(C) Establish provisions to allow certain agencies to consider occupational relevance with regard to criminal background issues;

(D) Authorize occupational licensing entities to identify types of individuals or entities that may be issued temporary or provisional licenses; and

(E) Establish a systematic process for review of:

(i) New occupational licensure and occupational licensing entities; and

(ii) Existing occupational licensure and occupational licensing entities;

(5) Several occupational licenses are needlessly regulated and could be deregulated or delicensed without causing detrimental harm to the citizens of the State of Arkansas or the economy of the this state;

(6) Research has found that occupational licensing reduces access to jobs, inhibits geographic mobility, and raises the costs of services; and

(7) By deregulating or delicensing the professions of barber and shampooer, the citizens and the economy of this state would benefit greatly without causing public health and safety issues.

(b) It is the intent of the General Assembly to deregulate or de-license the occupation or profession of barber and shampooer.

SECTION 2. Arkansas Code Title 17, Chapter 20, is repealed.

~~17-20-101. Title.~~

~~This chapter shall be known and may be cited as the "Arkansas Barber Law".~~

~~17-20-102. Definitions.~~

~~(a) As used in this chapter, unless the context otherwise requires, "barbering" means any one (1) or any combination of the following practices when performed for cosmetic purposes and done for the public generally for~~

~~pay, either directly or indirectly in any location defined as a barber shop:~~

- ~~(1) Shaving or trimming the beard;~~
- ~~(2) Cutting hair;~~
- ~~(3) Giving facial and scalp massage or application of oils, creams, lotions, or other preparations, either by hand or mechanical appliances;~~
- ~~(4) Singeing, shampooing, or applying chemicals; and~~
- ~~(5) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, or neck.~~

~~(b) Use of the traditional symbol known as the "barber pole", which is composed of a vertical cylinder or pole with a ball on top, with alternating stripes of any combination including red and white, and red, white, and blue, which run diagonally along the length of the cylinder or pole, or any likeness thereof, with the intent to mislead the public in any manner that would make the public believe that barbering was being practiced in or that a licensed barber was employed in an establishment that does not employ barbers is prohibited.~~

~~(c) Such practices when done for the treatment of physical or mental ailments or diseases shall not constitute barbering.~~

~~17-20-103. Exemptions—Construction.~~

~~(a) The following persons, firms, or corporations are exempt from the provisions under this chapter while in the proper discharge of their professional duties:~~

- ~~(1) Persons licensed by the laws of this state to practice the healing arts;~~
- ~~(2) Commissioned medical or surgical officers of the United States Army, United States Navy, or United States Commissioned Corps of the Public Health Service;~~
- ~~(3) Persons licensed or registered by the Arkansas State Board of Nursing;~~
- ~~(4) Undertakers and morticians; and~~
- ~~(5) Jails, prisons, or penitentiaries.~~

~~(b) Nothing contained in this chapter shall be construed so as to conflict in any manner with the laws regulating the vocation of cosmetic therapy or beauty culture.~~

~~17-20-104.—Penalties.~~

~~(a) Any person, firm, or corporation desiring to operate as a barber, barbershop, barber corporation, or barber school or college which fails to file an application for certificate of registration shall be deemed guilty of a misdemeanor.~~

~~(b) Any person, firm, or corporation which shall operate as a barber, barbershop, barber corporation, or barber school or college without a certificate of registration duly and legally issued by the State Board of Barber Examiners shall be deemed guilty of a misdemeanor, punishable upon conviction by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100).~~

~~(c) The willful making of any false statement to a material matter in any oath or affidavit which is required under this chapter shall be perjury and punishable as such.~~

~~(d) Each day of unlawful practice as described in this section shall constitute a separate offense.~~

~~(e) It shall be the duty of all prosecuting attorneys of the state and all political subdivisions of the state to enforce the provisions of this chapter and prosecute persons violating them.~~

~~17-20-201.—Creation—Members.~~

~~(a)(1) There is created a State Board of Barber Examiners, consisting of the Secretary for the State Board of Health, who shall be an ex-officio member of the board, and five (5) members to be appointed by the Governor for a term of six (6) years.~~

~~(2) Three (3) of the members so appointed shall be practicing barbers who have followed the occupation of barbering in this state for at least five (5) years immediately prior to their appointment.~~

~~(3) One (1) member appointed by the Governor will be a public member to represent the consumer, and one (1) member appointed by the Governor to represent persons sixty-five (65) years of age and older. The two (2) members appointed under this subdivision (a)(3) shall not be actively engaged in or retired from the barbering profession. The two (2) positions may not be held by the same person. Both shall be full voting members but shall not participate in the grading of examinations.~~

~~(4) The five (5) members shall be appointed in such manner that two (2) of them shall reside in the geographical area north of I-40, two (2) shall reside in the geographical area south of I-40, and one (1) shall be appointed from the state at large.~~

~~(b)(1) Each member shall hold office until a successor is appointed and qualified.~~

~~(2) The Governor shall have the power to remove any member for gross incompetency, gross immorality, disability, any abuse of his or her official power, or other good cause and shall fill any vacancy thus occasioned by appointment within thirty (30) days after the vacancy occurs.~~

~~(3) Members appointed to fill vacancies caused by death, resignation, or removal shall serve only for the unexpired term of their predecessors.~~

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

~~17-20-202. Officers and proceedings.~~

~~(a) The State Board of Barber Examiners shall organize by electing a chair from its own membership.~~

~~(b) A majority of the board shall constitute a quorum and may perform and exercise all the duties and powers devolving upon it.~~

~~(c) The board may be furnished suitable quarters for the conduct of its business and shall adopt and use a common seal for the authentication of its orders and records.~~

~~17-20-203. Executive secretary.~~

~~(a)(1) The State Board of Barber Examiners is authorized to employ an executive secretary, who shall not be a member of the board and who shall have the responsibility of keeping:~~

~~(A) A record of the board's proceedings;~~

~~(B) A record of persons registered as barbers and apprentices showing the name, place of business, and residence of each and the date and number of his or her certificate;~~

~~(C) A record of all certificates issued, refused, renewed, suspended, or revoked; and~~

~~(D) Such other records as may be directed by the board or~~

~~required by law.~~

~~(2) The records shall be open to public inspection at all reasonable times.~~

~~(b) The Executive Secretary of the State Board of Barber Examiners shall perform such other functions and duties as may be prescribed by law or directed by the board.~~

~~(c) The executive secretary shall receive such compensation for his or her services as may be prescribed by the board within the limitations of the biennial appropriation therefor made by the General Assembly.~~

~~17-20-204.— Personnel.~~

~~The State Board of Barber Examiners is authorized to employ such other personnel as it deems necessary to carry out the provisions of this chapter, within such limits as may be provided by biennial appropriation of the General Assembly. All employees shall work under the direct supervision of the Executive Secretary of the State Board of Barber Examiners.~~

~~17-20-205.— Meetings.~~

~~The State Board of Barber Examiners shall hold a meeting at least quarterly at a place where, in the discretion of the board, there are a sufficient number of applicants to warrant holding an examination outside of Little Rock for the purpose of:~~

~~(1) Passing upon barbers' applications;~~

~~(2) Conducting an examination to determine an applicant's ability to receive a license and issuing or refusing to issue a license thereon; and~~

~~(3) Transacting any other business which may properly come before it.~~

~~17-20-206.— Rules — Inspections.~~

~~(a) The State Board of Barber Examiners shall have authority to make and promulgate reasonable rules for the administration of this chapter.~~

~~(b) The State Board of Barber Examiners shall prescribe sanitary requirements for barbershops and barber schools, subject to the approval of the State Board of Health.~~

~~(c) Any member of the State Board of Barber Examiners or its~~

~~inspectors shall have authority to enter upon and to inspect any barbershop or barber school at any time during business hours.~~

~~(d) A copy of the rules and sanitary requirements adopted by the State Board of Barber Examiners shall be furnished by the State Board of Barber Examiners to the owner or manager of each barbershop and barber school, and a copy shall be posted in a conspicuous place in the barbershop or barber school.~~

~~17-20-207. Annual reports.~~

~~The State Board of Barber Examiners shall annually, on or before January 1, make a report to the Governor of all its official acts during the preceding year and of its receipts and disbursements and such recommendations as it may deem expedient.~~

~~17-20-208. Fees.~~

~~(a) The State Board of Barber Examiners shall by rule establish reasonable registration fees, renewal fees, examination fees, and such other fees as it deems necessary and appropriate to fulfill its duties.~~

~~(b) Funds thus realized shall be expended for:~~

~~(1) The payment of the salary of the Executive Secretary of the State Board of Barber Examiners;~~

~~(2) Expenses and stipends in accordance with § 25-16-901 et seq.;~~

~~(3) Salary of registered barber inspectors and stenographers;~~

~~(4) Retainer fees for attorneys;~~

~~(5) Publication of this chapter;~~

~~(6) Investigation of violations of this chapter; and~~

~~(7) Such other purposes as may be directed by the board.~~

~~17-20-209. Disposition of funds.~~

~~(a)(1) All moneys received by the State Board of Barber Examiners under this chapter shall be paid to the Executive Secretary of the State Board of Barber Examiners, who shall give a proper receipt for those moneys to the Auditor of State the total amount received by him or her from all sources under this chapter.~~

~~(2) The executive secretary shall at the same time deposit the~~

~~entire amount of such receipts with the Treasurer of State, who shall place them to the credit of a special fund to be created and known as the "State Board of Barber Examiners Fund".~~

~~(b)(1) By the Chair of the State Board of Barber Examiners and the executive secretary, the board shall from time to time certify to the Auditor of State the necessary expenses incurred by the board, including expense reimbursement and stipends as provided in § 25-16-901 et seq. The Auditor of State shall issue his or her warrant for the expenses, which shall be paid out of the funds so established for the maintenance of the board.~~

~~(2) No order shall be drawn by the Auditor of State on any fund other than the State Board of Barber Examiners Fund for any stipends or expenses of the board incident to the administration of this chapter.~~

~~(c) All funds so paid to the Treasurer of State shall remain and be a separate and permanent fund for the maintenance of the board and the administration of this chapter.~~

~~17-20-301. Certificate required.~~

~~(a) It shall be unlawful:~~

~~(1) For any person, firm, or corporation to conduct or operate a barbering establishment, school of barbering, barbershop, or any other place of business in which any occupation of a barber is taught or practiced until licensed under this chapter and in compliance with this chapter relating to sanitation;~~

~~(2) To act or attempt to act as a barber without a certificate of registration as a registered barber duly issued by the State Board of Barber Examiners; and~~

~~(3) For any person, firm, or corporation to operate a barbershop unless it is operated under the personal supervision and management of a registered barber.~~

~~(b) A person having charge of a barbering establishment or school of barbering, whether as an owner or an employee, shall not permit any room or part of a room in which any of the branches or practices of barbering are conducted, practiced, or taught to be used for sleeping, for residential purposes, or for any other purpose that would tend to make the room unsanitary.~~

~~(c) A barbering establishment shall have a direct entrance separate~~

~~and distinct from any entrance in connection with private quarters.~~

~~(d)(1) It shall be unlawful for a person to employ or to allow to be employed a person not licensed by the board in or about a barber establishment as a barber manager.~~

~~(2) If at any time the name, location, owner, or manager changes at any barbershop or barber school or college, the owner shall report that change by application and be subject to the fee established.~~

~~(3) If a barbering establishment no longer employs a barber, or if a barbering establishment is closed, a new application shall be filed with the board.~~

~~(e) It shall be the responsibility of all barbershop owners to assure that their employees or those who work in the establishment have appropriate licenses.~~

~~(f) Barber establishments that have persons licensed by the Cosmetology Technical Advisory Committee shall also have their appropriate current licenses to practice.~~

~~17-20-302. Qualifications of applicants.~~

~~Any person shall be qualified to receive a certificate of registration to practice as a registered barber who:~~

~~(1) Is qualified under this chapter;~~

~~(2) Is of good moral character and temperate habits;~~

~~(3) Has passed a satisfactory examination conducted by the State Board of Barber Examiners to determine his or her fitness to practice barbering;~~

~~(4) Is at least sixteen and one half (16 ½) years of age; and~~

~~(5) Has received training approved by the appropriate licensing authorities.~~

~~17-20-303. Application.~~

~~(a) Any person, firm, or corporation desiring to operate as a barber, barber student, teacher manager instructor, teacher manager instructor student, barbershop, barber corporation, or barber school or college shall file an application for a certificate of registration on a form furnished by the State Board of Barber Examiners and pay the application fee.~~

~~(b) Any person who desires to practice barbering in this state shall~~

~~file with the Executive Secretary of the State Board of Barber Examiners a written application, duly notarized, with certification of at least one thousand five hundred (1,500) hours of barber training, together with:~~

- ~~(1) Two (2) identical passport-sized signed photographs;~~
- ~~(2) A copy of his or her record of identification;~~
- ~~(3) His or her Social Security number; and~~
- ~~(4) Proof of education of at least the eighth grade for a barber applicant or high school graduate for a teacher manager instructor.~~

~~(c) A barber applying for reciprocity who has an unrevoked or unexpired license issued by the proper authorities of another state certifying that he or she has completed a minimum of one thousand five hundred (1,500) hours of training, may be issued a certificate of registration as a registered barber upon making the application as required by this chapter and upon the payment of a reciprocity fee that shall include the license fee until the beginning of the next renewal period.~~

~~(d)(1) An unlicensed person applying for reciprocity who has at least one thousand five hundred (1,500) hours of barber training may be granted registration by examination upon proof of training by the state board in the state in which the person received the training and upon making application as required by law and upon payment of a reciprocity examination fee to obtain registration in this state as a registered barber.~~

~~(2) A barber applying for reciprocity who has fewer than one thousand five hundred (1,500) hours of barber training must also have been continuously engaged in the practice of barbering for at least one (1) year, in addition to providing proof of licensure and training by the state board where the applicant received training or holds a license, or complete the required number of one thousand five hundred (1,500) hours, and upon making application as required by law and upon payment of a reciprocity fee to obtain registration in this state as a registered barber.~~

~~(e)(1) A person applying for reciprocity who is licensed in a foreign country as a barber is required to pass an examination administered by the State Board of Barber Examiners to qualify for a license in this state.~~

~~(2) All documents submitted for the purpose of complying with the requirements for examination shall be original copies and translated into the English language.~~

~~(3) The application shall be accompanied with a money order for~~

~~the reciprocity and examination fee.~~

~~(f) A person who has been continuously licensed or registered in another state to practice barbering as a teacher manager instructor who also meets the requirements under § 17-20-406 may be issued a certificate of registration as a registered barber and teacher manager instructor upon making application as required by law and upon payment of a reciprocity fee to obtain registration in this state as a registered barber, plus a teacher manager instructor reciprocity fee.~~

~~17-20-304.—Examinations.~~

~~(a) An applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the State Board of Barber Examiners may apply for another examination at any future meeting of the board.~~

~~(b) The fee for each reexamination shall be the same as the fee for original examination.~~

~~(c) A person enrolled as a student in a barber school in this state shall be given credit for all time spent enrolled in the barber school, provided that his or her hours can be certified by the officials of the barber school the person attended.~~

~~(d) Examinations 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.~~

~~(e) A certificate of registered barber shall be issued by the board to any applicant who shall pass a satisfactory examination making a grade of not less than seventy five percent (75%) in all subjects upon which he or she is examined and who shall possess the qualifications required in this chapter.~~

~~17-20-305.—Display of certificates.~~

~~Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his or her work chair.~~

~~17-20-307.—Renewal—Expiration—Restoration.~~

~~(a) Every registered barber or teacher manager instructor who continues in active practice or service shall annually between July 1 and September 1 renew his or her certificate of registration or shop certificate~~

~~of registration by paying the required fee.~~

~~(b) Every certificate of registration which has not been renewed, as herein required, in any year shall expire on September 1 in that year.~~

~~(c)(1) A registered barber or teacher manager instructor whose certificate of registration has expired may have his or her certificate or shop certificate of registration restored immediately upon payment of the required restoration fee.~~

~~(2)(A) Any registered barber or teacher manager instructor who fails to keep his or her registration certificate renewed for not more than three (3) years may renew his or her certificate of registration upon payment of the required restoration fee for each year of delinquency.~~

~~(B) If the time elapsed is more than three (3) years, he or she must take and pass the required examination and pay the examination fee as set forth by the State Board of Barber Examiners.~~

~~(d)(1) A barber who holds a current license in this state shall be issued a personal lifetime license at eighty (80) years of age upon his or her request.~~

~~(2) However, the shop license of a barber under subdivision (d)(1) of this section shall be renewed yearly.~~

~~17-20-308. Grounds for disciplinary action.~~

~~The State Board of Barber Examiners may refuse to issue or renew or may suspend or revoke any certificate of registration, take other appropriate disciplinary action, and impose a civil penalty as provided in § 17-20-310 for any of the following:~~

~~(1)(A) Conviction of a felony shown by a certified copy of the record of the court of conviction.~~

~~(B) In accordance with § 5-14-129, the board shall refuse to issue or renew a certificate of registration or shall suspend or revoke a certificate of registration for a barber who is a registered sex offender.~~

~~(C) It is unlawful for a sex offender who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been assessed as a Level 3 or Level 4 offender to knowingly engage in an occupation or participate in a volunteer position that requires the sex offender to work or interact primarily and directly with a child under sixteen (16) years of age.~~

- ~~(D) A violation of this section is a Class D felony;~~
- ~~(2) Malpractice or gross incompetency;~~
- ~~(3) Affliction of the applicant, registered barber, or registered apprentice barber with an infectious or communicable disease;~~
- ~~(4) Advertising by means of knowingly false or deceptive statements;~~
- ~~(5) Advertising, practicing, or attempting to practice under a trade name or name other than one's own;~~
- ~~(6) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit forming drugs;~~
- ~~(7) Immoral or unprofessional conduct;~~
- ~~(8) The violation of any of the sanitary regulations promulgated by either the board or the Department of Health for the regulation of barbershops and barber schools; or~~
- ~~(9) Continuing employment in a barbershop wherein the sanitary regulations of the board or the department promulgated for the regulation of barbershops or barber schools are known by the registered barber or registered apprentice to be violated.~~

~~17-20-309. Denial, suspension, or revocation—Procedure.~~

- ~~(a) No action in refusing to issue or renew or in suspending or revoking a certificate of registration for any of the causes listed in § 17-20-308 shall be taken until the accused has been furnished with a statement of the specific charges against him or her and notice of the time and place of hearing thereof.~~
- ~~(b) The statement of charges and notice must be served personally upon the person or mailed to his or her last known address at least twenty (20) days before the hearing.~~
- ~~(c) The accused may be present at the hearing in person or by counsel, or both.~~
- ~~(d) Upon the hearing of any such proceeding, the State Board of Barber Examiners may administer oaths and may procure, by its subpoena, the attendance of witnesses and the production of relevant books and papers.~~
- ~~(e) Any circuit court or any judge of a circuit court, either in term time or in vacation, upon application either of the accused or of the board or member thereof, 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.~~

~~(f) If upon the hearing the board finds the charges are true, it may refuse to issue or renew a certificate of registration or may revoke or suspend the certificate if it has been issued.~~

~~(g) Any person aggrieved by the action of the board, as provided in this section, may appeal from the action to the Pulaski County Circuit Court and to the Supreme Court as in other cases made and provided.~~

~~17-20-310. Civil penalty.~~

~~(a) Whenever the State Board of Barber Examiners, after a hearing conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., determines that any person has violated any provision of this chapter or any rule promulgated by the board under this chapter, the board may impose a civil penalty on the person not to exceed two hundred fifty dollars (\$250).~~

~~(b)(1) If a licensed barber against whom a civil penalty has been imposed by the board fails to pay the penalty, the board may file an action in the Pulaski County Circuit Court to collect the civil penalty.~~

~~(2) If the board prevails in the action, the defendant shall be directed to pay, in addition to the civil penalty, reasonable attorney's fees and costs incurred by the board in prosecuting the action.~~

~~(c) Any person aggrieved by the action of the board imposing civil penalties may appeal the decision in the manner and under the procedure prescribed in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for appeals from administrative decisions.~~

~~17-20-401. Definitions.~~

~~As used in this subchapter, unless the context otherwise requires:~~

~~(1) "College" includes a school of barbering, college of barbering, barber school, barber college, and any other place or institution of instruction training persons to engage in the practice of barbering;~~

~~(2) "Postsecondary school of barbering" means a school or college that admits students who have a high school diploma or the equivalent of a high school diploma who are beyond the age of compulsory school~~

~~attendance in this state; and~~

~~(3) "Secondary school of barbering" means:~~

~~(A) A school that admits students who have completed grade eight (8) or the equivalent of grade eight (8) and are at least sixteen and a half (16 1/2) years of age; or~~

~~(B) A school with enrollment made up of no more than fifty percent (50%) of students with neither a high school diploma nor the equivalent of a high school diploma.~~

~~17-20-402. Enforcement—Authority of the State Board of Barber Examiners.~~

~~(a) The State Board of Barber Examiners may commence and maintain all proper and necessary proceedings in order to enforce compliance with any provisions of the laws or rules pertaining to the practice of barbering and, in addition to other remedies, may enforce compliance by injunction.~~

~~(b) Schools of barbering shall be conducted as provided under this subchapter.~~

~~(c) A person, firm, or corporation desiring to conduct a school of barbering shall apply to the board for approval and will be inspected and approved before opening to the public.~~

~~(d) The license issued by the board authorizes a school of barbering to transact operations in this state during the year for which the license is issued, subject to the rules of the board.~~

~~(e) This section shall not be construed as authorization or permission to conduct a school of barbering without a valid license or with an unexpired license.~~

~~(f) A license issued by the board shall designate on the written license whether the school of barbering is licensed as:~~

~~(1) A secondary school of barbering; or~~

~~(2) A postsecondary school of barbering.~~

~~17-20-403. Application for registration—Public welfare considerations.~~

~~(a) Every applicant for a certificate of registration to operate a new barber college shall offer proof sufficient to the State Board of Barber Examiners that the establishment of a new barber college in a particular area~~

~~will not be detrimental to the public welfare.~~

~~(b) In considering whether the establishment of a new barber college in a particular area will be detrimental to the public welfare, the board shall consider the need for barber college facilities or additional barber college facilities, as the case may be, in the community where the proposed barber college is to be located, giving particular consideration to:~~

~~(1) The economic character of the community;~~

~~(2) The adequacy of existing barbershops and barber colleges in that community;~~

~~(3) The ability of the community to support the proposed barber college;~~

~~(4) The character of adjacent communities and the extent to which the establishment of the proposed barber college would draw patrons from such adjacent communities; and~~

~~(5) The social and economic effect of the establishment of a barber college on the community where it is proposed to be located and on the adjacent communities.~~

~~17-20-404. Application for registration — Contents.~~

~~(a) An application for a license and approval as a registered school or college of barbering shall contain, under oath of the applicant or proper officer of a corporation or association, the following:~~

~~(1) The full name of the applicant, person, association, or corporation;~~

~~(2) The exact location where the school or college is located or proposed to be located;~~

~~(3) Whether or not the school or college is owned or leased and, if leased, the name and residence of the owner or, if a corporation, the directors and stockholders thereof;~~

~~(4) A detailed drawing of the premises where the instruction is to take place, including the:~~

~~(A) Size of the building;~~

~~(B) Number of chairs available;~~

~~(C) Sanitary facilities;~~

~~(D) Name, number, and qualifications of the teachers on the staff; and~~

~~(E) Proposed number of students;~~

~~(5) A statement, certified to by a public accountant licensed to practice in this state, of the assets and liabilities of the person or firm making the application;~~

~~(6) Evidence that a financial responsibility bond for faithful performance of duty has been secured; and~~

~~(7) Evidence that a performance bond of ten thousand dollars (\$10,000) guaranteeing the operation of the school or college has been secured.~~

~~(b) A barber school or barber college shall not be approved on any premises or in any building or part of a building unless a physical barrier of solid construction separates the barber school or barber college from all other businesses, occupations, or establishments conducted on the same premises or in the same building or part thereof.~~

~~17-20-405. Licensing prerequisites—Managers and teachers.~~

~~A school or college of barbering shall not be approved by the State Board of Barber Examiners and a license shall not be issued to operate or conduct any school or college of barbering until the following provisions are complied with:~~

~~(1) The faculty are registered teacher manager instructors under this subchapter;~~

~~(2) At least one (1) approved teacher manager instructor is teaching at the school or college of barbering at all times and in charge of each daily class in theoretical scientific study, scientific barbering practice, and general barbering practice at all times; and~~

~~(3) One (1) teacher manager instructor is provided for every twenty (20) students.~~

~~17-20-406. Teacher manager instructor certification.~~

~~(a)(1) Application for examination for a teacher manager instructor certificate shall be filed with the State Board of Barber Examiners on blank forms prepared and furnished by the board and shall be accompanied by the fee prescribed in § 17-20-409.~~

~~(2) A teacher manager instructor shall be:~~

~~(A) Twenty one (21) years of age; and~~

~~(B) — A currently licensed barber who has:~~

- ~~(i) — One (1) year of experience as a barber;~~
- ~~(ii) — A high school diploma or the equivalent of a high school diploma; and~~
- ~~(iii) — Completed a postgraduate course of six hundred (600) hours in barber teacher theory in an approved school.~~

~~(3) — An applicant for a teacher manager instructor certificate shall take a written test and demonstrate to the board his or her competency on a subject assigned by the board from the textbook on one (1) of the following subjects:~~

- ~~(A) — Haircutting;~~
- ~~(B) — Permanent waving;~~
- ~~(C) — Hair coloring;~~
- ~~(D) — Hair styling;~~
- ~~(E) — Chemical processing; or~~
- ~~(F) — Shaving.~~

~~(b) — A person who has been continuously licensed or registered in another state to practice barbering and who also meets the requirements under this chapter may be issued a certificate of registration as a registered teacher manager instructor upon making application as required by law and upon payment of the reciprocity fee to obtain registration in this state as a registered barber, plus the teacher manager instructor reciprocity fee.~~

~~(c) — A teacher manager instructor shall have received not less than eight (8) hours of additional training in an instructor's training seminar or continuing education course certified by the board on a yearly basis before renewal of his or her teacher manager instructor license.~~

~~17-20-407. — Curriculum.~~

~~(a) — A school or college of barbering shall not be approved by the State Board of Barber Examiners and a license shall not be issued to operate or conduct any school or college of barbering until the applicant demonstrates to the board that it is fully qualified to thoroughly educate and instruct students in all subjects necessary and required to qualify them as competent barbers.~~

~~(b) — A school of barbering shall not be approved by the board unless it:~~

~~(1) Meets the admission requirements under this subchapter; and~~
~~(2)(A) Requires as a prerequisite to graduation a course of instruction and practice of not fewer than five hundred fifty (550) hours for licensed cosmetologists, and for all other students not less than one thousand five hundred (1,500) hours of continuous study and practice of not more than eight (8) hours in any one (1) day, five (5) days a week, within a period of not fewer than nine (9) months from the date of enrollment.~~

~~(B) The course of instruction shall include the following subjects, with the curriculum hours as specified in the rules and procedures of the board:~~

- ~~(i) Scientific fundamentals for barbering;~~
- ~~(ii) Physiology;~~
- ~~(iii) Hygiene;~~
- ~~(iv) Elementary chemistry relating to sterilization and antiseptics;~~
- ~~(v) Massaging and manipulating the muscles of the face, neck, and scalp;~~
- ~~(vi) Hair cutting;~~
- ~~(vii) Bobbing;~~
- ~~(viii) Waving;~~
- ~~(ix) Shaving;~~
- ~~(x) Beard trimming; and~~
- ~~(xi) Chemical services.~~

~~(c) Each barber college shall abide by the following guidelines:~~

~~(1) Conduct a course of study and training which shall consist of not fewer than five hundred fifty (550) hours for students who are licensed cosmetologists, and as to all other students not fewer than one thousand five hundred (1,500) clock hours. The average daily schedule of each student shall consist of the following:~~

~~(A) One and one fourth (1 $\frac{1}{4}$) clock hours of theoretical study in a classroom;~~

~~(B) One and one fourth (1 $\frac{1}{4}$) clock hours of scientific barber practice in a classroom other than general clinic; and~~

~~(C) Five (5) clock hours of general barber practice. Each barber college shall average five (5) services per day per student;~~

~~(2) Teach no fewer than one third (1/3) of its total enrollment~~

~~scientific barbering practice, theory, or general barber practice at one (1) time;~~

~~(3) Post a daily schedule of its course of study in its general clinic where it can be easily read by all students; and~~

~~(4) Require a maximum attendance in all subjects. A student shall not be permitted to spend more than eight (8) hours in the college in any one (1) day.~~

~~(d) The board shall promulgate rules that distinguish between a secondary and a postsecondary education curriculum.~~

~~17-20-408. Facility—Equipment.~~

~~(a)(1) A school or college of barbering shall not be approved by the State Board of Barber Examiners and a license shall not be issued to operate or conduct any school or college of barbering until one (1) chair is available for each student.~~

~~(2) The chairs shall be five feet (5') from center to center with one (1) shampoo bowl with hot and cold running water for every two (2) barber chairs.~~

~~(b) Each barber college shall have within the premises in which it is located adequate space to accommodate all facilities required by the board. Each barber chair in each college shall be of such construction that it may readily be cleaned, and it shall be mechanically workable and in good working order.~~

~~(c) Square foot requirements for a barber school or college shall be determined by the board.~~

~~(d) The classroom shall be equipped with sufficient seating capacity for all students attending the classroom and shall have the following equipment:~~

~~(1) One (1) shampoo sink with hot and cold running water for every two (2) barber chairs to be approved for scientific practice classes;~~

~~(2) One (1) chalkboard or the equivalent of a chalkboard not less than six feet by three and one half feet (6' x 3½') in size;~~

~~(3) One (1) chart of the skin and hair;~~

~~(4) One (1) chart of the muscles of the head, face, and neck;~~

~~(5) One (1) chart of the nerves of the head, face, and neck;~~

~~(6) One (1) chart of the bones of the head and face;~~

- ~~(7) One (1) chart of the blood supplied to the head and face;~~
- ~~(8) One (1) standard dictionary;~~
- ~~(9) One (1) medical dictionary; and~~
- ~~(10) One (1) microscope for the study of bacteria.~~

~~(e) The floor of the practical training room shall be covered with tile or any type of water resistant material and shall have available the following equipment and facilities:~~

- ~~(1) A minimum of fifteen (15) barber chairs in modern and new condition;~~
- ~~(2) One (1) shampoo bowl for each two (2) chairs;~~
- ~~(3) One (1) closed cabinet for tools and linens for each chair;~~
- ~~(4) One (1) approved soiled towel container with hinged lid or door for each chair;~~
- ~~(5) One (1) disinfecting solution container for each chair adequate in size to accommodate all instruments to be used on each patron;~~
- ~~(6) One (1) ultraviolet lamp for every twenty (20) students or a fraction thereof;~~
- ~~(7) One (1) infrared generator for every twenty (20) students or a fraction thereof;~~
- ~~(8) One (1) high frequency unit for every twenty (20) students or a fraction thereof;~~
- ~~(9) One (1) mechanical hand vibrator for every ten (10) students or a fraction thereof;~~
- ~~(10) One (1) hair dryer; and~~
- ~~(11) One (1) time clock to verify student hours of daily attendance to be submitted to the board by the tenth day of each month.~~

~~(f) Each barber college shall have adequate ventilating and lighting equipment approved by the board.~~

~~(g) Each barber college having both men and women in its enrollment shall provide one (1) restroom for men and one (1) restroom for women.~~

~~17-20-409. Fees.~~

~~(a) No school or college of barbering shall be approved by the State Board of Barber Examiners and no license shall be issued to operate or conduct any school or college of barbering until the applicant pays the initial license fee of five hundred dollars (\$500). Thereafter the school or~~

~~17-20-422.—Application for examination.~~~~Each applicant for an examination shall:~~

~~(1) Make application to the State Board of Barber Examiners at least ten (10) business days before the examination date and submit proof under the applicant's oath of the particular qualifications of the applicant, including the certification by school officials of the number of hours attended; and~~

~~(2) Pay the required fee to the board as provided by law.~~

~~17-20-423.—Sanitary rules and regulations.~~

~~Each barber college shall furnish each student upon enrollment a copy of the rules and regulations governing sanitary conditions of barber shops of this state as registered with the Secretary of State.~~

~~17-20-424.—Inspection of student work.~~

~~(a) Each barber college shall require that a patron shall not be released from a chair after being served by a student until all the work performed by the student has been thoroughly inspected and approved by a teacher.~~

~~(b) In each licensed school of barbering:~~

~~(1) A student shall not engage in any work upon a client until he or she has had the required number of hours of instruction;~~

~~(2) A school shall not advertise student work to the public through any medium unless the work is designated as student work; and~~

~~(3) A school may allow a student to volunteer in charity or special events held outside the school if the following conditions are met:~~

~~(A) The student agrees to participate;~~

~~(B) The student is accompanied by and acts under the direct supervision of a licensed instructor; and~~

~~(C) The school maintains the required student-to-teacher ratios.~~

~~17-20-501.—Scope of employment.~~

~~A certified barber technician may be employed in a licensed barbershop and may assist the barber in shampooing and sanitizing so long as the~~

~~shampooing and sanitizing is done and performed under the direct personal supervision of a licensed barber. The barber technician shall not be permitted to cut or style hair or otherwise engage in the practice of barbering.~~

~~17-20-502.—Certification.~~

~~The State Board of Barber Examiners shall issue a barber technician certification to a barbershop that is current with its shop and technician licenses.~~

~~17-20-503.—Certificate authorizing barbershop to continue to employ.~~

~~Upon application from a currently licensed barbershop and upon receipt of the application fee of thirty five dollars (\$35.00), the State Board of Barber Examiners shall issue a certificate authorizing the licensed barbershop to continue to employ not more than two (2) persons as barber technicians.~~

SECTION 3. Arkansas Code § 17-26-102(a)(2)(A), concerning the definition of "cosmetological establishment" under the laws governing cosmetology and related occupations, is amended to read as follows:

(A) ~~The branch of manicuring as practiced in barbershops licensed by the Cosmetology Technical Advisory Committee and complying with the provisions of this chapter~~ Jails, prisons, or penitentiaries; and

SECTION 4. Arkansas Code § 17-26-102(b)(1), concerning the description of the art of cosmetology under the laws governing cosmetology and related occupations, is amended to read as follows:

(1) ~~Arranging, dressing, curling~~ Curling, waving, machineless permanent waving, permanent waving, cleansing, ~~cutting~~, singeing, bleaching, tinting, coloring, straightening, dyeing, ~~brushing, beautifying~~, or otherwise treating ~~by~~ with any chemical means the hair of ~~any person~~ an individual or wigs or hairpieces;

SECTION 5. Arkansas Code § 17-26-102(a), concerning definitions under the laws governing cosmetology and related occupations, is amended to add an additional subdivision to read as follows:

(9)(A) "Barbering" means any one (1) or any combination of the following practices when performed for cosmetic purposes and done for the public generally for pay, either directly or indirectly in any location, and is not considered the practice of cosmetology:

(i) Shaving or trimming the beard by any method, including the use of a straight razor;

(ii) Cutting hair;

(iii) Giving facial and scalp massage or application of oils, creams, lotions, or other preparations, either by hand or mechanical appliances;

(iv) Shampooing; and

(v) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, or neck.

(B) "Barbering" does not include the use of any chemical process or application of any chemical by any means to the hair of an individual, wig, or hairpiece.

SECTION 6. Arkansas Code § 17-26-103 is amended to read as follows:
17-26-103. Scope of chapter.

(a) The following persons are exempt from this chapter:

(1) All persons authorized by the laws of this state to practice medicine, surgery, dentistry, pharmacy, osteopathy, chiropractic, naturopathy, nursing, or podiatry;

~~(2) Barbers insofar as their usual and ordinary vocation and profession is concerned;~~

~~(3)~~ Employees employed to render cosmetological services in the course of and incidental to the business of employers engaged in the theatrical, radio, television, or motion picture production industry;

~~(4)~~(3) Individuals and employees rendering cosmetological services in the course of, in connection with, and incidental to the preparation of bodies for burial, or the business of embalmers and undertakers;

~~(5)~~(4) Direct-care staff as defined in § 20-10-1401 who provide routine personal hygiene and related daily care services to residents of nursing facilities as defined in § 20-10-1401 and for which the fee is included in the monthly facility charges; ~~and~~

~~(6)~~(5) Relatives of residents of nursing facilities as defined in § 20-10-1401 who provide cosmetological services to a related resident of a nursing facility;

(6) Individuals and employees rendering cosmetological services in the course of their work in jails, prisons, or penitentiaries; and

(7) Commissioned medical or surgical officers of the United States Armed Forces or the United States Commissioned Corps of the Public Health Service.

(b) This chapter does not prohibit any practice within its scope in cases of emergency, nor the administration of any practice outside of a licensed school of cosmetology or cosmetological establishment when necessary because of the illness or other physical incapacitation of the recipient of the service and when performed by a licensee obtained for the purpose from a licensed cosmetological establishment.

(c) This chapter does not prohibit the recommendation, demonstration, administration, or sale of cosmetics by any person not claiming to be a cosmetologist.

SECTION 7. Arkansas Code Title 17, Chapter 26, Subchapter 2, is amended to add additional sections to read as follows:

17-26-211. Renewal of license issued by the State Board of Barber Examiners before January 1, 2020.

(a)(1) The Department of Health shall promulgate rules to provide for the renewal of a barber's license issued before January 1, 2020, under the standards and rules established by the State Board of Barber Examiners as of December 31, 2019.

(2) The department shall promulgate a rule establishing a reasonable renewal fee to be paid for the renewal of a barber's license.

(3) An individual licensed as a barber before January 1, 2020, may renew his or her license issued by the State Board of Barber Examiners before January 1, 2020, if he or she pays the renewal fee established by the department.

(4) No continuing education classes will be required to maintain a barber's license.

(5) An individual licensed as a barber before January 1, 2020, who has renewed his or her license issued by the State Board of Barber

Examiners before January 1, 2020, is not required to register or post a bond under this chapter.

(b)(1) The department shall promulgate rules to provide for the renewal of a teacher manager instructor license issued before January 1, 2020, under the standards and rules established by the State Board of Barber Examiners as of December 31, 2019.

(2) The department shall promulgate a rule establishing a reasonable renewal fee to be paid for the renewal of a teacher manager instructor license.

(3) An individual licensed as a teacher manager instructor before January 1, 2020, may renew his or her license issued by the State Board of Barber Examiners before January 1, 2020, if he or she pays the renewal fee established by the department.

(4) No continuing education classes will be required to maintain a teacher manager instructor's license.

(c)(1) Any barber or teacher manager instructor licensed by the State Board of Barber Examiners before January 1, 2020, may apply for a cosmetology license.

(2) The department shall promulgate rules to:

(A) Allow the transfer of educational credits obtained at a school licensed to teach barbering to a licensed school of cosmetology;

(B) Determine how many hours of barber training may apply towards the educational requirement for a cosmetology license; and

(C) Establish guidelines to convert a barber's license into a license to practice cosmetology.

17-26-212. Registration as a barber.

(a) An individual who practices barbering for a fee shall file with the Department of Health:

(1) A registration application that includes the individual's:

(A) Name; and

(B) Place of business.

(2) A registration fee of fifty dollars (\$50.00);

(3)(A) A cash bond or a surety bond issued by a corporate surety authorized to do business in the state in the amount of two thousand dollars (\$2,000).

(B) The surety bond shall:

(i) Be in favor of the State of Arkansas;

(ii) Be in assurance of the payment by the registrant of all taxes that may be due from the registrant to the state or any political subdivision of the state;

(iii) Stand as a promise for the payment of any fines that may be assessed against the registrant for violation of the provisions of this chapter;

(iv) Cover as satisfaction of all judgments that may be rendered against the barber in any cause of action commenced by any purchaser of services within one (1) year from the date of the service by the barber;

(v) Be maintained so long as the barber conducts business in the state and for a period of one (1) year after the termination of the business; and

(vi) Be released only when the barber furnishes satisfactory proof to the Department of Health that he or she has satisfied all claims of purchasers of services from the barber and that all state and local sales taxes and other taxes have been paid.

(b) No individual who is a licensed cosmetologist shall be required to file a registration or bond if the individual practices barbering as part of the practice of cosmetology.

(c) No license is required to register to operate as a barber, barbershop, barber corporation, or barber school or college.

(d) The Department of Health shall promulgate rules concerning the registration of an individual as a barber.