

CHAPTER 269—H.F.No. 2640

An act relating to commerce; creating a law enforcement agency to deal with insurance fraud; prescribing its powers and duties; establishing insurance assessments to fund the insurance fraud prevention account; providing for disclosure of certain data to the Department of Commerce; transferring the automobile theft prevention program to the Department of Commerce; modifying provisions relating to barbers and cosmetologists; creating a Board of Barber and Cosmetologist Examiners; appropriating money; amending Minnesota Statutes 2002, sections 13.82, subdivision 1; 45.0135, subdivision 6, by adding subdivisions; 154.01; 154.02; 154.03; 154.04; 154.06; 154.07, as amended; 154.08; 154.11; 154.12; 154.161, subdivisions 2, 4, 5, 7; 154.18; 154.19; 154.21; 154.22; 154.23; 154.24; 154.25; 155A.01; 155A.02; 155A.03, subdivisions 1, 2, 7, by adding subdivisions; 155A.045, subdivision 1; 155A.05; 155A.07, subdivisions 2, 8, by adding a subdivision; 155A.08, subdivisions 1, 2, 3; 155A.09; 155A.095; 155A.10; 155A.135; 155A.14; 155A.15; 155A.16; 299A.75, subdivisions 1, 2, 3; 626.84, subdivision 1; Minnesota Statutes 2003 Supplement, sections 116J.70, subdivision 2a; 268.19, subdivision 1; repealing Minnesota Statutes 2002, section 45.0135, subdivisions 1, 2.

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

ARTICLE 1**INSURANCE FRAUD PREVENTION**

Section 1. Minnesota Statutes 2002, section 13.82, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the Bureau of Criminal Apprehension, the Minnesota State Patrol, the Board of Peace Officer Standards and Training, the Division of Insurance Fraud Prevention in the Department of Commerce, and the Department of Labor and Industry fraud investigation unit, the program integrity section of, and county human service agency client and provider fraud prevention and control units operated or supervised by the Department of Human Services.

Sec. 2. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2a. AUTHORIZATION. The commissioner may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), known as the Division of Insurance Fraud Prevention, to conduct investigations, and to make arrests under sections 629.30 and 629.34. The jurisdiction of the law enforcement agency is limited to offenses related to insurance fraud.

Sec. 3. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2b. DUTIES. The Division of Insurance Fraud Prevention shall:

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(1) review notices and reports of insurance fraud submitted by authorized insurers, their employees, and agents or producers;

(2) respond to notifications or complaints of suspected insurance fraud generated by other law enforcement agencies, state or federal governmental units, or any other person;

(3) initiate inquiries and conduct investigations when the division has reason to believe that insurance fraud has been or is being committed; and

(4) report incidents of alleged insurance fraud disclosed by its investigations to appropriate law enforcement agencies, including, but not limited to, the attorney general, county attorneys, or any other appropriate law enforcement or regulatory agency, and shall assemble evidence, prepare charges, and otherwise assist any law enforcement authority having jurisdiction.

Sec. 4. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2c. ARRESTS AND INVESTIGATIONS. The initial processing of a person arrested by the Division of Insurance Fraud Prevention for an offense within its jurisdiction is the responsibility of the Division of Insurance Fraud Prevention unless otherwise directed by the law enforcement agency with primary jurisdiction. Subsequent investigation shall be the responsibility of the Division of Insurance Fraud Prevention unless otherwise directed by the law enforcement agency with primary jurisdiction. At the request of the primary jurisdiction, the Division of Insurance Fraud Prevention may assist in a subsequent investigation being carried out by the primary jurisdiction.

Sec. 5. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2d. POLICY FOR NOTICE OF INVESTIGATIONS. The Division of Insurance Fraud Prevention must develop a policy for notifying the law enforcement agency with primary jurisdiction when it has initiated investigation of any person within the jurisdiction of that agency.

Sec. 6. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2e. CHIEF LAW ENFORCEMENT OFFICER. The commissioner shall appoint a peace officer employed full time to be the chief law enforcement officer and to be responsible for the management of the Division of Insurance Fraud Prevention. The chief law enforcement officer shall possess the necessary police and management experience to manage a law enforcement agency. The chief law enforcement officer may appoint, discipline, and discharge all employees of the Division of Insurance Fraud Prevention. All police managerial and supervisory personnel must be full-time employees of the Division of Insurance Fraud Prevention. Supervisory personnel must be on duty and available any time peace officers of the Division of Insurance Fraud Prevention are on duty.

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Sec. 7. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 2f. **COMPLIANCE.** Except as otherwise provided in this section, the Division of Insurance Fraud Prevention shall comply with all statutes and administrative rules relating to the operation and management of a law enforcement agency.

Sec. 8. Minnesota Statutes 2002, section 45.0135, subdivision 6, is amended to read:

Subd. 6. **INSURANCE FRAUD PREVENTION ACCOUNT.** The insurance fraud prevention account is created in the state treasury. It consists of any appropriations made by law. Money received from assessments under subdivision 7 is deposited in the account. Money in this fund is appropriated to the commissioner of commerce for the purposes specified in this section and sections 60A.951 to 60A.956.

Sec. 9. Minnesota Statutes 2002, section 45.0135, is amended by adding a subdivision to read:

Subd. 7. **ASSESSMENT.** Each insurer authorized to sell insurance in the state of Minnesota shall remit an assessment to the commissioner for deposit in the insurance fraud prevention account on or before June 1 of each year. The amount of the assessment shall be based on the insurer's total assets and on the insurer's total written Minnesota premium, for the preceding fiscal year, as reported pursuant to section 60A.13. The assessment is calculated as follows:

<u>Total Assets</u>	<u>Assessment</u>
<u>Less than \$100,000,000</u>	<u>\$ 200</u>
<u>\$100,000,000 to \$1,000,000,000</u>	<u>\$ 750</u>
<u>Over \$1,000,000,000</u>	<u>\$2,000</u>
<u>Minnesota Written Premium</u>	<u>Assessment</u>
<u>Less than \$10,000,000</u>	<u>\$ 200</u>
<u>\$10,000,000 to \$100,000,000</u>	<u>\$ 750</u>
<u>Over \$100,000,000</u>	<u>\$2,000</u>

For purposes of this subdivision, the following entities are not considered to be insurers authorized to sell insurance in the state of Minnesota: risk retention groups; township mutuals organized under chapter 67A; or health maintenance organizations organized under chapter 62D.

Sec. 10. Minnesota Statutes 2003 Supplement, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **USE OF DATA.** (a) Except as otherwise provided by this section, data gathered from any employer or individual pursuant to the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to a court order or section 13.05. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

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(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of Minnesota or any other state; or any federal agency charged with the administration of an employment security law or the maintenance of a system of public employment offices;

(3) human rights agencies within Minnesota that have enforcement powers;

(4) the Department of Revenue must have access to department private data on individuals and nonpublic data not on individuals only to the extent necessary for enforcement of Minnesota tax laws;

(5) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(6) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce on an interchangeable basis with the department subject to the following limitations and regardless of any law to the contrary:

(i) the department must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under the Minnesota Unemployment Insurance Law; and

(ii) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its their duties under Minnesota law;

(7) the Department of Employment and Economic Development may have access to private data on individual employers and nonpublic data not on individual employers for its internal use only; when received by the Department of Employment and Economic Development, the data remain private data on individuals or nonpublic data;

(8) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(9) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of the data subject, provided the data subject is the subject of a criminal investigation;

(10) the federal Immigration and Naturalization Service shall have access to data on specific individuals and specific employers provided the specific individual or

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specific employer is the subject of an investigation by that agency; and

(11) the Department of Health may have access to private data on individuals and nonpublic data not on individuals solely for the purposes of epidemiologic investigations.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation pursuant to section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except pursuant to statute or court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Tape recordings and transcripts of recordings of proceedings conducted in accordance with section 268.105 and exhibits received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and must be disclosed only pursuant to the administration of section 268.105, or pursuant to a court order.

(d) The department may disseminate an employer's name, address, industry code, occupations employed, and the number of employees by ranges of not less than 100 for the purpose of assisting individuals using the Minnesota Workforce Center system in obtaining employment.

(e) The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are private data on individuals or nonpublic data.

(f) Data gathered by the department pursuant to the administration of the Minnesota unemployment insurance program and the job service must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

Sec. 11. Minnesota Statutes 2002, section 626.84, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

- (a) "Board" means the Board of Peace Officer Standards and Training.
- (b) "Director" means the executive director of the board.
- (c) "Peace officer" means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, and Department of Corrections' Fugitive Apprehension Unit officers, and Department of Commerce Insurance Fraud Unit officers; and

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(2) a peace officer who is employed by a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), and who is licensed by the board.

(d) "Constable" has the meaning assigned to it in section 367.40.

(e) "Deputy constable" has the meaning assigned to it in section 367.40.

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g), and 626.845, subdivision 1, clause (g).

(g) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(h) "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

(2) subject to the limitations in section 626.93, a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

(i) "Professional peace officer education" means a postsecondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

Sec. 12. **REPEALER.**

Minnesota Statutes 2002, section 45.0135, subdivisions 1 and 2, are repealed.

Sec. 13. **EFFECTIVE DATE.**

Sections 1 to 12 are effective the day following final enactment.

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ARTICLE 2

AUTO THEFT PREVENTION

Section 1. Minnesota Statutes 2002, section 299A.75, subdivision 1, is amended to read:

Subdivision 1. **PROGRAM DESCRIBED; COMMISSIONER'S DUTIES.** (a) The commissioner of ~~public safety~~ commerce shall:

(1) develop and sponsor the implementation of statewide plans, programs, and strategies to combat automobile theft, improve the administration of the automobile theft laws, and provide a forum for identification of critical problems for those persons dealing with automobile theft;

(2) coordinate the development, adoption, and implementation of plans, programs, and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft enforcement;

(3) annually audit the plans and programs that have been funded in whole or in part to evaluate the effectiveness of the plans and programs and withdraw funding should the commissioner determine that a plan or program is ineffective or is no longer in need of further financial support from the fund;

(4) develop a plan of operation including:

(i) an assessment of the scope of the problem of automobile theft, including areas of the state where the problem is greatest;

(ii) an analysis of various methods of combating the problem of automobile theft;

(iii) a plan for providing financial support to combat automobile theft;

(iv) a plan for eliminating car hijacking; and

(v) an estimate of the funds required to implement the plan; and

(5) distribute money, in consultation with the commissioner of public safety, pursuant to subdivision 3 ~~from the automobile theft prevention special revenue account~~ for automobile theft prevention activities, including:

(i) paying the administrative costs of the program;

(ii) providing financial support to the State Patrol and local law enforcement agencies for automobile theft enforcement teams;

(iii) providing financial support to state or local law enforcement agencies for programs designed to reduce the incidence of automobile theft and for improved equipment and techniques for responding to automobile thefts;

(iv) providing financial support to local prosecutors for programs designed to reduce the incidence of automobile theft;

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(v) providing financial support to judicial agencies for programs designed to reduce the incidence of automobile theft;

(vi) providing financial support for neighborhood or community organizations or business organizations for programs designed to reduce the incidence of automobile theft and to educate people about the common methods of automobile theft, the models of automobiles most likely to be stolen, and the times and places automobile theft is most likely to occur; and

(vii) providing financial support for automobile theft educational and training programs for state and local law enforcement officials, driver and vehicle services exam and inspections staff, and members of the judiciary.

(b) The commissioner may not spend in any fiscal year more than ten percent of the money in the fund for the program's administrative and operating costs. The commissioner is annually appropriated and must distribute the amount of the proceeds credited to the automobile theft prevention special revenue account each year, less the transfer of \$1,300,000 each year to the general fund described in section 168A.40, subdivision 4.

Sec. 2. Minnesota Statutes 2002, section 299A.75, subdivision 2, is amended to read:

Subd. 2. **ANNUAL REPORT.** By January 15 of each year, the commissioner shall report to the governor and legislature the chairs and ranking minority members of the house and senate committees having jurisdiction over the Departments of Commerce and Public Safety on the activities and expenditures in the preceding year.

Sec. 3. Minnesota Statutes 2002, section 299A.75, subdivision 3, is amended to read:

Subd. 3. **GRANT CRITERIA; APPLICATION.** (a) A county attorney's office, law enforcement agency, neighborhood organization, community organization, or business organization may apply for a grant under this section. Multiple offices or agencies within a county may apply for a grant under this section.

(b) The commissioner, in consultation with the commissioner of public safety, must develop criteria for the fair distribution of grants from the automobile theft prevention account that address the following factors:

(1) the number of reported automobile thefts per capita in a city, county, or region, not merely the total number of automobile thefts;

(2) the population of the jurisdiction of the applicant office or agency;

(3) the total funds distributed within a county or region; and

(4) the statewide interest in automobile theft reduction.

(c) The commissioner may give priority to:

(1) offices and agencies engaged in a collaborative effort to reduce automobile theft; and

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(2) counties or regions with the greatest rates of automobile theft.

(d) The minimum amount of a grant award is \$5,000. After considering the automobile theft rate and total population of an applicant's jurisdiction, if a grant award, as determined under the criteria and priorities in this subdivision, would be less than \$5,000, it must not be awarded.

Sec. 4. TRANSFER OF POWERS.

The powers and duties of the Department of Public Safety under Minnesota Statutes, section 299A.75, are transferred to the Department of Commerce. Minnesota Statutes, section 15.039, applies to this transfer of powers.

Sec. 5. REVISOR INSTRUCTION.

The revisor of statutes shall recodify Minnesota Statutes, section 299A.75, into a chapter of Minnesota Statutes dealing with the Department of Commerce.

Sec. 6. EFFECTIVE DATE.

This article is effective July 1, 2004.

ARTICLE 3

BARBERS AND COSMETOLOGISTS

Section 1. Minnesota Statutes 2003 Supplement, section 116J.70, subdivision 2a, is amended to read:

Subd. 2a. **LICENSE; EXCEPTIONS.** "Business license" or "license" does not include the following:

(1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;

(2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;

(3) any license required to practice the following occupation regulated by the following sections:

- (i) abstracters regulated pursuant to chapter 386;
- (ii) accountants regulated pursuant to chapter 326A;
- (iii) adjusters regulated pursuant to chapter 72B;
- (iv) architects regulated pursuant to chapter 326;
- (v) assessors regulated pursuant to chapter 270;

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- (vi) athletic trainers regulated pursuant to chapter 148;
- (vii) attorneys regulated pursuant to chapter 481;
- (viii) auctioneers regulated pursuant to chapter 330;
- (ix) barbers and cosmetologists regulated pursuant to chapter 154;
- (x) beauticians regulated pursuant to chapter 155A;
- ~~(xi)~~ boiler operators regulated pursuant to chapter 183;
- ~~(xii)~~ (xi) chiropractors regulated pursuant to chapter 148;
- ~~(xiii)~~ (xii) collection agencies regulated pursuant to chapter 332;
- ~~(xiv)~~ cosmetologists regulated pursuant to chapter 155A;
- ~~(xv)~~ (xiii) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;
- ~~(xvi)~~ (xiv) detectives regulated pursuant to chapter 326;
- ~~(xvii)~~ (xv) electricians regulated pursuant to chapter 326;
- ~~(xviii)~~ (xvi) mortuary science practitioners regulated pursuant to chapter 149A;
- ~~(xix)~~ (xvii) engineers regulated pursuant to chapter 326;
- ~~(xx)~~ (xviii) insurance brokers and salespersons regulated pursuant to chapter 60A;
- ~~(xxi)~~ (xix) certified interior designers regulated pursuant to chapter 326;
- ~~(xxii)~~ (xx) midwives regulated pursuant to chapter 147D;
- ~~(xxiii)~~ (xxi) nursing home administrators regulated pursuant to chapter 144A;
- ~~(xxiv)~~ (xxii) optometrists regulated pursuant to chapter 148;
- ~~(xxv)~~ (xxiii) osteopathic physicians regulated pursuant to chapter 147;
- ~~(xxvi)~~ (xxiv) pharmacists regulated pursuant to chapter 151;
- ~~(xxvii)~~ (xxv) physical therapists regulated pursuant to chapter 148;
- ~~(xxviii)~~ (xxvi) physician assistants regulated pursuant to chapter 147A;
- ~~(xxix)~~ (xxvii) physicians and surgeons regulated pursuant to chapter 147;
- ~~(xxx)~~ (xxviii) plumbers regulated pursuant to chapter 326;
- ~~(xxxi)~~ (xxix) podiatrists regulated pursuant to chapter 153;
- ~~(xxxii)~~ (xxx) practical nurses regulated pursuant to chapter 148;
- ~~(xxxiii)~~ (xxxi) professional fund-raisers regulated pursuant to chapter 309;
- ~~(xxxiv)~~ (xxxii) psychologists regulated pursuant to chapter 148;
- ~~(xxxv)~~ (xxxiii) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;

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~~(xxxvi)~~ (xxxiv) registered nurses regulated pursuant to chapter 148;

~~(xxxvii)~~ (xxxv) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;

~~(xxxviii)~~ (xxxvi) steamfitters regulated pursuant to chapter 326;

~~(xxxix)~~ (xxxvii) teachers and supervisory and support personnel regulated pursuant to chapter 125;

~~(xl)~~ (xxxviii) veterinarians regulated pursuant to chapter 156;

~~(xli)~~ (xxxix) water conditioning contractors and installers regulated pursuant to chapter 326;

~~(xlii)~~ (xl) water well contractors regulated pursuant to chapter 103I;

~~(xliii)~~ (xli) water and waste treatment operators regulated pursuant to chapter 115;

~~(xliv)~~ (xlii) motor carriers regulated pursuant to chapter 221;

~~(xlv)~~ (xliii) professional firms regulated under chapter 319B;

~~(xlvi)~~ (xliv) real estate appraisers regulated pursuant to chapter 82B;

~~(xlvii)~~ (xlv) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;

~~(xlviii)~~ (xlvi) licensed professional counselors regulated pursuant to chapter 148B;

(4) any driver's license required pursuant to chapter 171;

(5) any aircraft license required pursuant to chapter 360;

(6) any watercraft license required pursuant to chapter 86B;

(7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and

(8) any pollution control rule or standard established by the Pollution Control Agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

Sec. 2. Minnesota Statutes 2002, section 154.01, is amended to read:

154.01 REGISTRATION MANDATORY.

(a) No person shall practice, offer to practice, or attempt to practice barbering without a current certificate of registration as a registered barber, issued pursuant to provisions of this chapter sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

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(b) No person shall serve, offer to serve, or attempt to serve as an apprentice under a registered barber without a current certificate of registration as a registered apprentice or temporary apprentice permit issued pursuant to provisions of this chapter sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners. The registered apprentice shall, prior to or immediately upon issuance of the apprentice's certificate of registration, and immediately after changing employment, advise the board of the name, address, and certificate number of the registered barber under whom the registered apprentice is working.

(c) No person shall operate a barber shop unless it is at all times under the direct supervision and management of a registered barber and the owner or operator of the barber shop possesses a current shop registration card, issued under this chapter sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

(d) No person shall serve, offer to serve, or attempt to serve as an instructor of barbering without a current certificate of registration as a registered instructor of barbering or a temporary permit as an instructor of barbering, as provided for the board by rule, issued under this chapter sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

(e) No person shall operate a barber school unless the owner or operator possesses a current certificate of registration as a barber school, issued under this chapter sections 154.01 to 154.26 by the Board of Barber and Cosmetologist Examiners.

Sec. 3. Minnesota Statutes 2002, section 154.02, is amended to read:

154.02 WHAT CONSTITUTES BARBERING.

Any one or any combination of the following practices when done upon the head and neck for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment directly or indirectly or without payment for the public generally constitutes the practice of barbering within the meaning of this chapter sections 154.01 to 154.26: to shave, trim the beard, cut or bob the hair of any person of either sex for compensation or other reward received by the person performing such service or any other person; to give facial and scalp massage or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances; to singe, shampoo the hair, or apply hair tonics; or to apply cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.

Sec. 4. Minnesota Statutes 2002, section 154.03, is amended to read:

154.03 APPRENTICES MAY BE EMPLOYED.

A registered apprentice may practice barbering only if the registered apprentice is, at all times, under the immediate personal supervision of a registered barber and is in compliance with this chapter sections 154.01 to 154.26 and the rules of the board.

Sec. 5. Minnesota Statutes 2002, section 154.04, is amended to read:

154.04 PERSONS EXEMPT FROM REGISTRATION.

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The following persons are exempt from the provisions of ~~this chapter~~ sections 154.01 to 154.26 while in the proper discharge of their professional duties:

(1) persons authorized by the law of this state to practice medicine, surgery, osteopathy, and chiropractic;

(2) commissioned medical or surgical officers of the United States armed services;

(3) registered nurses, licensed practical nurses, and nursing aides performing services under the direction and supervision of a registered nurse, provided, however, that no additional compensation shall be paid for such service and patients who are so attended shall not be charged for barbering;

(4) ~~persons practicing beauty culture~~ cosmetologists, provided, however, that ~~persons practicing beauty culture~~ cosmetologists shall not hold themselves out as barbers or, except in the case of manicurists, practice their occupation in a barber shop; and

(5) persons who perform barbering services for charitable purposes in nursing homes, shelters, missions, or other similar facilities, provided, however, that no direct or indirect compensation is received for the services, and that persons who receive barbering services are not charged for the services.

Sec. 6. Minnesota Statutes 2002, section 154.06, is amended to read:

154.06 WHO MAY RECEIVE CERTIFICATES OF REGISTRATION AS A REGISTERED APPRENTICE.

A person is qualified to receive a certificate of registration as a registered apprentice:

(1) who has completed at least ten grades of an approved school;

(2) who has graduated from a barber school approved by the board; and

(3) who has passed an examination conducted by the board to determine fitness to practice as a registered apprentice:

An applicant for a certificate of registration to practice as an apprentice who fails to pass the examination conducted by the board is required to complete a further course of study of at least 500 hours, of not more than eight hours in any one working day, in a barber school approved by the board.

A certificate of registration of an apprentice shall be valid for four years from the date the certificate of registration is issued by the board and shall not be renewed. During such the four-year period the certificate of registration shall remain in full force and effect only if the apprentice complies with all the provisions of ~~this chapter~~, as amended sections 154.01 to 154.26, including the payment of an annual fee, and the rules of the board.

If any a registered apprentice ~~shall~~, during the term in which the certificate of registration is in effect, ~~enter full time~~ enters full-time active duty in the armed forces

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of the United States of America, the expiration date of the certificate of registration shall be extended by a period of time equal to the period or periods of active duty.

Sec. 7. Minnesota Statutes 2002, section 154.07, as amended by Laws 2003, chapter 130, section 12, is amended to read:

154.07 BARBER SCHOOLS; REQUIREMENTS.

Subdivision 1. **ADMISSION REQUIREMENTS; COURSE OF INSTRUCTION.** No barber school shall be approved by the board unless it requires, as a prerequisite to admission thereto, ten grades of an approved school or its equivalent, as determined by an examination conducted by the commissioner of education, which shall issue a certificate that the student has passed the required examination, and unless it requires, as a prerequisite to graduation, a course of instruction of at least 1,500 hours, of not more than eight hours in any one working day; ~~such~~. The course of instruction ~~to~~ must include the following subjects: scientific fundamentals for barbering; hygiene; practical study of the hair, skin, muscles, and nerves; structure of the head, face, and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair, and glands; massaging and manipulating the muscles of the face and neck; haircutting; shaving; and; trimming the beard; bleaching, tinting and dyeing the hair; and the chemical straightening of hair.

Subd. 3. **COSTS.** It ~~shall be~~ is permissible for barber schools to make a reasonable charge for materials used and services rendered by students for work done in ~~such the~~ schools by students.

Subd. 3a. **NUMBER OF INSTRUCTORS.** There shall must be one registered instructor of barbering for every 17 students or minor fraction in excess of 17. ~~No~~ Instruction shall must not be performed by persons not possessing a certificate of registration as an instructor of barbering or a temporary permit as an instructor of barbering.

Subd. 4. **BUILDING REQUIREMENTS.** Each barber school shall must be conducted and operated in one building, or in connecting buildings, and ~~no~~ a barber school shall must not have any department or branch in a building completely separated or removed from the remainder of the barber school.

Subd. 5. **OWNER'S REQUIREMENTS.** Any person may own and operate a barber school if the person has had six years' continuous experience as a barber, provided the person first secures from the board an annual certificate of registration as a barber school, keeps it prominently displayed, and before commencing business:

(1) files with the secretary of state a bond to the state approved by the attorney general in the sum of \$25,000, conditioned upon the faithful compliance of the barber school with ~~all the provisions herein sections~~ 154.01 to 154.26, and to pay all judgments that may be obtained against the school, or the owners thereof, on account of fraud, misrepresentation, or deceit practiced by them or their agents; and

(2) keeps prominently displayed on the exterior a substantial sign indicating that the establishment is a barber school.

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Subd. 5a. **STUDENT PERMITS.** All barber schools upon receiving students shall immediately apply to the board for student permits upon forms for that purpose furnished by the board.

Subd. 5b. **DESIGNATED OPERATOR.** When a person who owns a barber school does not meet the requirements of this section to operate a barber school, the owner shall notify the board in writing and under oath of the identity of the person designated to operate the barber school and shall notify the board of any change of operator by telephone within 24 hours of such change, exclusive of Saturdays, Sundays, and legal holidays, and shall notify the board in writing and under oath within 72 hours of such change.

Subd. 6. **OPERATION BY TECHNICAL COLLEGE OR STATE INSTITUTION.** A public technical college or a state institution may operate a barber school provided it has in its employment a qualified instructor holding a current certificate of registration as a barber instructor and provided that it secures from the board of Barber Examiners an annual certificate of registration and does so in accordance with this chapter sections 154.01 to 154.26 and the rules of the board for barber schools but without the requirement to file a performance bond with the secretary of state.

Sec. 8. Minnesota Statutes 2002, section 154.08, is amended to read:

154.08 APPLICATION; FEE.

Each applicant for an examination shall:

(1) make application to the Board of Barber and Cosmetologist Examiners on blank forms prepared and furnished by it, ~~such~~ the application to contain proof under the applicant's oath of the particular qualifications of the applicant;

(2) furnish to the board two five inch x three inch signed photographs of the applicant, one to accompany the application and one to be returned to the applicant, to be presented to the board when the applicant appears for examination; and

(3) pay to the board the required fee.

Sec. 9. Minnesota Statutes 2002, section 154.11, is amended to read:

154.11 EXAMINATION OF NONRESIDENT BARBERS AND INSTRUCTORS OF BARBERING; TEMPORARY APPRENTICE PERMITS.

Subdivision 1. **EXAMINATION OF NONRESIDENTS.** A person who meets all of the requirements for licensee barber registration in this chapter sections 154.01 to 154.26 and either has a license, certificate of registration, or an equivalent as a practicing barber or instructor of barbering from another state or country which in the discretion of the board has substantially the same requirements for licensing or registering barbers and instructors of barbering as required by this chapter sections 154.01 to 154.26 or can prove by sworn affidavits practice as a barber or instructor of barbering in another state or country for at least five years immediately prior to making application in this state, shall, upon payment of the required fee, be issued a certificate of registration without examination, provided that the other state or country grants the

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same privileges to holders of Minnesota certificates of registration..

Subd. 2. TEMPORARY APPRENTICE PERMITS FOR NONRESIDENTS.

Any person who qualifies for examination as a registered barber under this section may apply for a temporary apprentice permit which is effective no longer than six months. All persons holding a temporary apprentice permit are subject to all provisions of this chapter sections 154.01 to 154.26 and the rules adopted by the board under ~~those sections~~ concerning the conduct and obligations of registered apprentices.

Sec. 10. Minnesota Statutes 2002, section 154.12, is amended to read:

154.12 EXAMINATION OF NONRESIDENT APPRENTICES.

A person who meets all of the requirements for licensee registration as a barber in this chapter sections 154.01 to 154.26 and who has a license, a certificate of registration, or ~~their~~ its equivalent as an apprentice in a state or country which in the discretion of the board has substantially the same requirements for registration as an apprentice as is provided by this chapter sections 154.01 to 154.26, shall, upon payment of the required fee, be issued a certificate of registration without examination, provided that the other state or country grants the same privileges to holders of Minnesota certificates of registration.

Sec. 11. Minnesota Statutes 2002, section 154.161, subdivision 2, is amended to read:

Subd. 2. LEGAL ACTIONS. (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the board, or a complaint committee if authorized by the board, may bring an action in the name of the state in the District Court of Ramsey County in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. On a showing that a person has engaged in or is about to engage in an act or practice that constitutes a violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce, the court shall grant a permanent or temporary injunction, restraining order, or other appropriate relief.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice that constitutes violation of a statute, rule, or order that the board has adopted or issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority, or from action by the board under subdivision 3, 4, 5, or 6 with respect to the person's licensee registration, certificate, or application for examination, licensee registration, or renewal.

Sec. 12. Minnesota Statutes 2002, section 154.161, subdivision 4, is amended to read:

Subd. 4. LICENSE REGISTRATION ACTIONS. (a) With respect to a person who is a holder of or applicant for a licensee registration or a shop registration card under this chapter sections 154.01 to 154.26, the board may by order deny, refuse to

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renew, suspend, temporarily suspend, or revoke the application, certificate of registration, or shop registration card, censure or reprimand the person, refuse to permit the person to sit for examination, or refuse to release the person's examination grades, if the board finds that such an order is in the public interest and that, based on a preponderance of the evidence presented, the person has:

(1) violated a statute, rule, or order that the board has adopted or issued or is empowered to enforce;

(2) engaged in conduct or acts that are fraudulent, deceptive, or dishonest, whether or not the conduct or acts relate to the practice of barbering, if the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of barbering;

(3) engaged in conduct or acts that constitute malpractice, are negligent, demonstrate incompetence, or are otherwise in violation of the standards in the rules of the board, where the conduct or acts relate to the practice of barbering;

(4) employed fraud or deception in obtaining a certificate of registration, shop registration card, renewal, or reinstatement, or in passing all or a portion of the examination;

(5) had a certificate of registration or shop registration card, right to examine, or other similar authority revoked in another jurisdiction;

(6) failed to meet any requirement for issuance or renewal of the person's certificate of registration or shop registration card;

(7) practiced as a barber while having an infectious or contagious disease;

(8) advertised by means of false or deceptive statements;

(9) demonstrated intoxication or indulgence in the use of drugs, including but not limited to narcotics as defined in section 152.01 or in United States Code, title 26, section 4731, barbiturates, amphetamines, benzedrine, dexedrine, or other sedatives, depressants, stimulants, or tranquilizers;

(10) demonstrated unprofessional conduct or practice;

(11) permitted an employee or other person under the person's supervision or control to practice as a registered barber, registered apprentice, or registered instructor of barbering unless that person has (i) a current certificate of registration as a registered barber, registered apprentice, or registered instructor of barbering, (ii) a temporary apprentice permit, or (iii) a temporary permit as an instructor of barbering;

(12) practices, offered to practice, or attempted to practice by misrepresentation;

(13) failed to display a certificate of registration as required by section 154.14;

(14) used any room or place of barbering that is also used for any other purpose, or used any room or place of barbering that violates the board's rules governing sanitation;

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(15) in the case of a barber, apprentice, or other person working in or in charge of any barber shop, or any person in a barber school engaging in the practice of barbering, failed to use separate and clean towels for each customer or patron, or to discard and launder each towel after being used once;

(16) in the case of a barber or other person in charge of any barber shop or barber school, (i) failed to supply in a sanitary manner clean hot and cold water in quantities necessary to conduct the shop or barbering service for the school, (ii) failed to have water and sewer connections from the shop or barber school with municipal water and sewer systems where they are available for use, or (iii) failed or refused to maintain a receptacle for hot water of a capacity of at least five gallons;

(17) refused to permit the board to make an inspection permitted or required by ~~this chapter~~ sections 154.01 to 154.26, or failed to provide the board or the attorney general on behalf of the board with any documents or records they request;

(18) failed promptly to renew a certificate of registration or shop registration card when remaining in practice, pay the required fee, or issue a worthless check;

(19) failed to supervise a registered apprentice or temporary apprentice, or permitted the practice of barbering by a person not registered with the board or not holding a temporary permit;

(20) refused to serve a customer because of race, color, creed, religion, disability, national origin, or sex;

(21) failed to comply with a provision of chapter 141 or a provision of another chapter that relates to barber schools; or

(22) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that the board, or complaint committee if authorized by the board, has determined may result or may have resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy under paragraph (a), the board may as a condition of continued registration, termination of suspension, reinstatement of registration, examination, or release of examination results, require that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in a manner and by a person or entity that the board determines; or

(2) complete to the board's satisfaction continuing education as the board requires.

(c) Service of an order under this subdivision is effective if the order is served personally on, or is served by certified mail to the most recent address provided to the board by, the ~~licensee~~, certificate holder, applicant, or counsel of record. The order must state the reason for the entry of the order.

(d) Except as provided in subdivision 5, paragraph (c), all hearings under this subdivision must be conducted in accordance with the Administrative Procedure Act.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 13. Minnesota Statutes 2002, section 154.161, subdivision 5, is amended to read:

Subd. 5. **TEMPORARY SUSPENSION.** (a) When the board, or complaint committee if authorized by the board, issues a temporary suspension order, the suspension provided for in the order is effective on service of a written copy of the order on the ~~licensee, certificate holder, or counsel of record~~. The order must specify the statute, rule, or order violated by the ~~licensee or certificate holder~~. The order remains in effect until the board issues a final order in the matter after a hearing, or on agreement between the board and the ~~licensee or certificate holder~~.

(b) An order under this subdivision may (1) prohibit the ~~licensee or certificate holder~~ from engaging in the practice of barbering in whole or in part, as the facts require, and (2) condition the termination of the suspension on compliance with a statute, rule, or order that the board has adopted or issued or is empowered to enforce. The order must state the reasons for entering the order and must set forth the right to a hearing as provided in this subdivision.

(c) Within ten days after service of an order under this subdivision the ~~licensee or certificate holder~~ may request a hearing in writing. The board must hold a hearing before its own members within five working days of the request for a hearing. The sole issue at such a hearing must be whether there is a reasonable basis to continue, modify, or terminate the temporary suspension. The hearing is not subject to the Administrative Procedure Act. Evidence presented to the board or the ~~licensee or certificate holder~~ may be in affidavit form only. The ~~licensee, certificate holder, or counsel of record~~ may appear for oral argument.

(d) Within five working days after the hearing, the board shall issue its order and, if the order continues the suspension, shall schedule a contested case hearing within 30 days of the issuance of the order. Notwithstanding any rule to the contrary, the administrative law judge shall issue a report within 30 days after the closing of the contested case hearing record. The board shall issue a final order within 30 days of receiving the report.

Sec. 14. Minnesota Statutes 2002, section 154.161, subdivision 7, is amended to read:

Subd. 7. **REINSTATEMENT.** The board may reinstate a suspended, revoked, or surrendered certificate of registration or shop registration card, on petition of the former or suspended registrant. The board may in its sole discretion place any conditions on reinstatement of a suspended, revoked, or surrendered certificate of registration or shop registration card that it finds appropriate and necessary to ensure that the purposes of ~~this chapter~~ sections 154.01 to 154.26 are met. No certificate of registration or shop registration card may be reinstated until the former registrant has completed at least one-half of the suspension period.

Sec. 15. Minnesota Statutes 2002, section 154.18, is amended to read:

154.18 **FEES.**

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(a) The fees collected, as required in this chapter; chapter 214, and the rules of the board, shall be paid in advance by September 1 of the year in which they are due to the executive secretary of the board. The executive secretary shall deposit the fees in the general fund in the state treasury, to be disbursed by the executive secretary on the order of the chair in payment of expenses lawfully incurred by the board.

(b) The board shall charge the following fees:

(1) examination and certificate, registered barber, \$65;

(2) examination and certificate, apprentice, \$60;

(3) examination, instructor, \$160;

(4) certificate, instructor, \$45;

(5) temporary teacher or apprentice permit, \$50;

(6) renewal of license, registered barber, \$50;

(7) renewal of license, apprentice, \$45;

(8) renewal of license, instructor, \$60;

(9) renewal of temporary teacher permit, \$35;

(10) student permit, \$25;

(11) initial shop registration, \$60;

(12) initial school registration, \$1,010;

(13) renewal shop registration, \$60;

(14) renewal school registration, \$260;

(15) restoration of registered barber license, \$75;

(16) restoration of apprentice license, \$70;

(17) restoration of shop registration, \$85;

(18) change of ownership or location, \$35;

(19) duplicate license, \$20; and

(20) home study course, \$75.

Sec. 16. Minnesota Statutes 2002, section 154.19, is amended to read:

154.19 VIOLATIONS.

Each of the following constitutes a misdemeanor:

(1) The violation of any of the provisions of section 154.01;

(2) Permitting any person in one's employ, supervision, or control to practice as a registered barber or registered apprentice unless that person has a certificate of registration as a registered barber or registered apprentice;

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(3) Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation;

(4) Practicing or attempting to practice by fraudulent misrepresentation;

(5) The willful failure to display a certificate of registration as required by section 154.14;

(6) The use of any room or place for barbering which is also used for residential or business purposes, except the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco, candies in original package, and such commodities as are used and sold in barber shops, and except that shoe-shining and an agency for the reception and delivery of laundry, or either, may be conducted in a barber shop without the same being construed as a violation of this section, unless a substantial partition of ceiling height separates the portion used for residential or business purposes, and where a barber shop is situated in a residence, poolroom, confectionery, store, restaurant, garage, clothing store, liquor store, hardware store, or soft drink parlor, there must be an outside entrance leading into the barber shop independent of any entrance leading into such business establishment, except that this provision as to an outside entrance shall not apply to barber shops in operation at the time of the passage of this ~~chapter section~~ and except that a barber shop and beauty parlor may be operated in conjunction, without the same being separated by partition of ceiling height;

(7) The failure or refusal of any barber or other person in charge of any barber shop, or any person in barber schools or colleges doing barber service work, to use separate and clean towels for each customer or patron, or to discard and launder each towel after once being used;

(8) The failure or refusal by any barber or other person in charge of any barber shop or barber school or barber college to supply clean hot and cold water in such quantities as may be necessary to conduct such shop, or the barbering service of such school or college, in a sanitary manner, or the failure or refusal of any such person to have water and sewer connections from such shop, or barber school or college, with municipal water and sewer systems where the latter are available for use, or the failure or refusal of any such person to maintain a receptacle for hot water of a capacity of not less than five gallons;

(9) For the purposes of ~~this chapter~~ sections 154.01 to 154.26, barbers, students, apprentices, or the proprietor or manager of a barber shop, or barber school or barber college, shall be responsible for all violations of the sanitary provisions of ~~this chapter sections 154.01 to 154.26~~, and if any barber shop, or barber school or barber college, upon inspection, shall be found to be in an unsanitary condition, the person making such inspection shall immediately issue an order to place the barber shop, or barber school, or barber college, in a sanitary condition, in a manner and within a time satisfactory to the Board of Barber and Cosmetologist Examiners, and for the failure to comply with such order the board shall immediately file a complaint for the arrest of the persons upon whom the order was issued, and any ~~licensed~~ registered barber who shall fail to comply with the rules adopted by the Board of Barber and Cosmetologist Examiners, with the approval of the state commissioner of health, or the

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violation or commission of any of the offenses described in section 154.16, clauses (1), (2), (3), (4), (5), (6), (7), (8), (9), and of clauses (1), (2), (3), (4), (5), (6), (7), (8), and (9) of this section, shall be fined not less than \$10 or imprisoned for ten days and not more than \$100 or imprisoned for 90 days.

Sec. 17. Minnesota Statutes 2002, section 154.21, is amended to read:

154.21 PERJURY.

The willful making of any false statement as to a material matter in any oath or affidavit which is required by the provisions of this chapter sections 154.01 to 154.26 is perjury and punishable as such.

Sec. 18. Minnesota Statutes 2002, section 154.22, is amended to read:

154.22 BOARD OF BARBER AND COSMETOLOGIST EXAMINERS CREATED; TERMS.

(a) A Board of Barber and Cosmetologist Examiners is established to consist of four three barber members, three cosmetologist members, and one public member, as defined in section 214.02, appointed by the governor. ~~Three of such~~

(b) The barber members shall be persons who have practiced as a registered barber barbers in this state for at least five years immediately prior to their appointment; shall be graduates from the 12th grade of a high school or have equivalent education, and shall have knowledge of the matters to be taught in registered barber schools, as set forth in section 154.07. The remaining member of the board shall be a public member as defined by section 214.02. One of the members shall be a member of, or recommended by, a union of journeymen barbers which shall have that has existed at least two years, and one shall be a member of, or recommended by, a professional organization of barbers.

(c) All members must be currently licensed in the state of Minnesota, have practiced in the licensed occupation for at least five years immediately prior to their appointment, be graduates from the 12th grade of high school or have equivalent education, and have knowledge of sections 155A.01 to 155A.16 and Minnesota Rules, chapters 2642 and 2644. The members shall be members of, or recommended by, a professional organization of cosmetologists, manicurists, or estheticians.

(d) Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

(e) Members appointed to fill vacancies caused by death, resignation, or removal shall serve during the unexpired term of their predecessors.

(f) The barber members of the board shall separately oversee administration, enforcement, and regulation of, and adoption of rules under, sections 154.01 to 154.26. The cosmetologist members of the board shall separately oversee administration,

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enforcement, and regulation of, and adoption of rules under, sections 155A.01 to 155A.16. Staff hired by the board, including inspectors, shall serve both professions.

Sec. 19. Minnesota Statutes 2002, section 154.23, is amended to read:

154.23 OFFICERS; COMPENSATION; FEES; EXPENSES.

The Board of Barber and Cosmetologist Examiners shall annually elect a chair and secretary. It shall adopt and use a common seal for the authentication of its orders and records. The board shall appoint an executive secretary who shall not be a member of the board and who shall be in the unclassified civil service.

The executive secretary shall keep a record of all proceedings of the board. The expenses of administering sections ~~154.01 to 154.26~~ this chapter shall be paid from the appropriations made to the Board of Barber and Cosmetologist Examiners.

Each member of the board shall take the oath provided by law for public officers.

A majority of the board, in meeting assembled, may perform and exercise all the duties and powers devolving upon the board.

The members of the board shall receive compensation for each day spent on board activities, but not to exceed 20 days in any calendar month nor 100 days in any calendar year.

The board shall have authority to employ such inspectors, clerks, deputies, and other assistants as it may deem necessary to carry out the provisions of this chapter.

Sec. 20. Minnesota Statutes 2002, section 154.24, is amended to read:

154.24 RULES.

The Board of Barber and Cosmetologist Examiners shall have authority to make reasonable rules for the administration of the provisions of this chapter sections 154.01 to 154.26 and prescribe sanitary requirements for barber shops and barber schools, subject to the approval of the state commissioner of health. Any member of the board, or its agents or assistants, shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules adopted by the board shall be furnished by it to the owner or manager of each barber shop or barber school and such copy shall be posted in a conspicuous place in such barber shop or barber school.

The board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration. This record shall contain the name, place of business and residence of each registered barber and registered apprentice, and the date and number of the certificate of registration. This record shall be open to public inspection at all reasonable times.

Sec. 21. Minnesota Statutes 2002, section 154.25, is amended to read:

154.25 NOT TO SERVE CERTAIN PERSONS.

New language is indicated by underline, deletions by ~~strikeout~~.

No person practicing the occupation of a barber in any barber shop, barber school, or college in this state shall knowingly serve a person afflicted, in a dangerous or infectious state of the disease, with erysipelas, eczema, impetigo, sycosis, tuberculosis, or any other contagious or infectious disease. Any person so afflicted is hereby prohibited from being served in any barber shop, barber school, or college in this state. Any violation of this section shall be considered a misdemeanor as provided for in this chapter sections 154.01 to 154.26.

Sec. 22. Minnesota Statutes 2002, section 155A.01, is amended to read:

155A.01 POLICY.

The legislature finds that the health and safety of the people of the state are served by the licensing of the practice of cosmetology because of the use of chemicals, apparatus, and other appliances requiring special skills and education.

To this end, the public will best be served by vesting these responsibilities in the ~~commissioner of commerce~~ Board of Barber and Cosmetologist Examiners.

Sec. 23. Minnesota Statutes 2002, section 155A.02, is amended to read:

155A.02 PROHIBITION; LIMITATION.

It shall be unlawful for any person to engage in cosmetology, or to conduct or operate a cosmetology school or salon, except as ~~hereinafter~~ provided in sections 155A.03 to 155A.16.

Sec. 24. Minnesota Statutes 2002, section 155A.03, subdivision 1, is amended to read:

Subdivision 1. **TERMS.** For purposes of this chapter sections 155A.03 to 155A.26, and unless the context clearly requires otherwise, the words defined in this section have the meanings given them.

Sec. 25. Minnesota Statutes 2002, section 155A.03, is amended by adding a subdivision to read:

Subd. 1a. BOARD. "Board" means the Board of Barber and Cosmetologist Examiners.

Sec. 26. Minnesota Statutes 2002, section 155A.03, subdivision 2, is amended to read:

Subd. 2. **COSMETOLOGY.** "Cosmetology" is the practice of personal services, for compensation, for the cosmetic care of the hair, nails, and skin. These services include cleaning, conditioning, shaping, reinforcing, coloring and enhancing the body surface in the areas of the head, scalp, face, arms, hands, legs, and feet, except where these services are performed by a licensed barber under chapter 154 sections 154.01 to 154.26.

Sec. 27. Minnesota Statutes 2002, section 155A.03, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4a. **LICENSED PRACTICE.** “Licensed practice” means the practice of cosmetology in a licensed salon or the practice of an esthetician in a licensed physician’s office.

Sec. 28. Minnesota Statutes 2002, section 155A.03, subdivision 7, is amended to read:

Subd. 7. **SALON.** A “salon” is an area, room, or rooms employed to offer personal services, as defined in subdivision 2. “Salon” does not include the home of a customer but the ~~commissioner~~ board may adopt health and sanitation rules governing practice in the homes of customers.

Sec. 29. Minnesota Statutes 2002, section 155A.045, subdivision 1, is amended to read:

Subdivision 1. **SCHEDULE.** The fee schedule for licensees is as follows:

(a) Three-year license fees:

(1) cosmetologist, manicurist, esthetician, \$45 \$90 for each initial license, and \$30 \$60 for each renewal;

(2) instructor, manager, \$60 \$120 for each initial license, and \$45 \$90 for each renewal;

(3) licensed physician’s office, \$130 for each initial license, and \$100 for each renewal;

(4) salon, \$65 \$130 for each initial license, and \$50 \$100 for each renewal; and

(4) (5) school, \$750 \$1,500.

(b) Penalties:

(1) reinspection fee, variable; and

(2) manager with lapsed practitioner, \$25.

(c) Administrative fees:

(1) certificate of identification, \$20; and

(2) school original application, \$150.

(d) All fees established in this subdivision must be paid to the executive secretary of the board on or before September 1 of the year in which they become due. The executive secretary of the board shall deposit the fees in the general fund in the state treasury, to be disbursed by the executive secretary on the order of the chair in payment of expenses lawfully incurred by the board.

Sec. 30. Minnesota Statutes 2002, section 155A.05, is amended to read:

155A.05 **RULES.**

New language is indicated by underline, deletions by ~~strikeout~~.

The ~~commissioner board~~ may develop and adopt rules according to chapter 14 that the ~~commissioner board~~ considers necessary to carry out this chapter sections 155A.01 to 155A.16.

Sec. 31. Minnesota Statutes 2002, section 155A.07, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATIONS.** Qualifications for licensing in each classification shall be determined by the ~~commissioner 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 of the practitioner and the consumer of cosmetology services, including but not limited to chemical applications.

Sec. 32. Minnesota Statutes 2002, section 155A.07, subdivision 8, is amended to read:

Subd. 8. **EXEMPTIONS.** Persons licensed to provide cosmetology services in other states visiting this state for cosmetology demonstrations shall be exempted from the licensing provisions of this chapter sections 155A.01 to 155A.16 if services to consumers are in the physical presence of a licensed cosmetologist.

Sec. 33. Minnesota Statutes 2002, section 155A.07, is amended by adding a subdivision to read:

Subd. 10. **NONRESIDENT LICENSES.** 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 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 their native language within the limits of available resources. Licenses shall not be issued under this subdivision for managers or instructors.

Sec. 34. Minnesota Statutes 2002, section 155A.08, subdivision 1, is amended to read:

Subdivision 1. **LICENSING.** Any person who offers cosmetology services for compensation in this state shall be licensed as a salon if not employed by another licensed salon or as an esthetician in a licensed physician's area.

Sec. 35. Minnesota Statutes 2002, section 155A.08, 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 ~~commissioner board~~ by rule. In addition to those requirements, no license shall be issued unless the ~~commissioner board~~ first determines that paragraphs (a) to (e) the conditions in clauses (1) to (5) have been satisfied:

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

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- (b) (2) the employment of a manager, as defined in section 155A.03, subdivision 6;
- (e) (3) inspection and licensing prior to the commencing of business;
- (d) (4) if applicable, evidence of compliance with section 176.182; and
- (e) (5) 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 ~~commissioner~~ board to operate a salon solely for the performance of those personal services defined in section 155A.03, subdivision 4, in the case of an esthetician, or subdivision 5, in the case of a manicurist.

Sec. 36, Minnesota Statutes 2002, section 155A.08, subdivision 3, is amended to read:

Subd. 3. **HEALTH AND SANITARY STANDARDS.** Minimum health and sanitary standards for the operation of a salon shall be established by rule. A salon shall not be located in a room used for residential purposes. If a salon is in the residence of a person practicing cosmetology, the rooms used for the practice of cosmetology shall be completely partitioned off from the living quarters. The salon may be inspected as often as the ~~commissioner~~ board considers necessary to affirm compliance.

Sec. 37, Minnesota Statutes 2002, section 155A.09, is amended to read:

155A.09 SCHOOLS.

Subdivision 1. **LICENSING.** Any person who establishes or conducts a school in this state shall be licensed.

Subd. 2. **STANDARDS.** The ~~commissioner~~ board shall by rule establish minimum standards of course content and length specific to the educational preparation prerequisite to testing and licensing as cosmetologist, esthetician, and manicurist.

Subd. 3. **APPLICATIONS.** Application for a license shall be prepared on forms furnished by the ~~commissioner~~ board and shall contain the following and such other information as may be required:

- (a) (1) The name of the school, together with ownership and controlling officers, members, and managing employees and ~~commissioner~~;
- (b) (2) The specific fields of instruction which will be offered and reconciliation of the course content and length to meet the minimum standards, as prescribed in subdivision 2;
- (e) (3) The place or places where instruction will be given;
- (d) (4) A listing of the equipment available for instruction in each course offered;
- (e) (5) The maximum enrollment to be accommodated;

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(f) ~~(6)~~ A listing of instructors, all of whom shall be licensed as provided in section 155A.07, subdivision 2, except that any school may use occasional instructors or lecturers who would add to the general or specialized knowledge of the students but who need not be licensed;

(g) ~~(7)~~ A current balance sheet, income statement or documentation to show sufficient financial worth and responsibility to properly conduct a school and to assure financial resources ample to meet the school's financial obligations;

(h) ~~(8)~~ Other financial guarantees which would assure protection of the public as determined by rule; and

(i) ~~(9)~~ A copy of all written material which the school uses to solicit prospective students, including but not limited to a tuition and fee schedule, and all catalogues, brochures and other recruitment advertisements. Each school shall annually, on a date determined by the ~~commissioner board~~, file with the ~~director board~~ any new or amended materials which it has distributed during the past year.

Subd. 4. **VERIFICATION OF APPLICATION.** Each application shall be signed and certified to under oath by the proprietor if the applicant is a proprietorship, by the managing partner if the applicant is a partnership, or by the authorized officers of the applicant if the applicant is a corporation, association, company, firm, society or trust.

Subd. 5. **CONDITIONS PRECEDENT TO ISSUANCE.** ~~No~~ A license shall ~~must not~~ be issued unless the ~~commissioner board~~ first determines:

(a) that the applicant has met the requirements in clauses (1) to (8).

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

(b) ~~That~~ (2) The applicant ~~has~~ must have satisfactory training facilities with sufficient tools and equipment and the necessary number of work stations to adequately train the students currently enrolled, and those proposed to be enrolled.

(c) ~~That~~ (3) The applicant ~~employs~~ must employ a sufficient number of qualified instructors trained by experience and education to give the training contemplated.

(d) ~~That~~ (4) The premises and conditions under which the students work and study are ~~must be~~ sanitary, healthful, and safe according to modern standards.

(e) ~~That~~ (5) Each occupational course or program of instruction or study shall ~~must~~ be of such quality and content as to provide education and training which will adequately prepare enrolled students for testing, licensing, and entry level positions as a cosmetologist, esthetician, or manicurist.

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(f) Evidence of (6) The school's school must have coverage by professional liability insurance of at least \$25,000 per incident and an accumulation of \$150,000 for each premium year;

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

(h) (8) The applicant, except the state and its political subdivisions as described in section 471.617, subdivision 1, shall file with the ~~commissioner~~ 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 ~~commissioner~~ board and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

Subd. 6. **FEES; RENEWALS.** (a) Applications for initial license under ~~this chapter~~ sections 155A.01 to 155A.16 shall be accompanied by a nonrefundable application fee set forth in section 155A.045.

(b) License duration shall be three years. Each renewal application shall be accompanied by a nonrefundable renewal fee set forth in section 155A.045.

(c) Application for renewal of license shall be made as provided in rules adopted by the ~~commissioner~~ board and on forms supplied by the ~~commissioner~~ board.

Subd. 7. **INSPECTIONS.** All schools may be inspected as often as the ~~commissioner~~ board considers necessary to affirm compliance. The ~~commissioner~~ board shall have the authority to assess the cost of the inspection to the school.

Subd. 8. **LIST OF LICENSED SCHOOLS; AVAILABILITY.** The ~~commissioner~~ board shall maintain and make available to the public a list of licensed schools.

Subd. 9. **SEPARATION OF SCHOOL AND PROFESSIONAL DEPARTMENTS.** A school shall display in the entrance reception room of its student section a sign prominently and conspicuously indicating that all work therein is done exclusively by students. Professional departments of a school shall be run as entirely separate and distinct businesses and shall have separate entrances.

Nothing contained in ~~this chapter~~ sections 155A.01 to 155A.16 shall prevent a school from charging for student work done in the school to cover the cost of materials used and expenses incurred in and for the operation of the school. All of the student work shall be prominently and conspicuously advertised and held forth as being student work and not otherwise.

Subd. 10. **DISCRIMINATION PROHIBITED.** No school, duly approved under ~~this chapter~~ sections 155A.01 to 155A.16, shall refuse to teach any student, otherwise

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qualified, on account of race, sex, creed, color, citizenship, national origin, or sexual preference.

Sec. 38. Minnesota Statutes 2002, section 155A.095, is amended to read:

155A.095 INSPECTIONS.

The ~~commissioner~~ board is responsible for inspecting salons and schools licensed pursuant to ~~this chapter~~ sections 155A.01 to 155A.16 to assure compliance with the requirements of ~~this chapter~~ sections 155A.01 to 155A.16. The ~~commissioner~~ board shall direct ~~department~~ board resources first to the inspection of those licensees who fail to meet the requirements of law, have indicated that they present a greater risk to the public, or have otherwise, in the opinion of the ~~commissioner~~ board, demonstrated that they require a greater degree of regulatory attention.

Sec. 39. Minnesota Statutes 2002, section 155A.10, is amended to read:

155A.10 DISPLAY OF LICENSE.

(a) Every holder of a license granted by the ~~commissioner~~ board shall display it in a conspicuous place in the place of business.

(b) Notwithstanding the provisions of paragraph (a), nothing contained in ~~this chapter~~ sections 155A.01 to 155A.16 shall be construed to prohibit a person licensed to provide cosmetology services from engaging in any practices defined in ~~this chapter~~ sections 155A.01 to 155A.16 in the homes of customers or patrons, under the sanitary and health rules promulgated by the ~~commissioner~~ board.

Sec. 40. Minnesota Statutes 2002, section 155A.135, is amended to read:

155A.135 ENFORCEMENT.

The provisions of section 45.027 apply to the administration of ~~this chapter~~ sections 155A.01 to 155A.16.

Sec. 41. Minnesota Statutes 2002, section 155A.14, is amended to read:

155A.14 SERVICES EXCEPTED; EMERGENCY.

Nothing in ~~this chapter~~ sections 155A.01 to 155A.16 prohibits services in cases of emergency where compensation or other reward is not received, nor in domestic service, nor in the practice of medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or barbering. This section shall not be construed to authorize any of the persons so exempted to wave the hair, or to color, tint, or bleach the hair, in any manner.

Sec. 42. Minnesota Statutes 2002, section 155A.15, is amended to read:

155A.15 APPOINTMENT OF AGENT FOR SERVICE OF PROCESS.

Any person, firm, partnership, or corporation, not a resident of Minnesota, who engages in Minnesota in the practices regulated in ~~this chapter~~ sections 155A.01 to 155A.16 shall file with the ~~commissioner~~ board the name and address of a duly

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authorized agent for service of legal process, which agent for service shall be a resident of the state of Minnesota.

Sec. 43. Minnesota Statutes 2002, section 155A.16, is amended to read:

155A.16 VIOLATIONS; PENALTIES.

Any person who violates any of the provisions of this chapter sections 155A.01 to 155A.16 is guilty of a misdemeanor and upon conviction may be sentenced to imprisonment for not more than 90 days or fined not more than \$700, or both, per violation.

Sec. 44. **APPROPRIATION.**

\$572,000 is appropriated from the general fund to the Board of Barber and Cosmetologist Examiners for the fiscal year ending June 30, 2005. This appropriation is in addition to the appropriation made in Laws 2003, First Special Session chapter 1, article 3, section 5, and is added to the board's base.

Presented to the governor May 18, 2004

Signed by the governor May 29, 2004, 8:50 a.m.

CHAPTER 270—H.F.No. 2050

An act relating to health occupations; authorizing a physician application fee; requiring certain foreign medical school graduates to use a credentials verification service; amending Minnesota Statutes 2002, sections 147.01, by adding a subdivision; 147.037, subdivision 1.

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

Section 1. Minnesota Statutes 2002, section 147.01, is amended by adding a subdivision to read:

Subd. 7. **PHYSICIAN APPLICATION FEE.** The board may charge a physician application fee of \$200. The revenue generated from the fee must be deposited in an account in the state government special revenue fund.

Sec. 2. Minnesota Statutes 2002, section 147.037, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS.** The board shall issue a license to practice medicine to any person who satisfies the requirements in paragraphs (a) to (g).

(a) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (e), (f), (g), and (h).

(b) The applicant shall present evidence satisfactory to the board that the applicant is a graduate of a medical or osteopathic school approved by the board as equivalent

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