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SESSION 2009

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HOUSE BILL 291
Committee Substitute Favorable 5/20/09
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Senate Commerce Committee Substitute Adopted 6/30/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H291-PCS80494-Tdf-71

Short Title: Natural Hair Care Licensure/Cosmetic Art Act.

(Public)

Sponsors:

Referred to:

February 25, 2009

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE COSMETIC ART ACT TO PROVIDE FOR LICENSURE OF
3 PERSONS ENGAGING IN THE PRACTICE OF NATURAL HAIR CARE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.1.** G.S. 88B-2 reads as rewritten:

6 "**§ 88B-2. Definitions.**

7 The following definitions apply in this Chapter:

- 8 (1) Apprentice. – A person who is not a manager or operator and who is
9 engaged in learning the practice of cosmetic art under the direction and
10 supervision of a cosmetologist.
- 11 (2) Board. – The North Carolina Board of Cosmetic Art Examiners.
- 12 (3) Booth. – A workstation located within a licensed cosmetic art shop that is
13 operated primarily by one individual in performing cosmetic art services for
14 consumers.
- 15 (4) Booth renter. – A person who rents a booth in a cosmetic art shop.
- 16 (5) Cosmetic art. – All or any part or combination of cosmetology, esthetics,
17 natural hair care, or manicuring, including the systematic manipulation with
18 the hands or mechanical apparatus of the scalp, face, neck, shoulders, hands,
19 and feet. Practices included within this subdivision shall not include the
20 practice of massage or bodywork therapy as set forth in Article 36 of
21 Chapter 90 of the General Statutes.
- 22 (6) Cosmetic art school. – Any building or part thereof where cosmetic art is
23 taught.
- 24 (7) Cosmetic art shop. – Any building or part thereof where cosmetic art is
25 practiced for pay or reward, whether direct or indirect.
- 26 (8) Cosmetologist. – Any individual who is licensed to practice all parts of
27 cosmetic art.
- 28 (8a) Cosmetology. – The act of arranging, dressing, curling, waving, cleansing,
29 cutting, singeing, bleaching, coloring, or similar work upon the hair of a
30 person by any means, including the use of hands, mechanical or electrical



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- 1 apparatus, or appliances or by use of cosmetic or chemical preparations or
2 antiseptics.
- 3 (9) Cosmetology teacher. – An individual licensed by the Board to teach all
4 parts of cosmetic art.
- 5 (10) Esthetician. – An individual licensed by the Board to practice only that part
6 of cosmetic art that constitutes skin care.
- 7 (11) Esthetician teacher. – An individual licensed by the Board to teach only that
8 part of cosmetic art that constitutes skin care.
- 9 (11a) Esthetics. – Refers to any of the following practices: giving facials; applying
10 makeup; performing skin care; removing superfluous hair from the body of a
11 person by use of creams, tweezers, or waxing; applying eyelashes to a
12 person, including the application of eyelash extensions, brow or lash color;
13 beautifying the face, neck, arms, or upper part of the human body by use of
14 cosmetic preparations, antiseptics, tonics, lotions, or creams; surface
15 manipulation in relation to skin care; or cleaning or stimulating the face,
16 neck, ears, arms, hands, bust, torso, legs, or feet of a person by means of
17 hands, devices, apparatus, or appliances along with the use of cosmetic
18 preparations, antiseptics, tonics, lotions, or creams.
- 19 (12) Manicuring. – The care and treatment of the fingernails, toenails, cuticles on
20 fingernails and toenails, and the hands and feet, including the decoration of
21 the fingernails and the application of nail extensions and artificial nails. The
22 term "manicuring" shall not include the treatment of pathologic conditions.
- 23 (13) Manicurist. – An individual licensed by the Board to practice only that part
24 of cosmetic art that constitutes manicuring.
- 25 (14) Manicurist teacher. – An individual licensed by the Board to teach
26 manicuring.
- 27 (14a) Natural hair care. – A service that results in tension on hair strands or roots
28 by twisting, wrapping, extending, or locking hair by hand or mechanical
29 device. For purposes of this definition, the phrase 'natural hair care' shall
30 include the use of artificial or natural hair.
- 31 (14b) Natural hair care specialist. – An individual licensed by the Board to practice
32 only that part of cosmetic art that constitutes natural hair care.
- 33 (14c) Natural hair care teacher. – An individual licensed by the Board to teach
34 natural hair care.
- 35 (15) Shampooing. – The application and removal of commonly used, room
36 temperature, liquid hair cleaning and hair conditioning products.
37 Shampooing does not include the arranging, dressing, waving, coloring, or
38 other treatment of the hair."

39 **SECTION 1.2.** G.S. 88B-6 reads as rewritten:

40 **"§ 88B-6. Board office, employees, funds, budget requirements.**

- 41 (a) The Board shall maintain its office in Raleigh, North Carolina.
- 42 (b) The Board shall employ an executive director who shall not be a member of the
43 Board. The executive director shall keep all records of the Board, issue all necessary notices,
44 and perform any other duties required by the Board. The executive director shall serve at the
45 pleasure of the Board.
- 46 (c) ~~With the approval of the Director of the Budget and the Office of State Personnel,~~
47 ~~the~~ The Board may employ as many inspectors, investigators, and other staff as necessary to
48 perform inspections and other duties prescribed by the Board. Inspectors and investigators shall
49 be experienced in all parts of cosmetic art and shall have authority to examine cosmetic art
50 shops and cosmetic art schools during business hours to determine compliance with this
51 Chapter.

1 (d) ~~The salaries of all employees of the Board, including the executive director, shall be~~
2 ~~subject to the State Personnel Act.~~

3 (e) The executive director may collect in the Board's name and on its behalf the fees
4 prescribed in this Chapter and shall turn these and any other monies paid to the Board over to
5 the State Treasurer. These funds shall be credited to the Board and shall be held and expended
6 under the supervision of the Director of the Budget only for the administration and enforcement
7 of this Chapter. Nothing in this Chapter shall authorize any expenditure in excess of the amount
8 credited to the Board and held by the State Treasurer as provided in this subsection.

9 (f) ~~The provisions of the Executive Budget Act and the State Personnel Act apply to the~~
10 ~~administration of this Chapter."~~

11 **SECTION 2.** Chapter 88B of the General Statutes is amended by adding a new
12 section to read:

13 **"§ 88B-10.1. Qualifications for licensing natural hair care specialists.**

14 The Board shall issue a license to practice as a natural hair care specialist to any individual
15 who meets all of the following requirements:

- 16 (1) Successful completion of at least 300 hours of a natural hair care curriculum
17 in an approved cosmetic art school.
- 18 (2) Passage of an examination conducted by the Board.
- 19 (3) Payment of the fees required by G.S. 88B-20."

20 **SECTION 3.** G.S. 88B-11 is amended by adding a new subsection to read:

21 "(e) The Board shall issue a license to practice as a natural hair care teacher to any
22 individual who meets the requirements of subsection (a) of this section and who meets all of the
23 following:

- 24 (1) Holds in good standing a natural hair care license issued by the Board.
- 25 (2) Submits proof of either practice as a natural hair care specialist in a cosmetic
26 art shop or any Board-approved employment capacity in the cosmetic art
27 industry for a period equivalent to two years of full-time work immediately
28 prior to application or successful completion of at least 320 hours of a
29 natural hair care teacher curriculum in an approved cosmetic art school."

30 **SECTION 4.** G.S. 88B-12 reads as rewritten:

31 **"§ 88B-12. Temporary employment permit; extensions; limits on practice.**

32 (a) The Board shall issue a temporary employment permit to an applicant for licensure
33 as an apprentice, cosmetologist, esthetician, natural hair care specialist, or manicurist who
34 meets all of the following:

- 35 (1) Has completed the required hours of a cosmetic art school curriculum in the
36 area in which the applicant wishes to be licensed.
- 37 (2) Has applied to take the examination within three months of completing the
38 required hours.
- 39 (3) Is qualified to take the examination.

40 (b) A temporary employment permit shall expire six months from the date of graduation
41 from a cosmetic art school and shall not be renewed.

42 (c) The holder of a temporary employment permit may practice cosmetic art only under
43 the supervision of a licensed cosmetologist, manicurist, natural hair care specialist, or
44 esthetician, as appropriate, and may not operate a cosmetic art shop."

45 **SECTION 5.** G.S. 88B-13 reads as rewritten:

46 **"§ 88B-13. Applicants licensed in other states.**

47 (a) The Board shall issue a license to an applicant licensed as an apprentice,
48 cosmetologist, esthetician, natural hair care specialist, or manicurist in another state if the
49 applicant shows:

- 50 (1) The applicant is an active practitioner in good standing.

- (2) The applicant has practiced at least one of the three years immediately preceding the application for a license.
- (3) There is no disciplinary proceeding or unresolved complaint pending against the applicant at the time a license is to be issued by this State.
- (4) The licensure requirements in the state in which the applicant is licensed are substantially equivalent to those required by this State.

(b) Instead of meeting the requirements in subsection (a) of this section, any applicant who is licensed as a cosmetologist, esthetician, natural hair care specialist, or manicurist in another state shall be admitted to practice in this State under the same reciprocity or comity provisions that the state in which the applicant is licensed grants to persons licensed in this State.

(c) The Board may establish standards for issuing a license to an applicant who is licensed as a teacher in another state. These standards shall include a requirement that the licensure requirements in the state in which the teacher is licensed shall be substantially equivalent to those required in this State and that the applicant shall be licensed by the Board to practice in the area in which the applicant is licensed to teach."

SECTION 6. G.S. 88B-14(b) reads as rewritten:

"(b) The applicant shall list all ~~licensed cosmetologists~~ licensees who practice cosmetic art in the shop and shall identify each as an employee or a booth renter."

SECTION 7. G.S. 88B-18 reads as rewritten:

"§ 88B-18. Examinations.

- (a) Repealed by Session Laws 2006-212, s. 2, effective August 8, 2006.
- (b) Each examination shall have both a practical and a written portion.
- (c) Examinations for applicants for apprentice, cosmetologist, teacher, esthetician, natural hair care specialist, and manicurist licenses shall be given in at least three locations in the State that are geographically scattered. The examinations shall be administered in Board-approved facilities.
- (d) An applicant for a cosmetologist, esthetician, manicurist, natural hair care specialist, or teacher's license who fails to pass the examination three times may not reapply to take the examination again until after the applicant has successfully completed any additional requirements prescribed by the Board."

SECTION 8. G.S. 88B-20 reads as rewritten:

"§ 88B-20. Fees required.

- (a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, natural hair care specialist, or teachers, in addition to its other fees.
- (b) The Board may charge application fees as follows:
 - (1) Inspection of a newly established cosmetic art shop\$ 25.00
 - (2) Reciprocity applicant under G.S. 88B-13\$ 15.00.
- (c) The Board may charge license fees as follows:
 - (1) Cosmetologist.....\$ 39.00 every 3 years
 - (2) Apprentice.....\$ 10.00 per year
 - (3) Esthetician.....\$ 10.00 per year
 - (4) Manicurist\$ 10.00 per year
 - (4a) Natural hair care specialist.....\$ 10.00 per year
 - (5) Teacher.....\$ 10.00 every 2 years
 - (6) Cosmetic art shop per active booth\$ 3.00 per year
 - (7) Cosmetic art school.....\$ 50.00 per year
 - (8) Duplicate license\$ 1.00.
- (d) The Board may require payment of late fees and reinstatement fees as follows:

- 1 (1) Apprentice, cosmetologist, esthetician, manicurist, natural hair care
- 2 specialist, and teacher late renewal\$ 10.00
- 3 (2) Cosmetic art schools and shops late renewal\$ 10.00
- 4 (3) Reinstatement – cosmetic art schools and shops\$ 25.00.
- 5 (e) The Board may prorate fees as appropriate."

6 **SECTION 9.** G.S. 88B-21 reads as rewritten:
 7 **"§ 88B-21. Renewals; expired licenses; inactive status.**

8 (a) Each license to operate a cosmetic art shop shall be renewed on or before the first
 9 day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for
 10 licenses renewed after February 1. Any license not renewed by March 1 of each year shall
 11 expire. A cosmetic art shop whose license has been expired for one year or less shall have the
 12 license reinstated immediately upon payment of the reinstatement fee, the late fee, and all
 13 unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a
 14 list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each
 15 as an employee or a booth renter.

16 (b) Cosmetologist licenses shall be renewed on or before October 1 every three years
 17 beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license
 18 not renewed shall expire on October 1 of the year that renewal is required. The Board may
 19 develop and implement a plan for staggered license renewal and may prorate license fees to
 20 implement such a plan.

21 (c) Apprentice, esthetician, natural hair care specialist, and manicurist licenses shall be
 22 renewed annually on or before October 1 of each year. A late fee shall be charged for the
 23 renewal of licenses after that date. Any license not renewed shall expire on October 1 of that
 24 year.

25 (d) Teacher licenses shall be renewed every two years on or before October 1. A late
 26 fee shall be charged for the renewal of licenses after that date. Any license not renewed shall
 27 expire on October 1 of that year.

28 (e) Prior to renewal of a license, a teacher, cosmetologist, esthetician, natural hair care
 29 specialist, or manicurist shall annually complete eight hours of Board-approved continuing
 30 education for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of
 31 required continuing education at any time within the cosmetologist's three-year licensing cycle.
 32 Licensees shall submit written documentation to the Board showing that they have satisfied the
 33 requirements of this subsection. A licensee who is in active practice as a cosmetologist,
 34 esthetician, natural hair care specialist, or manicurist, has practiced for at least 10 consecutive
 35 years in that ~~profession~~-profession, and is 60 years of age or older does not have to meet the
 36 continuing education requirements of this subsection. A licensee who is in active practice as a
 37 cosmetologist and has at least 20 consecutive years of experience as a cosmetologist, does not
 38 have to meet the continuing education requirements of this subsection, but shall report any
 39 continuing education classes completed to the Board, whether the continuing education classes
 40 are Board-approved or not. Promotion of products and systems shall be allowed at continuing
 41 education given in-house or at trade shows. Continuing education classes may also be offered
 42 in secondary languages as needed. No member of the Board may offer continuing education
 43 courses as required by this section.

44 (f) If an apprentice, cosmetologist, esthetician, manicurist, natural hair care specialist,
 45 or teacher fails to renew his or her license within five years following the expiration date, the
 46 licensee shall be required to pass an examination as prescribed by the Board before the license
 47 will be reinstated.

48 (g) Cosmetic art school licenses shall be renewed on or before October 1 of each year.
 49 A late fee shall be charged for licenses renewed after that date. Any license not renewed by
 50 November 1 of that year shall expire. A cosmetic art school whose license has been expired for

1 one year or less shall have its license reinstated upon payment of the reinstatement fee, the late
2 fee, and all unpaid license fees.

3 (h) Upon request by a licensee for inactive status, the Board may place the licensee's
4 name on the inactive list so long as the licensee is in good standing with the Board. An inactive
5 licensee is not required to complete continuing education requirements. An inactive licensee
6 shall not practice cosmetic art for consideration. However, the inactive licensee may continue
7 to purchase supplies as accorded an active licensee. When the inactive licensee desires to be
8 removed from the inactive list and return to active practice, the inactive licensee shall notify the
9 Board of his or her desire to return to active status and pay the required fee as determined by
10 the Board. As a condition of returning to active status, the Board may require the licensee to
11 complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

12 **SECTION 10.** G.S. 88B-22 reads as rewritten:

13 "**§ 88B-22. Licenses required; criminal penalty.**

14 (a) Except as provided in this Chapter, no person may practice or attempt to practice
15 cosmetic art for pay or reward in any form, either directly or indirectly, without being licensed
16 as an apprentice, cosmetologist, esthetician, natural hair care specialist, or manicurist by the
17 Board.

18 (b) Except as provided in this Chapter, no person may practice cosmetic art or any part
19 of cosmetic art, for pay or reward in any form, either directly or indirectly, outside of a licensed
20 cosmetic art shop.

21 (c) No person may open or operate a cosmetic art shop in this State unless a license has
22 been issued by the Board for that shop.

23 (d) An individual licensed as an ~~esthetician~~ esthetician, natural hair care specialist, or
24 manicurist may practice only that part of cosmetic art for which the individual is licensed.

25 (d1) No person may teach cosmetic art in a Board-approved cosmetic art school unless
26 the person is a teacher licensed under this Chapter. A guest lecturer may be exempt from the
27 requirements of this subsection upon approval by the Board.

28 (e) An apprentice licensed under the provisions of this Chapter shall apprentice under
29 the direct supervision of a cosmetologist. An apprentice shall not operate a cosmetic art shop.

30 (f) A violation of this Chapter is a Class 3 misdemeanor."

31 **SECTION 11.** G.S. 88B-23(a) reads as rewritten:

32 "(a) Every apprentice, cosmetologist, esthetician, manicurist, natural hair care specialist,
33 and teacher licensed under this Chapter shall display the certificate of license issued by the
34 Board within the shop in which the person works."

35 **SECTION 12.** G.S. 88B-24(9) reads as rewritten:

36 "**§ 88B-24. Revocation of licenses and other disciplinary measures.**

37 The Board may restrict, suspend, revoke, or refuse to issue, renew, or reinstate any license
38 for any of the following:

39 ...

40 (9) Violation of G.S. 86A-15 by a cosmetologist, esthetician, natural hair care
41 specialist, or manicurist licensed by the Board and practicing cosmetic art in
42 a barber shop."

43 **SECTION 13.** Any natural hair care specialist who submits proof to the Board that
44 the natural hair care specialist is actively engaged in the practice of a natural hair care specialist
45 on the effective date of this act, passes an examination conducted by the Board, and pays the
46 required fee under G.S. 88B-20 shall be licensed without having to satisfy the requirements of
47 G.S. 88B-10.1, enacted by Section 2 of this act. A cosmetic art shop that practices natural hair
48 care only and that submits proof to the Board that the shop is actively engaged in the practice of
49 natural hair care on the effective date of this act shall have one year from the date of this act to
50 comply with the requirements of G.S. 88B-14. All persons who do not make application to the
51 Board within one year of the effective date of this act shall be required to complete all training

1 and examination requirements prescribed by the Board and to otherwise comply with the
2 provisions of Chapter 88B of the General Statutes.

3 **SECTION 14.** Section 1.2 of this act is effective when it becomes law. The
4 remainder of this act becomes effective July 1, 2010, and applies to acts occurring on or after
5 that date.