

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1106

(SENATE AUTHORS: METZEN, Tomassoni, Saxhaug, Kiffmeyer and Johnson)

DATE	D-PG	OFFICIAL STATUS
03/06/2013	621	Introduction and first reading Referred to State and Local Government
03/13/2013		Comm report: To pass as amended and re-refer to Finance

1.1

A bill for an act

1.2

relating to occupations and professions; changing licensing requirements for

1.3

the Board of Cosmetology; imposing civil penalties and fees; appropriating

1.4

money; amending Minnesota Statutes 2012, sections 155A.23, subdivisions

1.5

3, 8, 11; 155A.25, subdivisions 1a, 4; 155A.27, subdivisions 4, 10; 155A.29,

1.6

subdivision 2; 155A.30, by adding a subdivision; proposing coding for new

1.7

law in Minnesota Statutes, chapter 155A; repealing Minnesota Statutes 2012,

1.8

section 155A.25, subdivision 1.

1.9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10

Section 1. Minnesota Statutes 2012, section 155A.23, subdivision 3, is amended to read:

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Subd. 3. **Cosmetology.** "Cosmetology" is the practice of personal services, for

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compensation, for the cosmetic care of the hair, nails, and skin. These services include

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cleaning, conditioning, shaping, reinforcing, coloring and enhancing the body surface in

1.14

the areas of the head, scalp, face, arms, hands, legs, ~~and feet~~, and trunk of the body, except

1.15

where these services are performed by a barber under sections 154.001, 154.002, 154.003,

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154.01 to 154.161, 154.19 to 154.21, and 154.24 to 154.26.

1.17

Sec. 2. Minnesota Statutes 2012, section 155A.23, subdivision 8, is amended to read:

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Subd. 8. **Manager.** A "manager" is any person who conducts, operates, or manages a

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cosmetology school or salon and who also instructs in or provides any services, as defined

1.20

in subdivision 3. A school manager must maintain an active salon manager's license.

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Sec. 3. Minnesota Statutes 2012, section 155A.23, subdivision 11, is amended to read:

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Subd. 11. **Instructor.** An "instructor" is any person employed by a school to prepare

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and present the theoretical and practical education of cosmetology to persons who seek to

2.1 practice cosmetology. An instructor must maintain an active operator or manager's license
2.2 in the area in which the instructor holds an instructor's license.

2.3 Sec. 4. Minnesota Statutes 2012, section 155A.25, subdivision 1a, is amended to read:

2.4 Subd. 1a. **Schedule.** The fee schedule for licensees is as follows ~~for licenses issued~~
2.5 ~~after June 30, 2010, and prior to July 1, 2013:~~

2.6 (a) Three-year license fees:

2.7 (1) cosmetologist, nail technician manicurist, or esthetician:

2.8 (i) \$90 for each initial license and a \$40 nonrefundable initial license application fee,
2.9 for a total of \$130; and

2.10 (ii) \$60 for each renewal and a \$15 nonrefundable renewal application fee, for
2.11 a total of \$75;

2.12 (2) instructor or manager:

2.13 (i) \$120 for each initial license and a \$40 nonrefundable initial license application
2.14 fee, for a total of \$160; and

2.15 (ii) \$90 for each renewal and a \$15 nonrefundable renewal application fee, for a
2.16 total of \$105;

2.17 (3) salon:

2.18 (i) \$130 for each initial license and a \$100 nonrefundable initial license application
2.19 fee, for a total of \$230; and

2.20 (ii) \$100 for each renewal and a \$50 nonrefundable renewal application fee, for a
2.21 total of \$150; and

2.22 (4) school:

2.23 (i) \$1,500 for each initial license and a \$1,000 nonrefundable initial license
2.24 application fee, for a total of \$2,500; and

2.25 (ii) \$1,500 for each renewal and a \$500 nonrefundable renewal application fee,
2.26 for a total of \$2,000.

2.27 (b) Penalties:

2.28 (1) reinspection fee, variable;

2.29 (2) manager and owner with lapsed practitioner found on inspection, \$150 each;

2.30 (3) lapsed practitioner or instructor found on inspection, \$200;

2.31 (4) lapsed salon found on inspection, \$500;

2.32 (5) lapsed school found on inspection, \$1,000;

2.33 (6) failure to display current license, \$100;

2.34 (7) failure to dispose of single-use equipment, implements, or materials as provided
2.35 under section 155A.355, paragraph (a), \$500;

- (8) use of prohibited razor-type callus shavers, rasps, or graters under section 155A.355, \$500;
- (9) performing manicuring or cosmetology services in esthetician salon, or performing esthetician or cosmetology services in manicure salon, \$500;
- (10) owner and manager allowing an operator to work as an independent contractor, \$200;
- (11) operator working as an independent contractor, \$100;
- (12) refusal or failure to cooperate with an inspection, \$500;
- ~~(3)~~ (13) expired cosmetologist, manicurist, esthetician, manager, school manager, and instructor license, \$45; and
- ~~(4)~~ (14) expired salon or school license, \$50.
- (c) Administrative fees:
- (1) certificate of identification, \$20;
- (2) name change, \$20;
- (3) letter of license verification, \$30;
- (4) duplicate license, \$20;
- (5) processing fee, \$10;
- (6) special event permit, \$75 per year; and
- (7) registration of hair braiders, \$20 per year.

Sec. 5. Minnesota Statutes 2012, section 155A.25, subdivision 4, is amended to read:

Subd. 4. **License expiration date.** The board shall, in a manner determined by the board and without the need for rulemaking under chapter 14, phase in changes to initial and renewal license expiration dates so that by January 1, 2014:

- (1) individual licenses expire on the last day of the licensee's birth month of the year due; and
- (2) salon and school licenses expire on the last day of the month of initial licensure of the year due.

Sec. 6. Minnesota Statutes 2012, section 155A.27, subdivision 4, is amended to read:

Subd. 4. **Testing.** All theory, practical, and Minnesota law and rule testing must be done by a board-approved provider. Appropriate standardized tests shall be used and shall include subject matter relative to the application of Minnesota law. In every case, the primary consideration shall be to safeguard the health and safety of consumers by determining the competency of the applicants to provide the services indicated.

Sec. 7. Minnesota Statutes 2012, section 155A.27, subdivision 10, is amended to read:

Subd. 10. **Nonresident licenses.** (a) A nonresident cosmetologist, manicurist, or esthetician may be licensed in Minnesota if the individual has completed cosmetology school in a state or country with the same or greater school hour requirements, has an active license in that state or country, and has passed a board-approved theory and practice-based examination, the Minnesota-specific written operator examination for cosmetologist, manicurist, or esthetician. If a test is used to verify the qualifications of trained cosmetologists, the test should be translated into the nonresident's native language within the limits of available resources. Licenses shall not be issued under this subdivision for managers or instructors.

(b) If an individual has less than the required number of school hours, the individual must have a current active license in another state or country for at least three years, and have passed a board-approved theory and practice-based examination, or the Minnesota-specific written operator examination for cosmetologist, manicurist, or esthetician. If a test is used to verify the qualifications of trained cosmetologists, the test should be translated into the nonresident's native language within the limits of available resources. Licenses must not be issued under this subdivision for managers or instructors.

(c) Applicants claiming training and experience in a foreign country shall supply official English-language translations of all required documents from a board-approved source.

Sec. 8. Minnesota Statutes 2012, section 155A.29, subdivision 2, is amended to read:

Subd. 2. **Requirements.** (a) The conditions and process by which a salon is licensed shall be established by the board by rule. In addition to those requirements, no license shall be issued unless the board first determines that the conditions in clauses (1) to (5) have been satisfied:

(1) compliance with all local and state laws, particularly relating to matters of sanitation, health, and safety;

(2) the employment of a manager, as defined in section 155A.23, subdivision 8;

~~(3) inspection and licensing prior to the commencing of business;~~

~~(4)~~ (3) if applicable, evidence of compliance with section 176.182; and

~~(5)~~ (4) evidence of continued professional liability insurance coverage of at least \$25,000 for each claim and \$50,000 total coverage for each policy year for each operator.

(b) A licensed esthetician or manicurist who complies with the health, safety, sanitation, inspection, and insurance rules promulgated by the board to operate a salon

5.1 solely for the performance of those personal services defined in section 155A.23,
5.2 subdivision 5, in the case of an esthetician, or subdivision 7, in the case of a manicurist.

5.3 Sec. 9. Minnesota Statutes 2012, section 155A.30, is amended by adding a subdivision
5.4 to read:

5.5 Subd. 11. **Instruction requirements.** (a) Instruction may be offered for no more
5.6 than ten hours per day per student.

5.7 (b) Instruction must be given within a licensed school building. Online instruction is
5.8 permitted for board-approved theory-based classes. Practice-based classes must not be
5.9 given online.

5.10 Sec. 10. **[155A.355] PROHIBITED USES.**

5.11 (a) Single-use equipment, implements, or materials that are made or constructed of
5.12 paper, wood, or other porous materials must only be used for one application or client
5.13 service. Presence of used articles in the work area is prima facie evidence of reuse.
5.14 Failure to dispose of the materials in this paragraph is punishable by penalty under section
5.15 155A.25, subdivision 1a, paragraph (b), clause (7).

5.16 (b) Razor-type callus shavers, rasps, or graters designed and intended to cut growths
5.17 of skin such as corns and calluses, including but not limited to credo blades, are prohibited.
5.18 Presence of these articles in the work area is prima facie evidence of use and may be
5.19 punishable by penalty in section 155A.25, subdivision 1a, paragraph (b), clause (8);

5.20 (c) Licensees must not use any of the following substances or products in performing
5.21 cosmetology services:

5.22 (1) methyl methacrylate liquid monomers, also known as MMA; and

5.23 (2) fumigants, including but not limited to formalin tablets or formalin liquids.

5.24 Sec. 11. **GOOD CAUSE EXEMPTION.**

5.25 The Board of Cosmetology may amend Minnesota Rules so that they conform with
5.26 the amendments to Minnesota Statutes in sections 1 to 14. The Board of Cosmetology
5.27 may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision
5.28 1, clause (3), in adopting the amendment, and Minnesota Statutes, section 14.386, does
5.29 not apply, except as it relates to Minnesota Statutes, section 14.388.

5.30 Sec. 12. **APPROPRIATION.**

5.31 \$300,000 in fiscal year 2014 and \$300,000 in fiscal year 2015 are appropriated from
5.32 the general fund to the Board of Cosmetology.

6.1 Sec. 13. **REVISOR'S INSTRUCTION.**

6.2 The revisor of statutes shall change the term "manicurist" to "nail technician"
6.3 wherever it appears in Minnesota Rules and Statutes.

6.4 Sec. 14. **REPEALER.**

6.5 Minnesota Statutes 2012, section 155A.25, subdivision 1, is repealed.

155A.25 COSMETOLOGY FEES; LICENSE EXPIRATION DATE.

Subdivision 1. **Schedule.** The fee schedule for licensees is as follows for licenses issued prior to July 1, 2010, and after June 30, 2013:

- (a) Three-year license fees:
 - (1) cosmetologist, manicurist, esthetician, \$90 for each initial license, and \$60 for each renewal;
 - (2) instructor, manager, \$120 for each initial license, and \$90 for each renewal;
 - (3) salon, \$130 for each initial license, and \$100 for each renewal; and
 - (4) school, \$1,500.
- (b) Penalties:
 - (1) reinspection fee, variable;
 - (2) manager and owner with lapsed practitioner, \$150 each;
 - (3) expired cosmetologist, manicurist, esthetician, manager, school manager, and instructor license, \$45; and
 - (4) expired salon or school license, \$50.
- (c) Administrative fees:
 - (1) certificate of identification, \$20;
 - (2) school original application, \$150;
 - (3) name change, \$20;
 - (4) letter of license verification, \$30;
 - (5) duplicate license, \$20;
 - (6) processing fee, \$10;
 - (7) special event permit, \$75 per year; and
 - (8) registration of hair braiders, \$20 per year.