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(As Passed by the General Assembly)

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ACT SUMMARY

- Statutorily requires a person who rents booth space at a salon in order to practice a branch of cosmetology to obtain an independent contractor license and establishes misdemeanor penalties for violation.
- Adds two additional members to the State Board of Cosmetology and revises the composition of the Board.
- Increases some educational requirements for a practicing or managing license.
- Permits the Board to establish rules to give credit for instruction that was received more than five years before the date of application for a license.
- Gives the Board the authority to establish a temporary special occasion work permit for individuals not licensed in Ohio to practice or teach a branch of cosmetology for a limited period of time as part of a promotional or instructional program.
- Increases the fee for the re-examination of an applicant for a license who registered for an examination but did not appear for it.
- Prohibits a person at a salon or school of cosmetology from using or possessing a cosmetic product containing an ingredient that the U.S.F.D.A. has banned by regulation, or from using a cosmetic product in a manner that is inconsistent with a regulatory restriction established by the U.S.F.D.A.

- Prohibits a person at a salon or school from using or possessing a liquid nail monomer containing any trace of methyl methacrylate (MMA).
- Enables the Board to impose a fine on or deny, suspend, or revoke the license of a person who violates any of the Board's rules.
- Increases the fine that the Board may levy against a licensee or permittee who has committed a violation of the Cosmetology Law if the person committed more than one violation of the same type.
- Revises the exemption for domestic administration of cosmetology services.
- Makes a temporary pre-examination work permit renewable according to rules adopted by the Board.
- Provides that an inactive license may be restored on the later of (1) the date on which the person submits proof of completion of the continuing education requirement, or (2) the last day of January of the next odd-numbered year following the year in which the license is classified as inactive.
- Gives the Board the authority to issue a temporary work permit to an individual with an inactive license, including an individual with an inactive license issued by another state.
- Permits a school of cosmetology to employ persons not licensed under the Cosmetology Law to teach subjects related to cosmetology under certain conditions.
- Changes the final day of the biennial licensing period to January 31 of each odd-numbered year.
- Exempts inmates who provide cosmetology related services to other inmates from the Cosmetology Law, except when those services are provided in a licensed school of cosmetology within a state correctional institution for females, and requires the Director of Rehabilitation and Correction to oversee these exempted services with respect to sanitation, and to adopt rules governing those services.
- Revises the definition of the practice of cosmetology, and the definitions of cosmetologist, managing cosmetologist, and cosmetologist instructor.

- Defines the practice of hair design and a hair design salon, and establishes licensing requirements for hair designers, managing hair designers, and hair design instructors.
- Defines the practice of natural hair styling and a natural hair style salon, and establishes licensing requirements for natural hair stylists, managing natural hair stylists, and natural hair style instructors.
- Modifies the definitions of a managing esthetician and an esthetician instructor.
- Revises the definitions of a manicurist, managing manicurist, and manicurist instructor.
- Requires a consumer under the age of 18 to obtain the written consent of the consumer's parent or legal guardian prior to receiving tanning services.
- Creates a definition of a salon, and modifies the definition of a beauty salon.
- Revises the definitions of a school of cosmetology, apprentice instructor, and student.
- Allows a school of cosmetology operated by a public entity to offer competency based credits for coursework.
- Permits the sale of food at salons if the food is sold in a manner that is consistent with rules adopted by the Board.
- Eliminates the definition of glamour photography.

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CONTENT AND OPERATION

Introduction

The act adopts new section numbers for many Revised Code sections of the Cosmetology Law (Chapter 4713. of the Revised Code), moves many existing law provisions to different sections, repeals existing sections and enacts new sections using the same section number, and changes division lettering within Revised Code sections. In order to avoid confusion, citations to prior sections of law appear in the text in regular script, but citations to Revised Code sections as they appear in the act are shown in italics.

Independent contractor license

The act establishes an independent contractor license and prohibits a person from practicing a branch of cosmetology at a salon in which the person rents booth space without a current, valid independent contractor license. It is a fourth degree misdemeanor the first time a person violates this prohibition and a third degree misdemeanor for subsequent violations. (*Secs. 4713.01, 4713.14(I), and 4713.99.*)

Qualifications for an independent contractor license

In order to qualify for an independent contractor license, an applicant must pay the applicable fee, hold a license to manage the type of salon in which the applicant will practice that branch of cosmetology, and satisfy the conditions for licensure established by rule (*sec. 4713.39*).

Practicing, managing, and instructor licenses

Former law did not define the terms "practicing license," "managing license," or "instructor license." The act defines a practicing license as a license to practice a branch of cosmetology, a managing license as a license to manage a salon and the branch of cosmetology practiced at the salon, and an instructor license as a license to teach the theory and practice of a branch of cosmetology at a school of cosmetology (*sec. 4713.01*). The act adds a provision that requires that each license issued by the State Board of Cosmetology (hereafter, the "Board") specify the branch of cosmetology in which the holder is entitled to practice, manage, or teach (*sec. 4713.55*).

Continuing law requires every person who holds a license issued by the Board to display it in a conspicuous place in the principal office, place of business, or place of employment of the holder (*sec. 4713.16*). The act extends this requirement to all types of licenses created by the act, and adds that the place of display must also be public (*sec. 4713.56*).

Continuing law also requires every holder of a certificate of registration to practice massage, who practices massage in a salon, to display the certificate in a conspicuous place in the room used for massage services (*sec. 4713.16*). The act adds that the place of display also must be public, and makes persons who provide cosmetic therapy or other professional services in a salon also subject to this requirement (*sec. 4713.56*).

Qualifications for the issuance of a practicing license

The act requires an applicant for a cosmetologist's license, manicurist's license, esthetician's license, and natural hair stylist license to have the equivalent of an Ohio public school 10th grade education instead of an 8th grade education, as under former law. This educational requirement also applies for the new practicing licenses created by the act.

Continuing law also requires applicants for the four licenses listed above to pass an examination in their respective fields. The act extends this requirement to applicants for all practicing licenses. (Sec. 4713.04(A), (B), (C), and (D); *Sec. 4713.28(C), (D), and (E).*)

Qualifications for the issuance of a managing license

Prior law partially retained by the act required applicants for a managing cosmetologist's license, managing manicurist's license, and managing esthetician's license to (1) have at least the equivalent of an Ohio public school 8th grade education, (2) have at least one year of practicing experience in their respective

occupations or to undergo additional training, and (3) to pass an examination (sec. 4713.04(E), (I), and (K)). The act increases the educational requirement for these occupations, and all managing licenses, to the equivalent of an Ohio public school 10th grade education, and clarifies that at least 2,000 hours of managing experience is required for applicants who seek to qualify on the basis of experience. (*Sec. 4713.30.*)

Qualifications for the issuance of an initial instructor's license

The act extends the requirement that an applicant for an initial instructor's license be 18 years of age to all branches of cosmetology instead of just to the esthetics and manicurist branches, as under former law. (Sec. 4713.04(F), (L), and (M); *Sec. 4713.31(A).*)

In lieu of satisfying a requirement for additional training, former law allowed applicants for initial instructors' licenses in cosmetology, esthetics, and manicuring to have one year of experience in certain areas (sec. 4713.04(F), (K), and (L)). The act clarifies that an applicant for any initial instructor's license needs at least 2,000 hours of practice in the specified occupation (*sec. 4713.31(E)(1), (F)(1), (G)(1), and (H)(1).*)

Apprentice instructor

Continuing law defines an "apprentice instructor" to mean any licensee of the State Board of Cosmetology who is engaged in learning or acquiring knowledge of the occupation of an instructor, in any branch of cosmetology in a school of cosmetology (sec. 4713.01(K)). The act adds that the person must hold a practicing license (*sec. 4713.01.*)

Determination of total hours of instruction

When determining the total hours of instruction for the purpose of licensure, former law prohibited the Board from taking into account instruction received more than five years prior to issuance of the initial license (sec. 4713.04(J)). The act instead requires the Board to take into account instruction received more than five years prior to the date of application of the license in accordance with Board rules (*secs. 4713.08(A) and 4713.32.*)

Biennial licensing period

Initial licenses expired on January 30 of the next odd-numbered year following the date of issue under former law, and every license had to be renewed by that date (secs. 4713.07 and 4713.11(A)). The act provides that the biennial licensing period begins on February 1 of an odd-numbered year and ends on January 31 of the next odd-numbered year (*sec. 4713.01.*)



Practice of cosmetology

Under former law the "practice of cosmetology" was defined to include, but not be limited to, work done for pay, free, or otherwise, by any person, which work is usually performed by hairdressers, cosmetologists, cosmeticians, natural hair stylists, or beauty culturists, whatever their title, in beauty salons; which work is for the embellishment, cleanliness, and beautification of hair, wigs, and postiches, such as arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, weaving, or similar work, and the massaging, cleansing, stimulating, manipulating, exercising, or similar work by the use of manual massage techniques or mechanical or electrically operated apparatus or appliances, or cosmetics, preparations, tonics, antiseptics, creams, or lotions, and of manicuring the nails or application of artificial nails. (Sec. 4713.01(A).) The act removes this definition and provides simply that the practice of cosmetology means the practice of all branches of cosmetology (*sec. 4713.01*).

Cosmetologist

Prior law defined a "cosmetologist, cosmetician, beauty culturist, or hairdresser" to mean any person who, for pay, free, or otherwise, engages in the practice of cosmetology. The act removes this definition and provides that a cosmetologist means a person authorized to engage in all branches of cosmetology (*sec. 4713.01*; *sec. 4713.01*).

Managing cosmetologist

Former law defined a "managing cosmetologist" as a person who has met the qualifications for a managing cosmetologist's license, and has applied for and received a managing cosmetologist's license (secs. 4713.01(I) and 4713.04(E)). The act instead defines a managing cosmetologist as a person authorized to manage a beauty salon and engage in all branches of cosmetology (*sec. 4713.01*).

Cosmetology instructor

Prior law defined a "cosmetology instructor" as any person who has met the qualifications for a managing cosmetologist's license, and has applied for and received an instructor's license (secs. 4713.01(J) and 4713.04(F)). The act instead defines a cosmetology instructor as a person authorized to teach the theory and practice of all branches of cosmetology at a school of cosmetology (*sec. 4713.01*).

Branch of cosmetology

Continuing law uses the term "branch of cosmetology" but it was not defined under prior law. The act defines a "branch of cosmetology" to mean the

practice of any of the following: cosmetology, esthetics, hair design, manicuring, or natural hair styling. (*Sec. 4713.01.*)

Managing esthetician

A "managing esthetician" was defined under prior law as any person who has met the qualifications for a managing esthetician's license, and has applied for and received a managing esthetician's license (secs. 4713.01(Q) and 4713.04(J)). A managing esthetician under the act is a person authorized to manage an esthetics salon, but no other type of salon, and engage in the practice of esthetics, but no other branch of cosmetology (*sec. 4713.01*).

Esthetics instructor

An "esthetics instructor" was defined under former law as any person who met the qualifications for licensure as an esthetics instructor, and who has applied for and received an esthetics instructor license (secs. 4713.01(R) and 4713.04(K)). An esthetics instructor under the act is a person who teaches the theory and practice of esthetics, but no other branch of cosmetology, at a school of cosmetology (*sec. 4713.01*).

The practice of hair design

The act creates a definition of the "practice of hair design." The term "hair design" was not used in prior law, although certain elements were taken from the former definition of the "practice of cosmetology." The act defines "hair design" to mean embellishing or beautifying hair, wigs, or hairpieces by arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, braiding, weaving, or similar work. The "practice of hair design" includes utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, or locking or braiding of the hair (*sec. 4713.01*).

Hair designer, managing hair designer, and hair design instructor

The act establishes and defines the occupations of "hair designer," "managing hair designer," and "hair design instructor," which are terms and occupations that were not found in former law. Hair designer means a person who engages in the practice of hair design but no other branch of cosmetology. Managing hair designer means a person authorized to manage a hair design salon but no other type of salon, and to engage in the practice of hair design but no other branch of cosmetology. Hair design instructor means a person who teaches the theory and practice of hair design, but no other branch of cosmetology, at a school of cosmetology. (*Sec. 4713.01.*)

Hair designer

The act requires an applicant for an initial hair designer license to complete at least 1,200 hours of Board-approved hair designer training in a licensed school of cosmetology, except that only 1,000 hours of such training is required of a licensed barber (*sec. 4713.28(H)*).

Managing hair designer

The act requires an applicant for an initial managing hair designer license to have either of the two following qualifications to receive the license:

(1) at least 2,000 hours of experience as a practicing hair designer in a licensed hair design salon or as a cosmetologist in a licensed beauty salon; or

(2) successful completion, in addition to the hours required for licensure as a hair designer or cosmetologist, of at least 240 hours of Board-approved managing hair designer training and of the managing hair designer examination (*sec. 4713.30(H)*).

The act permits the Board to administer a separate managing hair designer examination for persons who complete a managing hair designer training course separate from a hair designer training course. The Board also is permitted to combine the managing hair designer examination with hair designer examination for persons who complete a combined 1,400 hour hair designer and managing hair designer training course. (*Sec. 4713.25.*)

Hair design instructor

The act requires an applicant for an initial hair design instructor license to hold a managing hair designer or managing cosmetologist license and have either of the two following qualifications:

(1) at least 2,000 hours of experience as a practicing hair designer in a licensed hair design salon or as a cosmetologist in a licensed beauty salon; or

(2) have successfully completed at least 800 hours of Board-approved hair designer instructor's training as an apprentice instructor (*sec. 4713.31(G)*).

Under the act, a hair design instructor who has previously been licensed as a hair designer or managing hair designer is entitled to the reissuance of a hair designer or managing hair designer license upon payment of a renewal fee and submission of proof satisfactory to the Board that any applicable continuing education requirements have been completed (*sec. 4713.58(A)(3)*).

Exemption from the Barber Law

Under continuing law, licensed cosmetologists who are acting within the scope of their usual and ordinary vocation and profession are exempt from the provisions of the Barber Law (sec. 4709.03). The act adds licensed hair designers to this exemption.

License to practice barbering

The act allows a hair designer who has graduated with at least 1,000 hours of training from a Barber Board-approved barber school in Ohio and who holds a current cosmetology license to take the barber exam if the hair designer is of good moral character, is at least 18 years of age, and has at least an 8th grade education just as continuing law allows for cosmetologists. (Sec. 4709.07.)

Manicurist

Under prior law, a "manicurist" was any person who, for pay, free, or otherwise, engaged only in the occupation of manicuring the nails of any person or applying artificial or sculptured nails, or both (sec. 4713.01(C)). Under the act, a manicurist means a person who engages in the practice of manicuring but no other branch of cosmetology. The act defines the "practice of manicuring" as manicuring the nails of any person, applying artificial or sculptured nails to any person, massaging the hands and lower arms up to the elbow of any person, massaging the feet and lower legs up to the knee of any person, or any combination of these four types of services. (Sec. 4713.01.)

Former law required an initial applicant for licensure as a manicurist to have received at least 200 hours of instruction in subjects relating to sanitation, manicuring, and application of artificial or sculptured nails in a licensed school of cosmetology. The act replaces the requirements of instruction in specific subjects with a general requirement of completion of a Board-approved manicurist training course. (Sec. 4713.04(B); Sec. 4713.28(I).)

Managing manicurist

Under prior law, a "managing manicurist" was any person who had met the qualifications for licensure as a managing manicurist, and applied for and received a managing manicurist license (secs. 4713.01(O) and 4713.04(H)). The act revises this definition and provides that a managing manicurist is a person authorized to manage a nail salon, but no other type of salon, and engage in the practice of manicuring, but no other branch of cosmetology (sec. 4713.01).

Manicurist instructor

Under former law, a "manicurist instructor" was any person who had met the requirements for licensure as a manicurist instructor, and applied for and received a manicurist license (sec. 4713.01(P)). Under the act, a manicurist instructor is a person who teaches the theory and practice of manicuring, but no other branch of cosmetology, at a school of cosmetology (*sec. 4713.01*).

Practice of natural hair styling

The "practice of natural hair styling" under prior law meant work done for a fee or other form of compensation, by any person, utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, locking, or braiding the hair, and which work does not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair (sec. 4713.01(T)). The act adds that the practice of natural hair styling also does not include embellishing or beautifying hair by cutting or singeing, except as needed to finish off the end of a braid, or by dressing, pressing, curling, waving, permanent waving, or similar work (*sec. 4713.01*).

Natural hair stylist

The term "natural hair stylist" is used in current law but is not defined. The act defines a natural hair stylist as a person who engages in the practice of natural hair styling but no other branch of cosmetology (*sec. 4713.01*).

Continuing law requires applicants for an initial natural hair stylist license to have received instruction in, and the act requires successful completion of instruction in subjects relating to sanitation, scalp care, anatomy, hair styling, communication skills, and laws and rules governing the practice of cosmetology (sec. 4713.04(D); *sec. 4713.28(J)*).

Managing natural hair stylist and natural hair style instructor

The act creates definitions of a "managing natural hair stylist" and "natural hair style instructor," which are terms that were not found in prior law. A managing natural hair stylist is a person authorized to manage a natural hair style salon, but no other type of salon, and engage in the practice of natural hair styling, but no other branch of cosmetology. A natural hair style instructor is a person who teaches the theory and practice of natural hair styling, but no other branch of cosmetology (*sec. 4713.01*).

Managing natural hair stylist--qualifications and examination

The act requires an applicant for an initial managing natural hair stylist license to possess either of the following qualifications:

(1) at least 2,000 hours of experience as a natural hair stylist in a licensed natural hair style salon or as a cosmetologist in a licensed beauty salon; or,

(2) at least 150 hours of Board-approved managing natural hair stylist training and has passed an examination conducted by the Board (*sec. 4713.30(J)*).

Under the act, the Board may administer separate managing natural hair stylist examinations to persons who complete a managing natural hair stylist training course separate from a natural hair stylist training course. The Board may combine the managing natural hair stylist examination for persons who complete a 600 hour combined natural hair stylist and managing natural hair stylist training course. (*Sec. 4713.25.*)

Natural hair style instructor

The act requires that an applicant for an initial natural hair style instructor license hold a managing natural hair stylist or managing cosmetologist license and possess either of the following qualifications:

(1) at least 2,000 hours of experience as a natural hair stylist in a licensed natural hair style salon or as a cosmetologist in a licensed beauty salon; or,

(2) at least 400 hours of Board-approved managing natural hair style instructor training as an apprentice instructor (*sec. 4713.31(J)*).

The act provides that a natural hair style instructor who has previously been licensed as a natural hair stylist or a managing natural hair stylist is entitled to the reissuance of a natural hair stylist or managing natural hair stylist license upon payment of a renewal fee and completion of any applicable continuing education requirements (*sec. 4713.58(A)(5)*).

Salon

The act creates a definition of a "salon," which means a beauty salon, esthetics salon, hair design salon, nail salon, or natural hair style salon (*sec. 4713.01*).

Management and sale of food at salons

Former law modified by the act required beauty salons, esthetics salons, and nail salons to be under the charge of and immediate supervision of a licensed managing cosmetologist or a person who held a managing license in the appropriate branch of cosmetology practiced at that type of salon (sec. 4713.14(A) and (B)). The act extends this provision to all types of salons created by the act but creates an exception for a salon that is a business establishment engaged primarily in retail sales. Such a salon is required to have a managing cosmetologist or an individual licensed to manage that type of salon in charge of and in immediate supervision of the salon during posted or advertised service hours, if the practice of cosmetology is restricted to those hours (*sec. 4713.41(A)*).

Prior law prohibited the sale of food in rooms used as beauty, esthetics, or nail salons (sec. 4713.14(A) and (B)). The act relaxes this prohibition so that food may be sold if done in a manner that is consistent with rules adopted by the Board (*sec. 4713.41(E)*).

Beauty salon

Former law defined a "beauty salon" as any premises, building, or part of a building, in which cosmetology or any branch of cosmetology is practiced, with the exception of a manicurist practicing in a barber shop (sec. 4713.01(F)). The act modifies this definition by removing the reference to any branch of cosmetology, and providing that the term means any premises, building, or part of a building, in which a person is authorized to engage in all branches of cosmetology (*sec. 4713.01*).

Esthetics salon

Prior law defined an "esthetics salon" as any premises, building, part of a building in which esthetics is performed by person licensed as a cosmetologist or esthetician (sec. 4713.01(N)). The act modifies this definition by providing that the term means any premises, building, or part of a building in which a person engages in the practice of esthetics but no other branch of cosmetology (*sec. 4713.01*).

Hair design salon

Former law did not utilize the term "hair design salon." The act defines this term to mean any premises, building, or part of a building in which a person engages in the practice of hair design but no other branch of cosmetology (*sec. 4713.01*).

Natural hair style salon

The act creates a definition of a "natural hair style salon," which means any premises, building, or part of a building in which a person engages in the practice of natural hair styling but no other branch of cosmetology (*sec. 4713.01*).

School of cosmetology

Prior law defined a "school of cosmetology" to mean any premises, building, or part of a building in which students are instructed in the theories and practices of cosmetology, manicuring, and esthetics (*sec. 4713.01(H)*). The act modifies this definition by removing references to specific branches of cosmetology and stating that the student receives instruction in the theories and practices of one or more branches of cosmetology (*sec. 4713.01*).

Student

Former defined a "student" as any person who is engaged in learning or acquiring knowledge of the occupation of a cosmetologist, manicurist, or esthetician in a school of cosmetology (*sec. 4713.01(G)*). The act modifies this definition to state that a student means a person, other than an apprentice instructor, who is engaged in learning or acquiring knowledge of the practice of a branch of cosmetology at a school of cosmetology (*sec. 4713.01*).

Board of Cosmetology

Under prior law modified by the act, the State Board of Cosmetology consisted of seven members appointed by the Governor with the advice and consent of the Senate. Four of the members were graduate licensed cosmetologists, three of whom were actively engaged in the management of a beauty salon at the time of appointment. The remaining three members were a regularly licensed physician, an owner of a licensed school of cosmetology, and an owner of at least five licensed beauty salons. (*Sec. 4713.02(A)*.)

The act increases the number of Board members to nine and revises the Board's composition as follows:

- one member must hold a current, valid cosmetologist, managing cosmetologist, or cosmetology instructor license;
- two members must hold current, valid managing cosmetologist licenses and be actively engaged in managing beauty salons;
- one member must hold a current, valid independent contractor license or be the owner or manager of a licensed salon in which at least one person

holding a current, valid independent contractor license practices a branch of cosmetology;

- one member, chosen from three individuals nominated by the Superintendent of Public Instruction, must represent individuals who teach the theory and practice of a branch of cosmetology at a vocational school;
- one owner of at least five licensed salons;
- one person who is either an advanced practice nurse approved by the Board of Nursing, a certified nurse practitioner or clinical nurse specialist holding a certificate of authority from the Board of Nursing, or a physician authorized by the State Medical Board to practice medicine and surgery or osteopathic medicine and surgery;
- one person representing the general public.

In addition, the act retains the continuing law provision that requires one member to be an owner of a licensed school of cosmetology.

The terms of office of the member who is an independent contractor or owner of a salon that utilizes an independent contractor, and of the person who represents individuals who teach a branch of cosmetology at a vocational school, are staggered with the initial term of those two members being three and four years respectively. The act retains the specification in continuing law that members serve a five-year term of office. (*Sec. 4713.02.*)

The act requires the Governor to make the new appointments to the Board within 60 days after the act's effective date. In addition, the Governor, must determine within 30 days after the act's effective date which of the three current members of the Board who are licensed cosmetologists actively engaged in managing a salon must be removed due to the expiration of the member's office. (Sections 3 and 4.)

Duties of the Board of Cosmetology

Former law required the Board to keep a record containing the name and known place of business, and the date and number of license of each licensee (sec. 4713.02(D)(6)). The act modifies this requirement by requiring the Board to keep a record of the last known address of each licensee rather than the licensee's place of business (*sec. 4713.07(E)(2)*).

Reciprocal licensure of a person from another state or country

Prior law permitted the Board to grant a license to a person licensed or registered in another state, country, or territory of the United States, or the District of Columbia, without an examination, unless the Board saw fit to require an examination (sec. 4713.09). The act requires the applicant to satisfy conditions specified in the Board's rules in order for the Board to issue a license without an examination (*sec. 4713.34(A)(3)*).

Temporary special occasion work permit

The act gives the Board the authority to create a temporary special occasion work permit, which did not exist under prior law. Under the act, the Board may issue a temporary special occasion work permit to a person who satisfies all of the following conditions:

(1) the person has been licensed or registered in another state or country to practice a branch of cosmetology or teach the theory and practice of a branch of cosmetology for at least five years;

(2) the person is a recognized expert in the practice or teaching of the branch of cosmetology the person practices or teaches;

(3) the person practices that branch of cosmetology or teaches the theory and practice of that branch of cosmetology in this state as part of a promotional or instructional program for no more than the amount of time a temporary special occasion work permit is effective;

(4) the person satisfies all other conditions for a temporary special occasion work permit established by the Board's rules;

(5) the person pays the fee established by the Board's rules.

The act allows a person issued a temporary special occasion work permit to practice the branch of cosmetology the person practices in another state or country, or teach the theory and practice of the branch of cosmetology the person teaches in another state or country, until the expiration date of the permit. The Board must specify by rule the period of time a temporary special occasion work permit is valid. (*Sec. 4713.37.*)

Fees

Prior law established a fee of \$21 for a re-examination for licensure (sec. 4713.10(B)). This fee was applicable both to persons who applied to take the examination but failed to appear for it, and to persons who took but did not pass it

(sec. 4713.05). Under the act, a person who does not appear for an examination is charged \$40 to apply for a re-examination. Persons who take but do not pass the examination continue to be charged a fee of \$21 to apply for a re-examination (*Sec. 4713.10(C) and (D).*)

Former law required an applicant for the issuance or renewal of a cosmetology, manicurist, or esthetics license, or a managing or instructor's license in these branches of cosmetology, pay a fee of \$30 (sec. 4713.10(C), (D), and (H)). The act retains this fee but specifies that it is for applicants for the issuance or renewal of a practicing, managing, or instructor license in all branches of cosmetology (*sec. 4713.10(E) and (G).*)

Similarly, former law provided that the fee for the inspection and issuance of a beauty salon, nail salon, or esthetics salon license was \$60 and the renewal fee was \$50 (sec. 4713.01(F)). The act retains these fees but specifies they are applicable to all types of salons (*sec. 4713.10(I) and (J).*)

Prohibitions

Cosmetic products

The act prohibits a person at a salon or school of cosmetology using or possessing a cosmetic product containing an ingredient that the U.S. Food and Drug Administration (FDA) has banned by regulation. Moreover, a person may not use a cosmetic product in a manner inconsistent with a regulatory restriction established by the FDA (*sec. 4713.14(N).*) The act also allows an inspector employed by the Board to take a sample of a product used or sold in a salon or school of cosmetology for the purpose of examining the sample, or causing an examination of the sample to be made, to determine whether these provisions have been violated (*sec. 4713.141.*)

Methyl Methacrylate (MMA)

The act prohibits the use or possession of a liquid nail monomer containing any trace of methyl methacrylate (MMH) in a salon or school of cosmetology (*sec. 4713.14(N)(3).*)

Other prohibitions

The act prohibits the practice of cosmetology at a salon in which the person rents booth space without a current, valid independent contractor license. (*Sec. 4713.14(I).*)

Continuing law prohibits a person from aiding or abetting another in obtaining a license fraudulently or in falsely pretending to be licensed (sec.

4713.20(A)(5)(b) and (c)). The act extends the prohibition against fraud to the person who applies for the license or permit, and adds that a person may not aid or abet another in fraudulently obtaining a permit or falsely pretending to hold a permit (*sec. 4713.14(A) and (B)(2) and (3)*).

Former law prohibited any person from practicing, managing, or instructing in cosmetology, manicuring, or esthetics, or employing individuals to practice in those fields, or practicing natural hair styling without a license (*sec. 4713.20(A)(2) and (3)*). The act revises these prohibitions to provide the following:

(1) no person may practice any branch of cosmetology without a license, and no person may employ another to practice any branch of cosmetology, except that a person may practice a branch of cosmetology with a current, valid temporary pre-examination work permit, special occasion work permit, or temporary work permit;

(2) no person may manage a salon without a current, valid license to manage that type of salon;

(3) no person may teach the theory or practice of cosmetology at a school of cosmetology without an instructor's license or temporary special occasion work permit, unless the person is an apprentice instructor or meets other special conditions applicable to schools of cosmetology. (*Sec. 4713.14(C), (D), (E), and (F)*.)

Practice of massage therapy, cosmetic therapy, or other professions in a salon

Continuing law does not allow the practice of massage in a beauty salon or nail salon unless the person holds a valid certificate issued by the State Medical Board (*sec. 4713.20(A)(6)*). The act specifies that this prohibition applies to all types of salons. Also, the act prohibits a person from providing cosmetic therapy without a certificate from the State Medical Board and from providing any other professional service in a salon without a license or certificate issued by the appropriate Ohio regulatory board. (*Secs. 4713.14(K) and 4713.42.*)

Continuing law exempts certain professions from regulation under the Cosmetology Law, such as doctors, dentists, and nurses; military medical personnel when engaged in the performance of their official duties; barbers acting in their usual and ordinary vocation; licensed funeral directors, embalmers, and apprentices; persons who engage in the retail sale, cleaning, or beautification of wigs and hairpieces; hospital and nursing home volunteers who do not use chemical products that would pose a health problem to the patient; and, nurse aides and other hospital employees who render cosmetology services as part of patient care and do not charge patients directly on a fee for service basis (*sec.*

4713.12). The act retains these exemptions except when these occupations are practiced in a salon, in which case the practice of the profession must be permitted in a salon by the Board's rules. (*Secs. 4713.17(J) and 4713.42.*)

Former law prohibited a person from violating any of the *sanitary* rules for the regulation of the practice of cosmetology (sec. 4713.20(A)(5)(d)). The act expands the prohibition to include *any* rule adopted by the Board (*sec. 4713.14(A)(1)*).

Under prior law, no owner, manager, or person in charge of a beauty salon, nail salon, esthetics salon, or school of cosmetology could permit any person to sleep in, or use for residential purposes, any room used wholly or in part as a beauty salon, nail salon, esthetics salon, or school of cosmetology (sec. 4713.21). The act modifies this provision so that it applies only to a person while that person is in charge of a salon or school of cosmetology (*sec. 4713.14(N)*).

Glamour photography

Under former law, "glamour photography" was defined as the combination of a photographic service or product with the delivery of a cosmetology service advertised or sold to the public (sec. 4713.01(S)). The act eliminates this definition but continues to utilize the term in the Cosmetology Law. Therefore, it appears that, under the act, the term has its ordinary meaning.

Prior law prohibited a person from engaging in the advertisement or operation of a glamour photography service unless properly licensed by the Board (sec. 4713.20(A)(7)). The act modifies this provision to require licensure for the advertisement or operation of a glamour photography service only if a branch of cosmetology is practiced, and specifies that this service must take place at a location specified by the Board's rules. The part of the service that is a branch of cosmetology must be performed by a person who holds a valid license or special occasion work permit. (*Secs. 4713.14(F) and 4713.16(D)*.)

Tanning facilities

Former law prohibited a person from owning or operating any tanning facilities offered to the public for a fee or other compensation unless the person held a valid permit issued by the Board (sec. 4713.25(D)). Under the act, this prohibition applies only to the operation, and not the ownership, of a tanning facility (*sec. 4713.14(P)*).

The act requires the Board to furnish a copy of the standards it has adopted by rule for installing and operating a tanning facility to each person to whom the Board has issued a permit to operate a tanning facility. The person must post the

standards in a public and conspicuous place. The act also requires a consumer who is a minor to obtain written consent from the consumer's parent or legal guardian prior to receiving tanning services. (*Secs. 4713.08(A)(16)(f) and 4713.082.*)

Exemptions

Domestic or emergency service

Prior law permitted the provision of cosmetic services without compensation in cases of emergency or domestic administration (*sec. 4713.12*). The act removes the exemption for emergency service and modifies the exemption for domestic administration to apply only to a circumstance in which a person provides free services at home for a family member who resides in the same household as the person (*sec. 4713.16(A)*).

Service by inmates

Under the act, inmates who provide services related to a branch of cosmetology to other inmates are exempt from the Cosmetology Law, except when those services are provided in a licensed school of cosmetology within a state correctional institution for females. The act requires the Director of Rehabilitation and Correction to oversee these exempted services provided by inmates with respect to sanitation, and to adopt rules governing those types of services. (*Sec. 4713.17(A)(9) and (B)*.)

Exemption for certain retail sales at a salon

Continuing law permits the retailing of cosmetics, preparations, tonics, antiseptics, creams, lotions, wigs, postiches, and other items related to the practice of cosmetology, including clothing, in a beauty salon or esthetics salon. The sale of cosmetics, creams, lotions, clothing, and other items related to manicuring is permitted at a nail salon. (*Sec. 4713.14(A) and (B)*.) The act allows the retailing of these and any other items at a salon that pose no risk of creating unsanitary conditions at the salon (*sec. 4713.16(C)*).

Temporary pre-examination work permit

Continuing law provides for the issuance of a non-renewable temporary pre-examination work permit to applicants to take the examination for licensure if the applicant has not previously failed the examination (*sec. 4713.04(H)*). Under the act, the temporary pre-examination work permit is renewable according to rules adopted by the Board (*sec. 4713.22(B)*).

Requirements for schools of cosmetology

The act eliminates a requirement that a licensed school of cosmetology maintain a school term of not less than 1,500 hours for the majority of the practices of cosmetology and not less than 600 hours of instruction and practical training in the field of esthetics. The act specifies that the existing requirement in continuing law that the course of instruction equal the requirements for an examination for licensure extends to all branches of cosmetology that are taught at the school. (*Sec. 4713.44(A).*)

Continuing law modified by the act requires a school of cosmetology to keep a daily record of the attendance of each student (sec. 4713.15(D)). The act limits this requirement to schools that offer clock hours for the purpose of satisfying minimum hours of training and instruction. The act also clarifies that both public and private schools may offer either clock or credit hours, however, only publicly operated schools may offer competency-based credits. (*Secs. 4713.44(E) and 4713.45(A)(1).*)

Under continuing law modified by the act, a school of cosmetology may employ persons not licensed as instructors to teach subjects related to cosmetology, provided that a licensed cosmetology instructor is present (sec. 4713.15(C)). The act establishes three specific exceptions under which a person not licensed to teach cosmetology may teach without a licensed instructor present:

(1) the person holds a teacher's certificate or educator license issued by the State Board of Education;

(2) the person holds a bachelor's degree in the subject the person teaches at the school;

(3) the person is also employed by a university or college to teach the subject the person teaches at the school (*sec. 4713.45(B).*)

Continuing education requirements

Continuing law, modified by the act, permits the Board to establish a continuing education requirement for any license issued under the Cosmetology Law. Prior law specified that if the Board established a continuing education requirement, the Board had to ensure that a sufficient number of programs were available at such reasonable prices so that a licensee who so desired could meet the requirement at a cost of not more than \$50, unless the Board established a higher cost by rule, which could not exceed \$75. (*Sec. 4713.111(B) and (D); Sec. 4713.59.*) The act eliminates fee limits and the requirement that the Board ensure program availability.

Fee limits and approval of continuing education courses

Prior law required a person who desired to offer a continuing education program to apply to the Board for approval of the program and the price that would be charged for attending the program. The Board had to encourage applicants for approval to charge the applicable reasonable price established under the Board's rules. The Board was permitted to approve the program even if the price for attending the program exceeded the applicable reasonable price. (Sec. 4713.111(E).) The act eliminates the requirements that an applicant apply for the approval of the price charged for attending the program and that the Board establish a reasonable price by rule.

Continuing law requires that the applicant who wishes to offer the continuing education program must be an employee, officer, or director of a nonprofit professional association, college or university, vocational school, postsecondary proprietary school of cosmetology licensed by the Board, or manufacturer of supplies or equipment used in the practice of cosmetology (sec. 4713.111(E)). The act clarifies this requirement so that the Board's approval is based on the affiliation of the person operating the program, and not the affiliation of the applicant. The act also adds a licensed salon to the list of organizations with which the operator may be affiliated. (Sec. 4713.62(B).)

Inactive license

If the Board adopts a continuing education requirement, continuing law permits the Board to develop a procedure whereby a licensee who is not currently engaged in the practice of cosmetology, but desires to be so engaged in the future, may apply to the Board to have the licensee's license classified as inactive. The Board may not restore a license to active status until the licensee submits proof to the Board that the continuing education requirement, as established by the Board, has been completed. The act prohibits the Board from establishing a continuing education requirement for the restoration of a license to active status that would exceed the cumulative number of hours that the applicant would have been required to complete had the person retained an active license. (Sec. 4713.11(D); sec. 4713.08(A)(17).)

Temporary work permit for a licensee with an inactive license

The act modifies the procedure for the restoration of an inactive license by providing that an inactive license may not be restored until the later of (1) the date on which the person submits proof of completion of the continuing education requirement, or, (2) the last day of January of the next odd-numbered year following the year the license is classified inactive (sec. 4713.61). In addition, the act permits the Board to adopt rules that specify the conditions and method for

granting a temporary work permit to a person with an inactive license, including a person licensed in another state. (*Secs. 4713.08(A)(17)(b) and (B)(2); sec. 471.061(C).*)

Expired license

Former law provided that every license that had not been renewed in any odd-numbered year by the 30th day of January and for which the continuing education requirement had not been waived or extended was considered expired (sec. 4713.11(C)). The act adds that a practicing, managing, or instructor license that has not been renewed for any reason other than because it has been revoked, suspended, or classified inactive is considered expired (*sec. 4713.63*).

Criteria for the denial, suspension, or revocation of a license or permit

Under continuing law modified by the act, one of the reasons the Board may deny, revoke, or suspend a license or permit, or impose a fine, is for the failure of a person to comply with the sanitary rules adopted by the Board or by the Department of Health for the regulation of nail salons, beauty salons, esthetics salons, schools of cosmetology, or the practice of cosmetology (sec. 4713.17(A)(2)). The act expands this provision by permitting the Board to deny, suspend, or revoke a license or permit, or impose a fine, for a violation of *any* of the rules adopted under the Cosmetology Law (*sec. 4713.64(A)(1)*).

The act modifies the previous \$100 per violation maximum fine limit for violation of the Cosmetology Law (sec. 4713.17(A)). Under the act, if the violator has not previously been fined for that offense, the fine is \$100. If the violator has been fined for the same offense once before, the fine may not exceed \$500. If the violator has been fined for the same offense two or more times before, then the fine may not exceed \$1,000 (*sec. 4713.64(B)*).

Board to furnish copy of sanitary rules

Prior law required the Board to furnish a copy of all sanitary rules adopted by the Board to each person licensed to operate a beauty salon, esthetics salon, or school of cosmetology, and to each operator, manicurist, and person engaged in the practice of massage (sec. 4713.02(C)(4)). The act instead requires the Board to furnish a copy of sanitary rules to each person issued a practicing, managing, or instructor's license, and to each person providing cosmetic therapy or other professional service permitted in a salon (*sec. 4713.081*).

Transmission of court conviction for drug offense to the Board

Under continuing law modified by the act, if a licensee and permit holder under the Cosmetology Law has been convicted of a drug offense, the court is

required to transmit a certified copy of the judgment entry of conviction to the Board. The act extends this provision to cover all new licenses established under the act, but not the temporary special occasion work permit. (Sec. 2925.01; sec. 2925.38, not in the act.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-23-01	p. 974
Reported, H. Commerce & Labor	03-13-02	p. 1545
Passed House (96-1)	03-20-02	p. 1579
Reported, S. Insurance, Commerce, and Labor	11-13-02	p. 2108
Passed Senate (31-1)	11-14-02	p. 2129
Concurrence (90-1)	11-20-02	p. 2070

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