

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 737

(SENATE AUTHORS: JOHNSON, Hoffman, Housley, Saxhaug and Pappas)

DATE	D-PG	OFFICIAL STATUS
02/12/2015	265	Introduction and first reading Referred to State and Local Government
03/02/2015	463a	Comm report: To pass as amended and re-refer to Finance See SF888, Art. 1, Sec. 28 and Art. 2, Sec. 29, 31-47, 49-50, 81, 87, Sub. 1 and 88(c)

1.1 A bill for an act

1.2 relating to state government; modifying provisions of the Cosmetology

1.3 Examiners Board; making changes to licensing provisions; increasing license

1.4 fees; authorizing rulemaking; appropriating money; amending Minnesota

1.5 Statutes 2014, sections 155A.21; 155A.23, subdivision 8, by adding subdivisions;

1.6 155A.24, subdivision 2; 155A.25, subdivisions 1a, 5, by adding subdivisions;

1.7 155A.27, subdivisions 1, 2, 5a; 155A.271; 155A.29, subdivisions 1, 2; 155A.30,

1.8 subdivisions 5, 10; repealing Minnesota Statutes 2014, section 155A.23,

1.9 subdivision 6.

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

1.11 Section 1. Minnesota Statutes 2014, section 155A.21, is amended to read:

1.12 **155A.21 POLICY.**

1.13 The legislature finds that the health and safety of the people of the state are served

1.14 by the licensing of the practice of cosmetology because of infection control and the use

1.15 of chemicals, implements, apparatus, and other appliances requiring special skills and

1.16 education.

1.17 To this end, the public will best be served by vesting these responsibilities in the

1.18 Board of Cosmetologist Examiners.

1.19 Sec. 2. Minnesota Statutes 2014, section 155A.23, subdivision 8, is amended to read:

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

1.21 ~~a cosmetology school or salon and who also instructs in or~~ is a cosmetologist, esthetician,

1.22 advanced practice esthetician, or nail technician practitioner, and who has a manager

1.23 license and provides any services under that license, as defined in subdivision 3. ~~A school~~

1.24 ~~manager must maintain an active salon manager's license.~~

2.1 Sec. 3. Minnesota Statutes 2014, section 155A.23, is amended by adding a subdivision
2.2 to read:

2.3 Subd. 14. **Advanced practice esthetician.** An "advanced practice esthetician" is a
2.4 person who for compensation performs personal services for the cosmetic care of the skin,
2.5 including the use of mechanical or electrical skin care apparatuses or appliances that are
2.6 used on the epidermal layer of the skin.

2.7 **EFFECTIVE DATE.** This section is effective August 1, 2015, except that a license
2.8 for an advanced practice esthetician must not be issued prior to January 1, 2018.

2.9 Sec. 4. Minnesota Statutes 2014, section 155A.23, is amended by adding a subdivision
2.10 to read:

2.11 Subd. 15. **Designated licensed salon manager.** A "designated licensed salon
2.12 manager" is a manager designated by a salon owner and registered with the board, who is
2.13 responsible with the salon owner for salon and practitioner compliance.

2.14 Sec. 5. Minnesota Statutes 2014, section 155A.23, is amended by adding a subdivision
2.15 to read:

2.16 Subd. 16. **School manager.** A "school manager" is a cosmetologist who is a salon
2.17 manager and who has a school manager license. A school manager must maintain an
2.18 active salon manager's license.

2.19 Sec. 6. Minnesota Statutes 2014, section 155A.23, is amended by adding a subdivision
2.20 to read:

2.21 Subd. 17. **Designated school manager.** A "designated school manager" is a school
2.22 manager who is designated by the school owner and registered with the board, who is
2.23 responsible with the school owner for school and instructor compliance.

2.24 Sec. 7. Minnesota Statutes 2014, section 155A.23, is amended by adding a subdivision
2.25 to read:

2.26 Subd. 18. **Practitioner.** A "practitioner" is any person licensed in the practice of
2.27 cosmetology, esthiology, or nail technology services.

2.28 Sec. 8. Minnesota Statutes 2014, section 155A.24, subdivision 2, is amended to read:

2.29 **Subd. 2. Hiring and assignment of employees.** The board has the authority to hire
2.30 qualified personnel in the classified service to assist in administering the law, including
2.31 those for the testing and licensing of applicants ~~and the continuing inspections required.~~

3.1 ~~All staff must receive periodic training to improve and maintain customer service skills,~~
3.2 ~~conducting inspections, and complaint investigations.~~

3.3 Sec. 9. Minnesota Statutes 2014, section 155A.25, subdivision 1a, is amended to read:

3.4 Subd. 1a. **Schedule.** (a) The fee schedule for licensees fees and penalties is as
3.5 ~~follows:~~ provided in this subdivision.

3.6 ~~(a)~~ (b) Three-year license fees are as follows:

3.7 ~~(1) cosmetologist, nail technician, or esthetician~~ \$195 initial practitioner, manager,
3.8 or instructor license:

3.9 ~~(i) \$90~~ \$155 for each initial license ~~and a \$40 nonrefundable initial license~~
3.10 ~~application fee, for a total of \$130; and~~

3.11 ~~(ii) \$60 for each renewal and a \$15 nonrefundable renewal application fee, for a total~~
3.12 ~~of \$75~~ \$40 for each initial license application fee;

3.13 ~~(2) instructor or manager~~ \$115 renewal of practitioner license:

3.14 ~~(i) \$120~~ \$100 for each initial renewal license ~~and a \$40 nonrefundable initial license~~
3.15 ~~application fee, for a total of \$160; and~~

3.16 ~~(ii) \$90~~ \$15 for each renewal ~~and a \$15 nonrefundable renewal application fee;~~
3.17 ~~for a total of \$105;~~

3.18 ~~(3) \$145 renewal of manager or instructor license:~~

3.19 ~~(i) \$130 for each renewal license; and~~

3.20 ~~(ii) \$15 for each renewal application fee;~~

3.21 ~~(4) \$350 initial salon license:~~

3.22 ~~(i) \$130~~ \$250 for each initial license ~~and a \$100 nonrefundable initial license~~
3.23 ~~application fee, for a total of \$230; and~~

3.24 ~~(ii) \$100 for each renewal and a \$50 nonrefundable renewal~~ initial license
3.25 ~~application fee, for a total of \$150; and~~

3.26 ~~(4) school~~ (5) \$225 renewal of salon license:

3.27 ~~(i) \$1,500~~ \$175 for each initial license ~~and a \$1,000 nonrefundable initial license~~
3.28 ~~application fee, for a total of \$2,500~~ renewal; and

3.29 ~~(ii) \$1,500~~ \$50 for each renewal ~~and a \$500 nonrefundable renewal application~~
3.30 ~~fee, for a total of \$2,000;~~

3.31 ~~(6) \$4,000 initial school license:~~

3.32 ~~(i) \$3,000 for each initial license; and~~

3.33 ~~(ii) \$1,000 for each initial license application fee; and~~

3.34 ~~(7) \$2,500 renewal of school license:~~

3.35 ~~(i) \$2,000 for each renewal; and~~

- 4.1 (ii) \$500 for each renewal application fee.
- 4.2 ~~(b)~~ (c) Penalties may be assessed in amounts up to the following:
- 4.3 (1) reinspection fee, ~~variable~~ \$150;
- 4.4 (2) manager and owner with lapsed practitioner found on inspection, \$150 each;
- 4.5 (3) lapsed practitioner or instructor found on inspection, \$200;
- 4.6 (4) lapsed salon found on inspection, \$500;
- 4.7 (5) lapsed school found on inspection, \$1,000;
- 4.8 (6) failure to display current license, \$100;
- 4.9 (7) failure to dispose of single-use equipment, implements, or materials as provided
- 4.10 under section 155A.355, subdivision 1, \$500;
- 4.11 (8) use of prohibited razor-type callus shavers, rasps, or graters under section
- 4.12 155A.355, subdivision 2, \$500;
- 4.13 (9) performing nail or cosmetology services in esthetician salon, or performing
- 4.14 esthetician or cosmetology services in a nail salon, \$500;
- 4.15 (10) owner and manager allowing an operator to work as an independent contractor,
- 4.16 \$200;
- 4.17 (11) operator working as an independent contractor, \$100;
- 4.18 (12) refusal or failure to cooperate with an inspection, \$500;
- 4.19 ~~(13) expired cosmetologist, nail technician, esthetician, manager, school manager,~~
- 4.20 ~~and instructor license practitioner late renewal fee, \$45; and~~
- 4.21 (14) ~~expired~~ salon or school license late renewal fee, \$50.
- 4.22 ~~(e)~~ (d) Administrative fees are as follows:
- 4.23 (1) ~~certificate of identification, \$20~~ homebound service permit, \$50 three-year fee;
- 4.24 (2) name change, \$20;
- 4.25 (3) ~~letter of license verification~~ certification of licensure, \$30 each;
- 4.26 (4) duplicate license, \$20;
- 4.27 (5) ~~processing fee, \$10;~~
- 4.28 ~~(6)~~ special event permit, \$75 per year; and
- 4.29 ~~(7)~~ (6) registration of hair braiders, \$20 per year;
- 4.30 (7) \$100 for each temporary military license for a cosmetologist, nail technician,
- 4.31 esthetician, or advanced practice esthetician;
- 4.32 (8) expedited initial individual license, \$150;
- 4.33 (9) expedited initial salon license, \$300;
- 4.34 (10) instructor continuing education provider approval, \$150 each year; and
- 4.35 (11) practitioner continuing education provider approval, \$150 each year.

Sec. 10. Minnesota Statutes 2014, section 155A.25, subdivision 5, is amended to read:

Subd. 5. **Board must approve or deny application; timeline.** Within 15 working days of receiving a complete application and the required fees ~~for an initial or renewal to apply for or renew an individual or salon license that is not an expedited license or a military license~~, the board must (1) ~~either grant or deny the application~~ issue the license, (2) ~~issue deny the license or~~ and notify the applicant of the denial, or (3) ~~issue a temporary license to an applicant for whom no record exists regarding: (i) a complaint filed with the board against the applicant; or (ii) a negative action by the board against the applicant if the conditions in subdivision 6 are met, notify the applicant that the board must conduct additional review.~~

Sec. 11. Minnesota Statutes 2014, section 155A.25, is amended by adding a subdivision to read:

Subd. 6. **Additional review for certain licenses.** If an application contains discrepancies, the applicant is the subject of a complaint investigation, or the applicant has pending disciplinary actions before the board, the board will comply with the time limits prescribed in section 15.992 to process the application.

Sec. 12. Minnesota Statutes 2014, section 155A.25, is amended by adding a subdivision to read:

Subd. 7. **Temporary military license or expedited license.** Within five business days of receiving a completed application and the required fees for an individual or salon license that meets requirements for an expedited license or a temporary military license, the board must (1) issue the license, (2) deny the license and notify the applicant of the denial, or (3) notify the applicant that the board must conduct additional review if the application meets the conditions in subdivision 8.

EFFECTIVE DATE. This section is effective August 1, 2015, except that an expedited license must not be issued prior to January 1, 2016.

Sec. 13. Minnesota Statutes 2014, section 155A.25, is amended by adding a subdivision to read:

Subd. 8. **Additional review for certain temporary military license or expedited license.** If an application under subdivision 7 contains discrepancies, the applicant is the subject of a complaint investigation, or the applicant has pending disciplinary actions before the board, the board will process the application according to the time limits in section 15.992.

Sec. 14. Minnesota Statutes 2014, section 155A.27, subdivision 1, is amended to read:

Subdivision 1. **Licensing.** ~~Individual licensing shall be required for persons seeking~~
A person must hold an individual license to practice in the state as a cosmetologist,
esthetician, nail technician, advanced practice esthetician, manager, or instructor.

Sec. 15. Minnesota Statutes 2014, section 155A.27, subdivision 2, is amended to read:

Subd. 2. **Qualifications.** Qualifications for licensing in each classification shall
be determined by the board and established by rule, and shall include educational
and experiential prerequisites. The rules shall require a demonstrated knowledge of
procedures necessary to protect the health and safety of the practitioner and the consumer
of cosmetology services, including but not limited to ~~chemical applications~~ infection
control, use implements, apparatuses and other appliances, and the use of chemicals.

Sec. 16. Minnesota Statutes 2014, section 155A.27, subdivision 5a, is amended to read:

Subd. 5a. **Temporary military license.** The board shall establish temporary
licenses for a cosmetologist, nail technician, and esthetician in accordance with section
197.4552. ~~The fee for a temporary license under this subdivision for a cosmetologist, nail~~
~~technician, or esthetician is \$100.~~

Sec. 17. Minnesota Statutes 2014, section 155A.271, is amended to read:

155A.271 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **Continuing education requirements.** (a) Effective August 1, 2014,
to qualify for license renewal under this chapter as an individual cosmetologist, nail
technician, esthetician, advanced practice esthetician, or salon manager, the applicant
must attest to the completion of four hours of continuing education credits from an
accredited school or a professional association of cosmetology during the three years
prior to the applicant's renewal date. One credit hour of the requirement must include
instruction pertaining to state laws and rules governing the practice of cosmetology. Three
credit hours must include instruction pertaining to health, safety, and sanitation matters
consistent with the United States Department of Labor's Occupational Safety and Health
Administration standards applicable to the practice of cosmetology, or other applicable
federal health, sanitation, and safety standards, and must be regularly updated so as to
incorporate newly developed standards and accepted professional best practices. Credit
hours earned are valid for three years and may be applied simultaneously to all individual
licenses held by a licensee under this chapter. ~~This subdivision does not apply to~~
~~instructors or inactive licenses.~~

(b) Effective August 1, 2017, in addition to the hours of continuing education credits required under paragraph (a), to qualify for license renewal under this chapter as an individual cosmetologist, nail technician, esthetician, advanced practice esthetician, or salon manager, the applicant must attest to the completion of one four-hour continuing education course from a continuing education provider based on any or all of the following:

- (1) product chemistry and chemistry interaction;
- (2) proper use of machines and instruments;
- (3) business management and human relations; or
- (4) techniques relevant to the type of license held.

Credits must be completed during the three years prior to the applicant's renewal date and may be applied simultaneously to other individual licenses held as applicable, except that credits completed under this paragraph must not duplicate credits completed under paragraph (a).

(c) Paragraphs (a) and (b) do not apply to an instructor license, a school manager license, or an inactive license.

Subd. 1a. **Product sales or marketing prohibited.** The marketing or sale of any product is prohibited during a continuing education class receiving credit under subdivision 1.

Subd. 2. ~~Schools and professional associations~~ **Continuing education providers.**
(a) Only a board-licensed school of cosmetology, a postsecondary institution as defined in section 136A.103, paragraph (a), or a board-recognized professional association organized under chapter 317A may offer continuing education curriculum for credit under this section: subdivision 1, paragraph (a). Continuing education curriculum under subdivision 1, paragraph (b), may be offered by a:

- (1) board-licensed school of cosmetology;
- (2) board-recognized professional association organized under chapter 317A; or
- (3) board-licensed salon.

The school and professional association may offer online and independent study options to achieve maximum involvement of licensees and is. Continuing education providers are encouraged to offer classes available in foreign language formats.

(b) Board ~~recognition~~ authorization of a ~~professional association~~ continuing education provider under paragraph (a) is valid for ~~three years~~ one calendar year and is contingent upon submission and preapproval of the ~~general curriculum~~ lesson plan or plans with learning objectives for the class to be offered and the payment of the application fee in section 155A.25, subdivision 1a, paragraph (d), clause (11). The board may revoke ~~recognition~~ authorization of a continuing education provider at any time for just cause and

the board may demand return of documents required under subdivision 3. ~~The professional association offering continuing education must be organized under chapter 317A.~~

Subd. 3. **Proof of credits.** ~~The school or professional association~~ continuing education provider shall provide to licensees who attend a class a receipt to prove completion of the class. Licensees shall retain proof of their continuing education credits for one year beyond the credit's expiration. ~~The school or professional association~~ continuing education provider shall retain documentation of all licensees successfully completing a class and the licensee's credit hours for five years.

Subd. 4. **Audit.** The board shall conduct random audits of active licensees periodically to ensure compliance with continuing education requirements. To initiate an audit, the board shall notify an active licensee of the audit and request proof of credits earned during a specified period. The licensee must provide the requested proof to the board within 30 days of an audit notice. The board may request that a school or professional association verify a licensee's credits. ~~The school or professional association~~ continuing education provider must furnish verification, or a written statement that the credits are not verified, within 15 days of the board's request for verification. If the board determines that a licensee has failed to provide proof of necessary credits earned during the specified time, the board may revoke the individual's license and may deem the individual a lapsed practitioner subject to penalty under section 155A.25 or 155A.36.

EFFECTIVE DATE. Subdivision 1 is effective August 1, 2017. Subdivision 1a is effective the day following final enactment. Subdivisions 2 to 4 are effective July 1, 2015.

Sec. 18. Minnesota Statutes 2014, section 155A.29, subdivision 1, is amended to read:

Subdivision 1. **Licensing.** ~~Any A person who offers must not offer~~ cosmetology services for compensation in this state shall be (1) licensed as a salon if not employed by another licensed salon or (2) employed as an esthetician or cosmetologist in connection with medical care in relation to esthiology in the office of a licensed physician unless the services are provided by a licensee in a licensed salon or as otherwise provided in this section. Each salon must be licensed as a cosmetology salon, a nail salon, esthetician salon, or advanced practice esthetician salon. A salon may hold more than one type of salon license.

Sec. 19. Minnesota Statutes 2014, 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

9.1 shall be issued unless the board first determines that the conditions in clauses (1) to (5)
9.2 have been satisfied:

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

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

9.6 (3) if applicable, evidence of compliance with workers' compensation section
9.7 176.182; and

9.8 (4) evidence of continued professional liability insurance coverage of at least
9.9 \$25,000 for each claim and \$50,000 total coverage for each policy year for each operator.

9.10 ~~(b) A licensed esthetician or nail technician who complies with the health, safety,~~
9.11 ~~sanitation, inspection, and insurance rules promulgated by the board to operate a salon~~
9.12 ~~solely for the performance of those personal services defined in section 155A.23,~~
9.13 ~~subdivision 5, in the case of an esthetician, or subdivision 7, in the case of a nail technician.~~

9.14 Sec. 20. Minnesota Statutes 2014, section 155A.30, subdivision 5, is amended to read:

9.15 Subd. 5. **Conditions precedent to issuance.** A license must not be issued unless the
9.16 board first determines that the applicant has met the requirements in clauses (1) to (8):

9.17 (1) the applicant must have a sound financial condition with sufficient resources
9.18 available to meet the school's financial obligations; to refund all tuition and other charges,
9.19 within a reasonable period of time, in the event of dissolution of the school or in the event
9.20 of any justifiable claims for refund against the school; to provide adequate service to its
9.21 students and prospective students; and to maintain proper use and support of the school;

9.22 (2) the applicant must have satisfactory training facilities with sufficient tools and
9.23 equipment and the necessary number of work stations to adequately train the students
9.24 currently enrolled, and those proposed to be enrolled;

9.25 (3) the applicant must employ a sufficient number of qualified instructors trained by
9.26 experience and education to give the training contemplated;

9.27 (4) the premises and conditions under which the students work and study must be
9.28 sanitary, healthful, and safe according to modern standards;

9.29 (5) each occupational course or program of instruction or study must be of such
9.30 quality and content as to provide education and training ~~which~~ that will adequately prepare
9.31 enrolled students for testing, licensing, and entry level positions as a cosmetologist,
9.32 esthetician, or nail technician;

9.33 (6) the school must have coverage by professional liability insurance of at least
9.34 \$25,000 per incident and an accumulation of \$150,000 for each premium year;

(7) the applicant shall provide evidence of the school's compliance with section 176.182;

(8) the applicant, except the state and its political subdivisions as described in section 471.617, subdivision 1, shall file with the board a continuous corporate surety bond in the amount of \$10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed \$10,000. The surety of the bond may cancel it upon giving 60 days' notice in writing to the board and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation; and

(9) the applicant must, at all times during the term of the license, employ a designated licensed school manager who maintains a cosmetology salon manager license.

Sec. 21. Minnesota Statutes 2014, section 155A.30, subdivision 10, is amended to read:

Subd. 10. **Discrimination prohibited.** ~~No Each school, duly approved under sections 155A.21 to 155A.36, shall refuse to teach any student, otherwise qualified, on account of race, sex, creed, color, citizenship, national origin, or sexual preference must~~ comply with the Minnesota Human Rights Act under chapter 363A.

Sec. 22. **RULEMAKING AUTHORITY.**

The Board of Cosmetologist Examiners shall adopt rules governing the advanced practice esthetician license, including the educational and training requirements, scope of practice, and the conditions and process of issuing and renewing the license.

EFFECTIVE DATE. This section is effective January 1, 2016, and expires January 1, 2019.

Sec. 23. **APPROPRIATION.**

\$1,200,000 in fiscal year 2016 and \$1,200,000 in fiscal year 2017 are appropriated from the general fund to the Board of Cosmetologist Examiners and are added to the board's base budget.

Sec. 24. **REVISOR'S INSTRUCTION.**

11.1 The revisor of statutes shall change the word "sanitation" to "infection control" and
11.2 the word "lapsed" to "expired" wherever they appear in Minnesota Statutes, chapter 155A,
11.3 or Minnesota Rules, chapter 2105 or 2110.

11.4 Sec. 25. **REPEALER.**

11.5 Minnesota Statutes 2014, section 155A.23, subdivision 6, is repealed.

APPENDIX
Repealed Minnesota Statutes: S0737-1

155A.23 DEFINITIONS.

Subd. 6. **Licensed practice.** "Licensed practice" means (1) the practice of cosmetology in a licensed salon or (2) the practice of an esthetician or cosmetologist employed in the office of a licensed physician in connection with medical care related to esthiology.