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HOUSE BILL 1085

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Angel and Kirby

Read first time 01/11/11. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to creating a hair design license; and amending RCW  
2 18.16.010, 18.16.020, 18.16.030, 18.16.050, 18.16.060, 18.16.130,  
3 18.16.170, 18.16.175, 18.16.180, 18.16.190, 18.16.200, and 18.16.290.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 18.16.010 and 2002 c 111 s 1 are each amended to read  
6 as follows:

7 The legislature recognizes that the practices of cosmetology, hair  
8 design, barbering, manicuring, and esthetics involve the use of tools  
9 and chemicals which may be dangerous when mixed or applied improperly,  
10 and therefore finds it necessary in the interest of the public health,  
11 safety, and welfare to regulate those practices in this state.

12 **Sec. 2.** RCW 18.16.020 and 2008 c 20 s 1 are each amended to read  
13 as follows:

14 As used in this chapter, the following terms have the meanings  
15 indicated unless the context clearly requires otherwise:

16 (1) "Apprenticeship program" means a state-approved apprenticeship  
17 program pursuant to chapter 49.04 RCW and approved under RCW 18.16.280

1 for the training of cosmetology, hair design, barbering, esthetics, and  
2 manicuring.

3 (2) "Apprentice" means a person who is engaged in a state-approved  
4 apprenticeship program and who must receive a wage or compensation  
5 while engaged in the program.

6 (3) "Apprenticeship training committee" means a committee approved  
7 by the Washington apprenticeship and training council established in  
8 chapter 49.04 RCW.

9 (4) "Department" means the department of licensing.

10 (5) "Board" means the cosmetology, hair design, barbering,  
11 esthetics, and manicuring advisory board.

12 (6) "Director" means the director of the department of licensing or  
13 the director's designee.

14 (7) "The practice of cosmetology" means arranging, dressing,  
15 cutting, trimming, styling, shampooing, permanent waving, chemical  
16 relaxing, straightening, curling, bleaching, lightening, coloring,  
17 waxing, tweezing, shaving, and mustache and beard design of the hair of  
18 the face, neck, and scalp; temporary removal of superfluous hair by use  
19 of depilatories, waxing, or tweezing; manicuring and pedicuring,  
20 limited to cleaning, shaping, polishing, decorating, and caring for and  
21 treatment of the cuticles and nails of the hands and feet, excluding  
22 the application and removal of sculptured or otherwise artificial  
23 nails; esthetics limited to toning the skin of the scalp, stimulating  
24 the skin of the body by the use of preparations, tonics, lotions, or  
25 creams; and tinting eyelashes and eyebrows.

26 (8) "Cosmetologist" means a person licensed under this chapter to  
27 engage in the practice of cosmetology.

28 (9) "Practice of hair design" means arranging, dressing, cutting,  
29 trimming, styling, shampooing, permanent waving, chemical relaxing,  
30 straightening, curling, bleaching, lightening, coloring, waxing,  
31 tweezing, shaving, and mustache and beard design of the hair of the  
32 face, neck, and scalp; and temporary removal of superfluous hair by use  
33 of depilatories, waxing, or tweezing.

34 (10) "Hair designer" means a person licensed under this chapter to  
35 engage in the practice of hair design.

36 (11) "The practice of barbering" means the cutting, trimming,  
37 arranging, dressing, curling, shampooing, shaving, and mustache and  
38 beard design of the hair of the face, neck, and scalp.

1           (~~(10)~~) (12) "Barber" means a person licensed under this chapter  
2 to engage in the practice of barbering.

3           (~~(11)~~) (13) "Practice of manicuring" means the cleaning, shaping,  
4 polishing, decorating, and caring for and treatment of the cuticles and  
5 the nails of the hands or feet, and the application and removal of  
6 sculptured or otherwise artificial nails by hand or with mechanical or  
7 electrical apparatus or appliances.

8           (~~(12)~~) (14) "Manicurist" means a person licensed under this  
9 chapter to engage in the practice of manicuring.

10          (~~(13)~~) (15) "Practice of esthetics" means care of the skin by  
11 application and use of preparations, antiseptics, tonics, essential  
12 oils, or exfoliants, or by any device or equipment, electrical or  
13 otherwise, or by wraps, compresses, cleansing, conditioning,  
14 stimulation, pore extraction, or product application and removal; the  
15 temporary removal of superfluous hair by means of lotions, creams,  
16 mechanical or electrical apparatus, appliance, waxing, tweezing, or  
17 depilatories; tinting of eyelashes and eyebrows; and lightening the  
18 hair, except the scalp, on another person.

19          (~~(14)~~) (16) "Esthetician" means a person licensed under this  
20 chapter to engage in the practice of esthetics.

21          (~~(15)~~) (17) "Instructor-trainee" means a person who is currently  
22 licensed in this state as a cosmetologist, hair designer, barber,  
23 manicurist, or esthetician, and is enrolled in an instructor-trainee  
24 curriculum in a school licensed under this chapter.

25          (~~(16)~~) (18) "School" means any establishment that offers  
26 curriculum of instruction in the practice of cosmetology, hair design,  
27 barbering, esthetics, manicuring, or instructor-trainee to students and  
28 is licensed under this chapter.

29          (~~(17)~~) (19) "Student" means a person sixteen years of age or  
30 older who is enrolled in a school licensed under this chapter and  
31 receives instruction in any of the curricula of cosmetology, hair  
32 design, barbering, esthetics, manicuring, or instructor-training with  
33 or without tuition, fee, or cost, and who does not receive any wage or  
34 commission.

35          (~~(18)~~) (20) "Instructor" means a person who gives instruction in  
36 a school, or who provides classroom theory training to apprentices in  
37 locations other than in a school, in a curriculum in which he or she  
38 holds a license under this chapter, has completed at least five hundred

1 hours of instruction in teaching techniques and lesson planning in a  
2 school, and has passed a licensing examination approved or administered  
3 by the director. An applicant who holds a degree in education from an  
4 accredited postsecondary institution shall upon application be licensed  
5 as an instructor to give instruction in a school, or to provide  
6 classroom theory training to apprentices in locations other than in a  
7 school, in a curriculum in which he or she holds a license under this  
8 chapter. An applicant who holds an instructional credential from an  
9 accredited community or technical college and who has passed a  
10 licensing examination approved or administered by the director shall  
11 upon application be licensed as an instructor to give instruction in a  
12 school, or to provide classroom theory training to apprentices in  
13 locations other than in a school, in a curriculum in which he or she  
14 holds a license under this chapter. To be approved as an "instructor"  
15 in an approved apprenticeship program, the instructor must be a  
16 competent instructor as defined in rules adopted under chapter 49.04  
17 RCW.

18 ~~((+19+))~~ (21) "Apprentice trainer" means a person who gives  
19 training to an apprentice in an approved apprenticeship program and who  
20 is approved under RCW 18.16.280.

21 ~~((+20+))~~ (22) "Person" means any individual, partnership,  
22 professional service corporation, joint stock association, joint  
23 venture, or any other entity authorized to do business in this state.

24 ~~((+21+))~~ (23) "Salon/shop" means any building, structure, or any  
25 part thereof, other than a school, where the commercial practice of  
26 cosmetology, hair design, barbering, esthetics, or manicuring is  
27 conducted; provided that any person, except employees of a salon/shop,  
28 who operates from a salon/shop is required to meet all salon/shop  
29 licensing requirements and may participate in the apprenticeship  
30 program when certified as established by the Washington state  
31 apprenticeship and training council established in chapter 49.04 RCW.

32 ~~((+22+))~~ (24) "Approved apprenticeship shop" means a salon/shop  
33 that has been approved under RCW 18.16.280 and chapter 49.04 RCW to  
34 participate in an apprenticeship program.

35 ~~((+23+))~~ (25) "Crossover training" means training approved by the  
36 director as training hours that may be credited to current licensees  
37 for similar training received in another profession licensed under this  
38 chapter.

1           ~~((24))~~ (26) "Approved security" means surety bond.

2           ~~((25))~~ (27) "Personal services" means a location licensed under  
3 this chapter where the practice of cosmetology, hair design, barbering,  
4 manicuring, or esthetics is performed for clients in the client's home,  
5 office, or other location that is convenient for the client.

6           ~~((26))~~ (28) "Individual license" means a cosmetology, hair  
7 design, barber, manicurist, esthetician, or instructor license issued  
8 under this chapter.

9           ~~((27))~~ (29) "Location license" means a license issued under this  
10 chapter for a salon/shop, school, personal services, or mobile unit.

11           ~~((28))~~ (30) "Mobile unit" is a location license under this  
12 chapter where the practice of cosmetology, hair design, barbering,  
13 esthetics, or manicuring is conducted in a mobile structure. Mobile  
14 units must conform to the health and safety standards set by rule under  
15 this chapter.

16           ~~((29))~~ (31) "Curriculum" means the courses of study taught at a  
17 school, or in an approved apprenticeship program established by the  
18 Washington state apprenticeship and training council and conducted in  
19 an approved salon/shop, set by rule under this chapter, and approved by  
20 the department. After consulting with the board, the director may set  
21 by rule a percentage of hours in a curriculum, up to a maximum of ten  
22 percent, that could include hours a student receives while training in  
23 a salon/shop under a contract approved by the department. Each  
24 curriculum must include at least the following required hours:

25           (a) School curriculum:

26           (i) Cosmetologist, one thousand six hundred hours;

27           (ii) Hair designer, one thousand four hundred hours;

28           ~~(iii)~~ (iii) Barber, one thousand hours;

29           ~~((iii))~~ (iv) Manicurist, six hundred hours;

30           ~~((iv))~~ (v) Esthetician, six hundred hours;

31           ~~((v))~~ (vi) Instructor-trainee, five hundred hours.

32           (b) Apprentice training curriculum:

33           (i) Cosmetologist, two thousand hours;

34           (ii) Barber, one thousand two hundred hours;

35           (iii) Manicurist, eight hundred hours;

36           (iv) Esthetician, eight hundred hours.

37           ~~((30))~~ (32) "Student monthly report" means the student record of  
38 daily activities and the number of hours completed in each course of a

1 curriculum that is prepared monthly by the school and provided to the  
2 student, audited annually by the department, and kept on file by the  
3 school for three years.

4 ~~((31))~~ (33) "Apprentice monthly report" means the apprentice  
5 record of daily activities and the number of hours completed in each  
6 course of a curriculum that is prepared monthly by the approved  
7 apprenticeship program and provided to the apprentice, audited annually  
8 by the department, and kept on file by the approved apprenticeship  
9 program for three years.

10 **Sec. 3.** RCW 18.16.030 and 2008 c 20 s 2 are each amended to read  
11 as follows:

12 In addition to any other duties imposed by law, including RCW  
13 18.235.030 and 18.235.040, the director shall have the following powers  
14 and duties:

15 (1) To set all license, examination, and renewal fees in accordance  
16 with RCW 43.24.086;

17 (2) To adopt rules necessary to implement this chapter;

18 (3) To prepare and administer or approve the preparation and  
19 administration of licensing examinations;

20 (4) To establish minimum safety and sanitation standards for  
21 schools, instructors, cosmetologists, hair designers, barbers,  
22 manicurists, estheticians, salons/shops, personal services, and mobile  
23 units;

24 (5) To establish curricula for the training of students and  
25 apprentices under this chapter;

26 (6) To maintain the official department record of applicants and  
27 licensees;

28 (7) To establish by rule the procedures for an appeal of an  
29 examination failure;

30 (8) To set license expiration dates and renewal periods for all  
31 licenses consistent with this chapter;

32 (9) To ensure that all informational notices produced and mailed by  
33 the department regarding statutory and regulatory changes affecting any  
34 particular class of licensees are mailed to each licensee in good  
35 standing or on inactive status in the affected class whose mailing  
36 address on record with the department has not resulted in mail being  
37 returned as undeliverable for any reason; and

1 (10) To make information available to the department of revenue to  
2 assist in collecting taxes from persons required to be licensed under  
3 this chapter.

4 **Sec. 4.** RCW 18.16.050 and 2008 c 20 s 3 are each amended to read  
5 as follows:

6 (1) There is created a state cosmetology, hair design, barbering,  
7 esthetics, and manicuring advisory board consisting of a maximum of ten  
8 members appointed by the director. These members of the board shall  
9 include: A representative of private schools licensed under this  
10 chapter; a representative from an approved apprenticeship program  
11 conducted in an approved salon/shop; a representative of public  
12 vocational technical schools licensed under this chapter; a consumer  
13 who is unaffiliated with the cosmetology, hair design, barbering,  
14 esthetics, or manicuring industry; and six members who are currently  
15 practicing licensees who have been engaged in the practice of  
16 manicuring, esthetics, barbering, hair design, or cosmetology for at  
17 least three years. Members shall serve a term of three years. Any  
18 board member may be removed for just cause. The director may appoint  
19 a new member to fill any vacancy on the board for the remainder of the  
20 unexpired term.

21 (2) Board members shall be entitled to compensation pursuant to RCW  
22 43.03.240 for each day spent conducting official business and to  
23 reimbursement for travel expenses as provided by RCW 43.03.050 and  
24 43.03.060.

25 (3) The board may seek the advice and input of officials from the  
26 following state agencies: (a) The workforce training and education  
27 coordinating board; (b) the (~~department of~~) employment security  
28 department; (c) the department of labor and industries; (d) the  
29 department of health; (e) the department of licensing; and (f) the  
30 department of revenue.

31 **Sec. 5.** RCW 18.16.060 and 2008 c 20 s 4 are each amended to read  
32 as follows:

33 (1) It is unlawful for any person to engage in a practice listed in  
34 subsection (2) of this section unless the person has a license in good  
35 standing as required by this chapter. A license issued under this  
36 chapter shall be considered to be "in good standing" except when:

1 (a) The license has expired or has been canceled and has not been  
2 renewed in accordance with RCW 18.16.110;

3 (b) The license has been denied, revoked, or suspended under RCW  
4 18.16.210, 18.16.230, or 18.16.240, and has not been reinstated;

5 (c) The license is held by a person who has not fully complied with  
6 an order of the director issued under RCW 18.16.210 requiring the  
7 licensee to pay restitution or a fine, or to acquire additional  
8 training; or

9 (d) The license has been placed on inactive status at the request  
10 of the licensee, and has not been reinstated in accordance with RCW  
11 18.16.110(3).

12 (2) The director may take action under RCW 18.235.150 and  
13 18.235.160 against any person who does any of the following without  
14 first obtaining, and maintaining in good standing, the license required  
15 by this chapter:

16 (a) Except as provided in subsections (3) and (4) of this section,  
17 engages in the commercial practice of cosmetology, hair design,  
18 barbering, esthetics, or manicuring;

19 (b) Instructs in a school;

20 (c) Operates a school; or

21 (d) Operates a salon/shop, personal services, or mobile unit.

22 (3) A person who receives a license as an instructor may engage in  
23 the commercial practice for which he or she held a license when  
24 applying for the instructor license without also renewing the  
25 previously held license. However, a person licensed as an instructor  
26 whose license to engage in a commercial practice is not or at any time  
27 was not renewed may not engage in the commercial practice previously  
28 permitted under that license unless that person renews the previously  
29 held license.

30 (4) An apprentice actively enrolled in an apprenticeship program  
31 for cosmetology, hair design, barbering, esthetics, or manicuring may  
32 engage in the commercial practice as required for the apprenticeship  
33 program.

34 **Sec. 6.** RCW 18.16.130 and 1991 c 324 s 10 are each amended to read  
35 as follows:

36 Any person who is properly licensed in any state, territory, or  
37 possession of the United States, or foreign country shall be eligible

1 for examination if the applicant submits the approved application and  
2 fee and provides proof to the director that he or she is currently  
3 licensed in good standing as a cosmetologist, hair designer, barber,  
4 manicurist, esthetician, instructor, or the equivalent in that  
5 jurisdiction. Upon passage of the required examinations the  
6 appropriate license will be issued.

7 **Sec. 7.** RCW 18.16.170 and 2002 c 111 s 10 are each amended to read  
8 as follows:

9 (1) Subject to subsection (2) of this section, licenses issued  
10 under this chapter expire as follows:

11 (a) A salon/shop, personal services, or mobile unit license expires  
12 one year from issuance or when the insurance required by RCW  
13 18.16.175(1)(g) expires, whichever occurs first;

14 (b) A school license expires one year from issuance; and

15 (c) Cosmetologist, hair designer, barber, manicurist, esthetician,  
16 and instructor licenses expire two years from issuance.

17 (2) The director may provide for expiration dates other than those  
18 set forth in subsection (1) of this section for the purpose of  
19 establishing staggered renewal periods.

20 **Sec. 8.** RCW 18.16.175 and 2008 c 20 s 6 are each amended to read  
21 as follows:

22 (1) A salon/shop or mobile unit shall meet the following minimum  
23 requirements:

24 (a) Maintain an outside entrance separate from any rooms used for  
25 sleeping or residential purposes;

26 (b) Provide and maintain for the use of its customers adequate  
27 toilet facilities located within or adjacent to the salon/shop or  
28 mobile unit;

29 (c) Any room used wholly or in part as a salon/shop or mobile unit  
30 shall not be used for residential purposes, except that toilet  
31 facilities may be used for both residential and business purposes;

32 (d) Meet the zoning requirements of the county, city, or town, as  
33 appropriate;

34 (e) Provide for safe storage and labeling of chemicals used in the  
35 practices under this chapter;

36 (f) Meet all applicable local and state fire codes; and

1 (g) Certify that the salon/shop or mobile unit is covered by a  
2 public liability insurance policy in an amount not less than one  
3 hundred thousand dollars for combined bodily injury and property damage  
4 liability.

5 (2) The director may by rule determine other requirements that are  
6 necessary for safety and sanitation of salons/shops, personal services,  
7 or mobile units. The director may consult with the state board of  
8 health and the department of labor and industries in establishing  
9 minimum salon/shop, personal services, and mobile unit safety  
10 requirements.

11 (3) Personal services license holders shall certify coverage of a  
12 public liability insurance policy in an amount not less than one  
13 hundred thousand dollars for combined bodily injury and property damage  
14 liability.

15 (4) Upon receipt of a written complaint that a salon/shop or mobile  
16 unit has violated any provisions of this chapter, chapter 18.235 RCW,  
17 or the rules adopted under either chapter, or at least once every two  
18 years for an existing salon/shop or mobile unit, the director or the  
19 director's designee shall inspect each salon/shop or mobile unit. If  
20 the director determines that any salon/shop or mobile unit is not in  
21 compliance with this chapter, the director shall send written notice to  
22 the salon/shop or mobile unit. A salon/shop or mobile unit which fails  
23 to correct the conditions to the satisfaction of the director within a  
24 reasonable time shall, upon due notice, be subject to the penalties  
25 imposed by the director under RCW 18.235.110. The director may enter  
26 any salon/shop or mobile unit during business hours for the purpose of  
27 inspection. The director may contract with health authorities of local  
28 governments to conduct the inspections under this subsection.

29 (5) A salon/shop, personal services, or mobile unit shall obtain a  
30 certificate of registration from the department of revenue.

31 (6) This section does not prohibit the use of motor homes as mobile  
32 units if the motor home meets the health and safety standards of this  
33 section.

34 (7) Salon/shop or mobile unit licenses issued by the department  
35 must be posted in the salon/shop or mobile unit's reception area.

36 (8) Cosmetology, hair design, barbering, esthetics, and manicuring  
37 licenses issued by the department must be posted at the licensed  
38 person's work station.

1       **Sec. 9.** RCW 18.16.180 and 2008 c 20 s 7 are each amended to read  
2 as follows:

3       (1) The director shall prepare and provide to all licensed  
4 salons/shops a notice to consumers. At a minimum, the notice shall  
5 state that cosmetology, hair design, barber, esthetics, and manicure  
6 salons/shops are required to be licensed, that salons/shops are  
7 required to maintain minimum safety and sanitation standards, that  
8 customer complaints regarding salons/shops may be reported to the  
9 department, and a telephone number and address where complaints may be  
10 made.

11       (2) An approved apprenticeship shop must post a notice to consumers  
12 in the reception area of the salon/shop stating that services may be  
13 provided by an apprentice. At a minimum, the notice must state: "This  
14 shop is a participant in a state-approved apprenticeship program.  
15 Apprentices in this program are in training and have not yet received  
16 a license."

17       **Sec. 10.** RCW 18.16.190 and 1991 c 324 s 20 are each amended to  
18 read as follows:

19       It is a violation of this chapter for any person to engage in the  
20 commercial practice of cosmetology, hair design, barbering, esthetics,  
21 or manicuring, except in a licensed salon/shop or the home, office, or  
22 other location selected by the client for obtaining the services of a  
23 personal service operator, or with the appropriate individual license  
24 when delivering services to placebound clients. Placebound clients are  
25 defined as persons who are ill, disabled, or otherwise unable to travel  
26 to a salon/shop.

27       **Sec. 11.** RCW 18.16.200 and 2004 c 51 s 4 are each amended to read  
28 as follows:

29       In addition to the unprofessional conduct described in RCW  
30 18.235.130, the director may take disciplinary action against any  
31 applicant or licensee under this chapter if the licensee or applicant:

32       (1) Has been found to have violated any provisions of chapter 19.86  
33 RCW;

34       (2) Has engaged in a practice prohibited under RCW 18.16.060  
35 without first obtaining, and maintaining in good standing, the license  
36 required by this chapter;

- 1 (3) Has engaged in the commercial practice of cosmetology, hair
- 2 design, barbering, manicuring, or esthetics in a school;
- 3 (4) Has not provided a safe, sanitary, and good moral environment
- 4 for students in a school or the public;
- 5 (5) Has failed to display licenses required in this chapter; or
- 6 (6) Has violated any provision of this chapter or any rule adopted
- 7 under it.

8 **Sec. 12.** RCW 18.16.290 and 2004 c 51 s 2 are each amended to read  
9 as follows:

10 (1) If the holder of an individual license in good standing submits  
11 a written and notarized request that the licensee's cosmetology, hair  
12 designer, barber, manicurist, esthetician, or instructor license be  
13 placed on inactive status, together with a fee equivalent to that  
14 established by rule for a duplicate license, the department shall place  
15 the license on inactive status until the expiration date of the  
16 license. If the date of the request is no more than six months before  
17 the expiration date of the license, a request for a two-year extension  
18 of the inactive status, as provided under subsection (2) of this  
19 section, may be submitted at the same time as the request under this  
20 subsection.

21 (2) If the holder of a license placed on inactive status under this  
22 section submits, by the expiration date of the license, a written and  
23 notarized request to extend that status for an additional two years,  
24 the department shall, without additional fee, extend the expiration  
25 date of: (a) The licensee's individual license; and (b) the inactive  
26 status for two years from the expiration date of the license.

27 (3) A license placed on inactive status under this section may not  
28 be extended more frequently than once in any twenty-four month period  
29 or for more than six consecutive years.

30 (4) If, by the expiration date of a license placed on inactive  
31 status under this section, a licensee is unable, or fails, to request  
32 that the status be extended and the license is not renewed, the license  
33 shall be canceled.

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