

1 HB446  
2 157022-1  
3 By Representatives Rich, Williams (D), Henry, Nordgren,  
4 Burdine, Butler, Laird, Baughn, Millican, Brown, Lee, Baker,  
5 Faust and Standridge  
6 RFD: Boards, Agencies and Commissions  
7 First Read: 11-FEB-14

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8 SYNOPSIS: Under existing law, the Alabama Board of  
9 Cosmetology and Barbering is responsible for the  
10 licensing and regulating of barbers,  
11 cosmetologists, estheticians,  
12 esthetician/manicurists, manicurists,  
13 manicurist/waxers, natural hairstylists, and  
14 threaders in the state.

15 This bill would change the name of the board  
16 from the Alabama Board of Cosmetology and Barbering  
17 to the State Board of Cosmetology.

18 This bill would exempt all barbers from  
19 licensing and regulation by the board.

20 This bill would revise the membership of the  
21 board to increase the number of active  
22 cosmetologists serving on the board from two to  
23 three, to remove, upon the expiration of their  
24 current terms, the two barber members of the board,  
25 and to increase the number of active estheticians  
26 serving on the board from one to two.

1                   Amendment 621 of the Constitution of Alabama  
2                   of 1901, now appearing as Section 111.05 of the  
3                   Official Recompilation of the Constitution of  
4                   Alabama of 1901, as amended, prohibits a general  
5                   law whose purpose or effect would be to require a  
6                   new or increased expenditure of local funds from  
7                   becoming effective with regard to a local  
8                   governmental entity without enactment by a 2/3 vote  
9                   unless: it comes within one of a number of  
10                  specified exceptions; it is approved by the  
11                  affected entity; or the Legislature appropriates  
12                  funds, or provides a local source of revenue, to  
13                  the entity for the purpose.

14                  The purpose or effect of this bill would be  
15                  to require a new or increased expenditure of local  
16                  funds within the meaning of the amendment. However,  
17                  the bill does not require approval of a local  
18                  governmental entity or enactment by a 2/3 vote to  
19                  become effective because it comes within one of the  
20                  specified exceptions contained in the amendment.

21  
22                                   A BILL

23                                   TO BE ENTITLED

24                                   AN ACT

25  
26                   To amend Sections 34-7B-1, 34-7B-2, 34-7B-6,  
27                   34-7B-7, 34-7B-13, 34-7B-26, 34-7B-27, and 34-7B-29, Code of

1 Alabama 1975, relating to the Alabama Board of Cosmetology and  
2 Barbering; to change the name of the board to the State Board  
3 of Cosmetology; to exempt all barbers from licensing and  
4 regulation by the board; to revise the membership of the board  
5 to reflect the exemption of barbers; to repeal Section  
6 34-7B-17, Code of Alabama 1975, relating to the qualifications  
7 of applicants for examination or licensure as barbers; and in  
8 connection therewith would have as its purpose or effect the  
9 requirement of a new or increased expenditure of local funds  
10 within the meaning of Amendment 621 of the Constitution of  
11 Alabama of 1901, now appearing as Section 111.05 of the  
12 Official Recompilation of the Constitution of Alabama of 1901,  
13 as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 34-7B-1, 34-7B-2, 34-7B-6,  
16 34-7B-7, 34-7B-13, 34-7B-26, 34-7B-27, and 34-7B-29 of the  
17 Code of Alabama 1975, are amended to read as follows:

18 "§34-7B-1.

19 "For the purposes of this chapter, the following  
20 terms shall have the following meanings:

21 "(1) APPRENTICE. Any person engaged in learning the  
22 practices defined in this chapter including, but not limited  
23 to, assisting in the performance of any acts of ~~barbering or~~  
24 cosmetology on the general public under the constant and  
25 direct supervision of a person who has held a valid current  
26 license issued by the board for at least five years, in a shop

1 licensed by the board. No apprenticeship is provided for  
2 natural hairstyling.

3 "(2) BARBER. Any person, ~~other than a student or~~  
4 ~~apprentice,~~ who performs barbering on the general public for  
5 compensation, ~~and who shall satisfy the qualifications and~~  
6 ~~licensure requirements provided in this chapter for a barber.~~

7 "(3) BARBERING. The occupation of shaving or  
8 trimming the beard, cutting or dressing the hair, giving  
9 facial or scalp massages, giving facial or scalp treatment  
10 with oils or creams or other preparations made for that  
11 purpose, either by hand or by means of mechanical appliances,  
12 singeing and shampooing the hair, dyeing the hair, or  
13 permanently waving or straightening the hair of any living or  
14 deceased person for compensation.

15 "(4) BOARD. The ~~Alabama~~ State Board of Cosmetology  
16 ~~and Barbering.~~

17 "(5) COSMETOLOGIST. Any person, other than a student  
18 or apprentice, who performs cosmetology on the general public  
19 for compensation, and who shall satisfy the qualifications and  
20 licensure requirements provided in this chapter for a  
21 cosmetologist.

22 "(6) COSMETOLOGY. Any of the practices generally  
23 recognized as beauty culture, hairdressing, or any other  
24 designation engaged in by any person who performs such on the  
25 general public for compensation including, but not limited to,  
26 cleansing, singeing, cutting, arranging, dressing, curling,  
27 braiding, waxing, bleaching, weaving, coloring the hair by

1 hand or mechanical apparatus, the use of creams, lotions, or  
2 cosmetic preparations, with or without massage, on the scalp,  
3 face, arms, legs, feet, or hands, esthetics practices, nail  
4 technology, manicure, pedicure, or desairology.

5 "(7) ESTHETICIAN. Any person, other than a student  
6 or apprentice, who performs esthetics on the general public  
7 for compensation, and who shall satisfy the qualifications and  
8 licensure requirements provided in this chapter for an  
9 esthetician.

10 "(8) ESTHETICS. The practice of performing acts of  
11 skin care including, but not limited to, facials, body waxing,  
12 makeup, and general esthetics procedures on the general public  
13 for compensation.

14 "(9) ESTHETICS/MANICURE. A combination of the  
15 practices of esthetics and manicure.

16 "(10) ESTHETICIAN/MANICURIST. Any person, other than  
17 a student or apprentice, who performs a combination of the  
18 practices of esthetics and manicure on the general public for  
19 compensation, and who shall satisfy the qualifications and  
20 licensure requirements provided in this chapter for an  
21 esthetician/manicurist.

22 "(11) INSTRUCTOR. A licensee who teaches in a  
23 licensed or registered school of ~~barbering~~ or any branch of  
24 cosmetology and completes any applicable requirements for  
25 continuing education.

1           "(12) LICENSE. A document issued by the board which  
2           entitles the holder to practice the profession listed on the  
3           document.

4           "(13) LICENSEE. Any person holding a license issued  
5           pursuant to this chapter.

6           "(14) MANICURE. The practice of beautifying or  
7           grooming the fingernails, toenails, adding nail tips,  
8           extensions, gels, or massaging the hands, forearms, feet, or  
9           lower legs of the general public for compensation.

10          "(15) MANICURIST. Any person, other than a student  
11          or apprentice, who performs the practice of manicure on the  
12          general public for compensation, and who shall satisfy the  
13          qualifications and licensure requirements provided in this  
14          chapter for a manicurist.

15          "(16) MANICURE/WAXING. A combination of the  
16          practices of manicure and waxing.

17          "(17) MANICURIST/WAXER. Any person, other than a  
18          student or apprentice, who performs a combination of the  
19          practices of manicure and waxing on the general public for  
20          compensation, and who shall satisfy the qualifications and  
21          licensure requirements provided in this chapter for a  
22          manicurist/waxer.

23          "(18) NATURAL HAIR STYLING. The practice of  
24          cleansing, weaving or interweaving, extending, locking,  
25          braiding, or arranging the hair without cutting, coloring,  
26          permanent waving, relaxing, removing, or chemical treatments.

1           "(19) NATURAL HAIRSTYLIST. Any person, other than a  
2 student, who performs natural hair styling on the general  
3 public for compensation, and who shall satisfy the  
4 qualifications and licensure requirements provided in this  
5 chapter for a natural hairstylist.

6           "(20) SCHOOL. An establishment licensed or  
7 registered by the board to teach any or all of the practices  
8 of ~~barbering or~~ cosmetology.

9           "(21) SHAMPOO ASSISTANT. Any person who is licensed  
10 to perform only the practices of shampooing, cleansing, or  
11 applying temporary weekly color rinses to the hair of the  
12 general public for compensation, and who shall satisfy the  
13 qualifications and licensure requirements provided in this  
14 chapter for a shampoo assistant.

15           "(22) SHOP. Any place where ~~barbering or~~ cosmetology  
16 is practiced. Only a properly licensed person, who is not an  
17 apprentice or a student, may operate a shop.

18           "(23) STUDENT. Any person who is engaged in learning  
19 any practice regulated by this chapter in a school licensed or  
20 registered pursuant to this chapter, and who, as part of the  
21 learning process, performs or assists in any practice  
22 regulated by this chapter under the immediate supervision of  
23 an instructor who is licensed pursuant to this chapter.

24           "(24) THREADING. The practice of eyebrow removal  
25 with the use of a loop made of cotton or any other material.

26           "(25) THREADER. Any person engaged in the practice  
27 of threading on the general public for compensation, and who



1 shall satisfy the qualifications and licensure requirements  
2 provided in this chapter for a threader.

3 "§34-7B-2.

4 "(a) There is created the ~~Alabama~~ State Board of  
5 Cosmetology ~~and Barbering~~ which shall consist of seven persons  
6 appointed by the Governor. The membership of the board shall  
7 include all of the following:

8 "(1) ~~Two~~ Three active cosmetologists, who have been  
9 licensed by the board as cosmetologists for at least five  
10 years before appointment.

11 "~~(2) Two actively practicing barbers, who are~~  
12 ~~practicing on August 1, 2013, and have been practicing in the~~  
13 ~~state for at least five years before appointment. Except for~~  
14 ~~the initial barber members appointed to the board, barber~~  
15 ~~members of the board shall be licensed by the board before~~  
16 ~~appointment.~~

17 "~~(3) One~~ (2) Two active ~~esthetician~~ estheticians who  
18 ~~has~~ have been licensed by the board as an ~~esthetician~~  
19 estheticians for at least five years before appointment.

20 "~~(4)~~ (3) One active manicurist who has been licensed  
21 by the board as a manicurist for at least five years before  
22 appointment.

23 "~~(5)~~ (4) One consumer.

24 "(b) One member shall be appointed from each  
25 congressional district, as those districts are constituted on  
26 August 1, 2013, and shall reside in the district he or she  
27 represents during the entire term of office.

1           "(c) The membership of the board shall be inclusive  
2 and reflect the racial, gender, geographic, urban/rural, and  
3 economic diversity of the state.

4           "(d) All appointments shall be for a term of four  
5 years. No person shall serve for more than two terms on the  
6 newly constituted board. Except as an instructor, no member of  
7 the board may be affiliated with or own a school regulated by  
8 this chapter or any business which sells, rents, or  
9 distributes supplies to shops or schools. Any board member may  
10 be removed by the Governor for just cause.

11           "(e) The terms of all board members serving on  
12 August 1, 2013, shall continue until expiration pursuant to  
13 original appointment. To facilitate the intent of this  
14 chapter, members whose terms expire by October 30, 2013, shall  
15 continue to serve until a successor is appointed pursuant to  
16 this chapter. As terms expire, successor board members shall  
17 be appointed by the Governor pursuant to subsection (a).

18           "(f) Members of the board shall annually elect from  
19 among their members a chair, a vice chair, a secretary, and a  
20 treasurer. The offices of secretary and treasurer may be  
21 combined.

22           "(g) Each member of the board shall be paid one  
23 hundred dollars (\$100) per day for the transaction of board  
24 business, not exceeding 36 days during any calendar year, and  
25 shall be paid the same mileage and per diem rate as state  
26 employees.

27           "§34-7B-6.

1           "(a) There is established a special fund in the  
2 State Treasury to be known as the Board of Cosmetology ~~and~~  
3 ~~Barbering~~ Fund. The fund shall consist of all monies received  
4 by the board pursuant to this chapter. Monies in the fund  
5 shall be disbursed only upon warrant of the Comptroller upon  
6 itemized vouchers signed by the treasurer of the board or an  
7 authorized designee. Any money remaining in the fund at the  
8 end of each fiscal year shall remain on deposit in the fund  
9 for the use of the board.

10           "(b) All funds and fees of any nature received by  
11 the board shall be paid to the fund or a designated party on  
12 behalf of the board.

13           "§34-7B-7.

14           "(a) Any person who desires to engage in any of the  
15 practices regulated by the board pursuant to this chapter  
16 shall be a citizen of the United States or, if not a citizen  
17 of the United States, a person who is legally present in the  
18 United States with appropriate documentation from the federal  
19 government, and shall file with the board a written  
20 application for examination or licensure. Before a person may  
21 engage in the practices regulated by this chapter, the person  
22 shall be licensed by the board pursuant to this chapter. Any  
23 person who practices, maintains a school or shop, or acts in  
24 any capacity without a license when one is required pursuant  
25 to this chapter, or who otherwise violates this chapter, shall  
26 be guilty of a misdemeanor and fined five hundred dollars  
27 (\$500) or imprisoned for not more than 30 days, or both. Any

1 corporation which violates this chapter shall be punished by a  
2 fine of not more than one thousand dollars (\$1,000).

3 "(b) Licenses and permits issued by the board under  
4 the seal of the board and signed by an authorized  
5 representative of the board entitle the holder to legally  
6 practice the stated profession.

7 "(c) (1) To receive a personal license, an applicant  
8 shall satisfy any of the following requirements:

9 "a. All legal requirements, completion of the  
10 required hours as a student or apprentice, submission of the  
11 appropriate examination fees, successful completion of the  
12 appropriate examination, and submission of any applicable  
13 license fees.

14 "b. Be currently licensed in good standing in  
15 another state or jurisdiction, with documentation of having  
16 passed a board-approved examination, and submission of any  
17 applicable license fees.

18 "c. Be currently licensed in good standing in  
19 another state or jurisdiction, with documentation of having  
20 practiced as a licensee for at least five years before  
21 application to the board, and submission of any applicable  
22 license fees.

23 "d. Be otherwise qualified, submit any applicable  
24 examination fees, successfully complete any appropriate  
25 examinations, and submit any applicable license fees.

1           "(2)a. An application for examination or  
2 reexamination shall include the payment of a nonrefundable  
3 fee.

4           "b. Examination of an applicant for licensure shall  
5 be conducted pursuant to a procedure sanctioned by the board  
6 consistent with the prescribed curriculum for schools.

7           "c. An applicant who fails the prescribed  
8 examination shall be entitled to two additional attempts.

9           "d. An applicant who fails the prescribed  
10 examination on a third attempt shall complete additional hours  
11 of school training as the board may direct before being  
12 allowed to repeat the examination.

13           "(3) Personal licenses for any practice ~~except~~  
14 ~~barbering as~~ regulated by the board shall expire on the last  
15 day of the birth month of the licensee in odd-numbered years.  
16 An application for renewal that is postmarked later than the  
17 license expiration date shall subject the licensee to a late  
18 fee.

19           ~~"(4) Personal licenses for barbers shall expire on~~  
20 ~~the last day of the birth month of the licensee in~~  
21 ~~even-numbered years. An application for renewal that is~~  
22 ~~postmarked later than the license expiration date shall~~  
23 ~~subject the licensee to a late fee.~~

24           "~~(5)~~(4) Active personal licenses shall be displayed  
25 in a conspicuous place near the work station of the licensee.

1           "(d) (1) To receive a business license, an applicant  
2 shall satisfy all legal requirements and submit any applicable  
3 license fees.

4           "(2) All business licenses regulated by the board  
5 shall expire on the last day of September in odd-numbered  
6 years. An application for renewal that is postmarked later  
7 than October 31 in the year of expiration shall subject the  
8 licensee to a late fee.

9           "~~(3) On or before December 31, 2013, the initial fee~~  
10 ~~for a barber business license shall be one hundred fifty~~  
11 ~~dollars (\$150) for a shop and three hundred dollars (\$300) for~~  
12 ~~a school. Renewal fees shall be the same fee as the board~~  
13 ~~provides for other business licenses under this chapter.~~

14           "~~(4)~~ (3) A business license shall be displayed in a  
15 conspicuous place near the main entrance of the business.

16           "~~(5) The initial fee for a personal barber license~~  
17 ~~shall be the same fee as is provided for other original~~  
18 ~~licenses under this chapter. The renewal fee shall be the same~~  
19 ~~as is provided for other licenses under this chapter.~~

20           "§34-7B-13.

21           "This chapter does not apply to any of the following  
22 activities or services:

23           "(1) Service in the case of emergency or domestic  
24 upheaval, without compensation.

25           "(2) Licensed medical professionals operating within  
26 the scope of their normal practice.

1           "(3) Personnel of the United States armed services  
2 performing their ordinary duties.

3           "(4) Any public trade school or other public school  
4 or school program under the purview of the State Board of  
5 Education or a local board of education.

6           "(5) Any person who only occasionally dresses hair  
7 and receives no compensation therefor, or does any other act  
8 or thing mentioned in this chapter, without holding himself or  
9 herself out to the public as a provider of any practices  
10 defined in this chapter for compensation.

11           "(6) Departments in retail establishments where  
12 cosmetics are demonstrated and offered for sale but where no  
13 other acts of cosmetology ~~or barbering~~ are performed.

14           "~~(7) The licensees of any county or municipal barber~~  
15 ~~board or commission in existence on August 1, 2013, unless~~  
16 ~~such board or commission elects, by resolution adopted by the~~  
17 ~~governing body of the county or municipality, to come under~~  
18 ~~the provisions of this chapter~~ Any barber.

19           "§34-7B-26.

20           "(a) Before being licensed by the board to operate a  
21 school, an applicant shall satisfy all of the requirements of  
22 this section.

23           "(1) An applicant shall submit to the board all of  
24 the following:

25           "a. A bond, in the amount of fifty thousand dollars  
26 (\$50,000) to protect potential students in the event of  
27 closure.

1            "b. Proof of sufficient liability insurance  
2 coverage.

3            "c. A current financial statement prepared by a  
4 reputable source and, if required by the board, a letter of  
5 credit.

6            "d. A list of equipment owned by the school.

7            "e. A sample of student contract agreements and  
8 financial forms relating to tuition, grants, and scholarships.

9            "f. Furnish affidavits from an adequate number of  
10 prospective students as approved by the board stating their  
11 intent to enroll when the school opens.

12           " (2) The applicant, owner, proposed dean, or proper  
13 corporate executive may be required to appear before the  
14 board.

15           " (3) The applicant shall satisfy the board that the  
16 building proposed to house the school is all of the following:

17           "a. In compliance with all state and local zoning,  
18 health, and building codes.

19           "b. Clean and well-lighted.

20           "c. Large enough to accommodate the anticipated  
21 student body.

22           "d. Completely segregated from any other business.

23           "e. Contains sufficient equipment and supplies for  
24 the proper and complete teaching of all subjects in its  
25 proposed curriculum.



1           "(b) To maintain current and continuing licensure  
2 under this chapter, the school, to the satisfaction of the  
3 board, shall do all of the following:

4           "(1) Employ one instructor and one on-call  
5 instructor for the first 20 students enrolled and in  
6 attendance at the school, and an additional instructor for  
7 each additional 20 students enrolled and in attendance at the  
8 school.

9           "(2) Have no more than two instructor trainees per  
10 each instructor.

11           "(3) Provide that the same person may not serve as  
12 the on-call instructor for more than one school.

13           "(4) Maintain daily, monthly, and cumulative records  
14 for each student.

15           "(5) Maintain regular classes and instruction hours.

16           "(6) Establish grades and conduct appropriate  
17 examinations on a timely basis.

18           "(7) Require a school term of training for a  
19 complete course with the minimum number of hours prescribed  
20 for each term. Programs reporting by clock hours shall comply  
21 with recording rules provided in this subsection and shall  
22 also furnish the board with an official transcript for each  
23 student within 30 days after the student completes the program  
24 or terminates enrollment.

25           "(8) Include practical demonstrations, theoretical  
26 studies, and the study of sanitation, sterilization, and other  
27 safety measures and the use of antiseptics, cosmetics, and

1 electrical appliances consistent with the practical and  
2 theoretical requirements applicable to any of the practices  
3 regulated by this chapter which are part of the school's  
4 curriculum.

5 "(c) A school engaged only in the teaching of  
6 ~~barbers,~~ estheticians, or manicurists is not required to  
7 provide instruction in other practices regulated by this  
8 chapter. Such a school is required to satisfy all requirements  
9 imposed upon a school of cosmetology ~~or a school of barbering~~  
10 relating to instructors, attendance records, enrollment, and  
11 other matters.

12 "(d) The sale or transfer of a school is subject to  
13 prior approval by the board if the school is to continue in  
14 operation after the sale or transfer. The board may deny the  
15 sale or transfer of a school if the owner or operator of the  
16 school is the subject of outstanding violations of this  
17 chapter or the rules of the board, or both.

18 "§34-7B-27.

19 "The status of any person or entity properly  
20 licensed by the Alabama Board of Cosmetology under former  
21 Chapter 7A of this title, on August 1, 2013, or by the Alabama  
22 Board of Cosmetology and Barbering under this chapter on the  
23 effective date of the act amending this section, shall  
24 continue under the ~~Alabama~~ State Board of Cosmetology ~~and~~  
25 ~~Barbering~~ on and after the effective date of the act amending  
26 this section.

27 "§34-7B-29.

1           "a) The existence and functioning of the Alabama  
2 Board of Cosmetology, created and functioning pursuant to  
3 Sections 34-7A-1 to 34-7A-25, inclusive, is continued pursuant  
4 to this chapter. All rights, duties, property, real or  
5 personal, and all other effects existing in the name of the  
6 Alabama Board of Cosmetology, or in any other name by which  
7 the board has been known, shall continue in the name of the  
8 Alabama Board of Cosmetology and Barbering. Any reference to  
9 the Alabama Board of Cosmetology, or any other name by which  
10 the board has been known, in any existing law, contract, or  
11 other instrument shall constitute a reference to the Alabama  
12 Board of Cosmetology and Barbering as created in this chapter.  
13 All actions of the Alabama Board of Cosmetology lawfully done  
14 prior to August 1, 2013, by the board or by the executive  
15 director or administrative assistant are approved, ratified,  
16 and confirmed. The board as constituted on August 1, 2013,  
17 shall constitute the board under this chapter.

18           "b) The existence and functioning of the Alabama  
19 Board of Cosmetology and Barbering, created and functioning  
20 pursuant to this chapter, is continued pursuant to this  
21 chapter. All rights, duties, property, real or personal, and  
22 all other effects existing in the name of the Alabama Board of  
23 Cosmetology and Barbering, or in any other name by which the  
24 board has been known, shall continue in the name of the State  
25 Board of Cosmetology. Any reference to the Alabama Board of  
26 Cosmetology, the Alabama Board of Cosmetology and Barbering,  
27 or any other name by which the board has been known, in any

1 existing law, contract, or other instrument shall constitute a  
2 reference to the State Board of Cosmetology as created in this  
3 chapter. All actions of the Alabama Board of Cosmetology or  
4 the Alabama Board of Cosmetology and Barbering lawfully done  
5 prior to the effective date of the act adding this subsection,  
6 by the board or by the executive director or administrative  
7 assistant are approved, ratified, and confirmed. The board as  
8 constituted on the effective date of the act adding this  
9 subsection shall constitute the board under this chapter."

10           Section 2. Although this bill would have as its  
11 purpose or effect the requirement of a new or increased  
12 expenditure of local funds, the bill is excluded from further  
13 requirements and application under Amendment 621, now  
14 appearing as Section 111.05 of the Official Recompilation of  
15 the Constitution of Alabama of 1901, as amended, because the  
16 bill defines a new crime or amends the definition of an  
17 existing crime.

18           Section 3. All laws or parts of laws which conflict  
19 with this act are repealed, and specifically Section 34-7B-17,  
20 Code of Alabama 1975, providing qualifications of applicants  
21 for examination or licensure as barbers, is repealed.

22           Section 4. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.