

MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 451

S. P. 192

In Senate, February 10, 1937.

Taken from table on motion by Senator Fernald and on further motion by same senator referred to Committee on Legal Affairs and 1,000 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Spear of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Relating to Beauty Culture to Include Registering and Licensing of Barbers and Barber Shops and to Create a Board of Barber Examiners.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Registration and licenses. After the 1st day of January, 1938, it shall be unlawful for any person to practice barbering in this state unless he shall first have obtained a certificate of registration as provided in this act, or unless he shall be acting within the scope of his employment as an apprentice barber.

After the 1st day of January, 1938, no person, firm or corporation shall operate or cause to be operated a shop or establishment where barbering is practiced unless such shop or establishment has been duly licensed. The fee for such license shall be \$5 in the first instance and \$3 for each yearly renewal thereof. The license shall run from the 1st day of January in each year for 1 year and the fee shall be payable to the secretary of said board.

Sec. 2. Definitions. The following words and phrases, when used in this act shall be construed as follows:

1. "The practice of barbering" shall mean any one or any combination of the following practices (when done upon the upper part of the human

body for cosmetic purposes and not for the treatment of disease or physical or mental ailments and when done for payment either directly or indirectly):

- (a) Shaving or trimming the beard or cutting the hair;
- (b) Giving facial and scalp massage or treatments with cosmetic preparations, either by hand or mechanical or electrical appliances;
- (c) Singeing, shampooing or applying cosmetic preparations to the scalp, face, neck or upper part of the body;
- (d) Removing superfluous hair from the face, neck or upper part of the body.

2. "Apprentice barber" shall mean any person who is engaged in learning and acquiring a knowledge of the practice of barbering under the direction and supervision of a person duly authorized under this act to practice barbering.

3. "The board" when used in this act shall mean the combined board as created by section 5 of this act.

Sec. 3. Practice of apprentice barber. No apprentice barber may independently practice barbering, but he may, as an apprentice, do any or all acts constituting the practice of barbering under the immediate personal supervision of a registered barber, and only one such apprentice shall be employed in any licensed barber shop.

Sec. 4. Use of apparatus and cosmetics. No mechanical or electrical apparatus or cosmetic preparation shall be sold or offered for sale to any person or establishment subject to a license under this act, until after a permit has been secured from the bureau of health. Such apparatus shall not be used for any surgical or medical purpose.

The bureau of health shall have the right to refuse a permit for the sale or offering for sale of any such apparatus or cosmetic preparation which, in its judgment, shall be dangerous or which shall contain any substances in such amounts as to be poisonous, injurious, or detrimental to the person.

The use of electrolysis for the removal of hairs is prohibited.

No person shall use or keep for use or sale in any shop or establishment licensed under this act any electrical or mechanical apparatus or cosmetic preparation for which a permit has not been granted as provided in this act.

Permits and certificates of registration issued by the bureau of health under the requirements of chapter 112, public laws of 1935, and chapter 109, public laws of 1935, for mechanical and electrical apparatus and cosmetic preparations shall be accepted as sufficient permits under this act.

Sec. 5. State board. After the 1st day of January, 1938, the state board for the regulation of the practice of hairdressing and beauty culture, as heretofore established, shall be known as the state board of cosmetology, and shall include the enlarged board hereinafter created. No person operating or employed by a school of barbering or of hairdressing and beauty culture shall be appointed as a member of the board, and if any member of the board after appointment shall affiliate himself in any way with any such school either of barbering or of hairdressing and beauty culture his membership on the board shall immediately terminate and the vacancy shall be filled by the governor and council in the manner provided for the appointment of new members.

Sec. 6. Board to include barbers; compensation. The governor with the advice and consent of the council shall appoint 2 additional members to the board, for a term of 2 years and until his successor is appointed and qualified to act. Each of the 2 additional members shall be a practical barber who has followed the occupation of barber for at least 5 years immediately prior to his appointment. Members shall be appointed in the same manner to fill vacancies caused by death, resignation or removal, who shall serve during the unexpired term of their predecessors.

Each member of the board shall be allowed the sum of \$10 per day and their necessary traveling expenses for actual attendance upon any examination of candidates for registration, and for any necessary hearings and board meetings.

Sec. 7. Organization of board. The board shall organize as soon as may be after the effective date of this act by electing 1 of its members as chairman and such organization shall continue until the appointment and qualification of any new member of said board. All other officers of said board as heretofore established shall continue in office and shall perform such other duties as shall be necessary to carry out the provisions of this act.

Sec. 8. Requirements for registration. Any person shall be eligible to obtain a certificate of registration under this act (a) who is at least 18 years of age, and (b) who is of good respectable character, and temperate habits, (c) who has satisfactorily completed a course of instruction in a school of barbering approved by said board, or in lieu thereof has had a total experience in the practice of barbering or as an apprentice, of a period of at least 18 months, and (d) who has satisfactorily passed an examination conducted by said board to determine his fitness to receive such certificate. Each applicant for such examination

shall make written application therefor on a form prescribed and supplied by said board, which application shall contain satisfactory evidence of the qualifications required of the applicant under this act and shall be sworn to by the applicant. Said applications shall be filed with the secretary of said board and shall be accompanied by an examination fee of \$5 which shall include registration, if examination is satisfactory; if not successful applicant shall have the privilege of taking a second examination without fee at any subsequent examination held by the board within a period of 1 year.

Sec. 9. Approved schools; fees. No school of barbering shall be approved by said board until it shall attach to its staff a physician duly licensed to practice medicine in the state where the school is located, nor unless it has a minimum requirement of a continuous course of study of 1000 hours distributed over a term of not less than 6 months, including practical demonstrations, written or oral tests and theoretical and practical instruction in sanitation, fundamentals for barbering, hygiene, histology of the hair, skin, face and neck, diseases of the skin, hair, glands, and nails, massaging and manipulating the muscles of the upper body, hair cutting, shaving, and arranging dressing, coloring, bleaching, tinting the hair, sterilization and the use of antiseptics, cosmetics and electrical appliances, customarily used in the practice of barbering, which course of study and instruction shall be subject to the approval of said board. No school of barbering shall be an approved school until approval shall be recorded in the records of said board and until it shall receive a certificate of approval issued by said board. The fee for such certificate shall be \$25 and it shall be good for 1 year from the date when issued, unless sooner suspended. Said certificate may, so long as such school continues to meet the approval of said board, be renewed from year to year upon payment of a fee of \$25 for each renewal. The board may revoke any such certificate at any time for cause; provided, however, that notice shall be given to such school of said proposed action in order that said school may have an opportunity to be heard. No person shall be engaged to instruct in any practice of barbering as defined in section 2 of this act unless said instructor has a certificate to practice barbering under the provisions of this act excepting physicians as specified above.

Sec. 10. Registration without examination. Any person licensed to practice barbering in another state whose requirements are substantially equal to those specified in this act shall upon the payment of a fee of \$25 be entitled to a certificate of registration without examination.

Sec. 11. Rules and regulations. The board shall make rules and regulations not contrary to law to be approved by the bureau of health concerning the proper use of appliances, apparatus and electrical machines used in any establishment for or in connection with any of the practices defined in section 2 of this act, and prescribing the sanitary requirements to be observed by proprietors of shops and other establishments where barbering is practiced and by persons engaged in such practice and shall make rules and regulations not contrary to law relative to the applications for licenses and certificates of registration. The board shall cause such rules and regulations to be printed in suitable form and a copy thereof to be sent to the proprietors of such shops and establishments, which shall be kept posted in a conspicuous place in such shops so as to be easily read by customers.

The board shall also make rules and regulations not contrary to law to be approved by the bureau of health, prescribing the requirements for the construction, operation, maintenance, and sanitary requirements of any school of barbering, or of any school of hairdressing and beauty culture, subject to a license under this act, or under the provisions of chapter 112, public laws of 1935.

No person shall give service in any establishment licensed by this act who has a disease in a communicable stage.

The failure of any person to observe the requirements of any rule or regulation made by said board shall be cause for the suspension or revocation of such license, but no license shall be suspended or revoked without a reasonable opportunity being offered to such person to show cause to said board why such license shall not be suspended or revoked. Any such license suspended or revoked shall be delivered to any agent of the board upon demand.

Any such shop or establishment in which tools, appliances, and furnishings in use therein are kept in an unclean and insanitary condition so as to endanger health is hereby declared to be a common nuisance, and the proprietor thereof shall be subject to prosecution and punishment by a fine of not less than \$200 nor more than \$1000 and in addition thereto by imprisonment for not less than 60 days nor more than 11 months, and in default of payment of said fine shall be imprisoned for an additional term of not less than 60 days and not more than 11 months.

The board shall have the right to require the physical examination of any person employed in any barber shop suspected of having any contagious or infectious disease.

Sec. 12. Disposition of fees. The fees received by the board under the provisions of this act shall be paid to the treasurer of state. Fees

received under this act shall be used for carrying out the purposes of this act.

Sec. 13. Examinations of the board. The board shall hold 2 public examinations each year, one on the 1st Tuesday of June and one on the 1st Tuesday of December, at such places as it shall designate. Additional examinations may be held at the discretion of the board. Notice of all examinations shall be given by publication at least 10 days before the holding of any such examination in at least 2 daily newspapers printed and published in the county in which such examinations shall be held.

Sec. 14. Statement to be filed by apprentice. Every apprentice barber, in order to avail himself of the provisions of this act, shall within 10 days after entering upon his apprenticeship, file with the secretary of the board, on blanks which shall be provided by said board, the name and place of business of his employer, the date of commencement of such apprenticeship, and the full name and age of said apprentice, which age shall not be less than 17 years, and said blanks shall be accompanied by a registration fee of \$3. Any such apprentice who shall change his place of employment shall promptly notify the board and furnish it with the name and place of business of his new employer and the date of such change.

Every apprentice barber, after serving an apprenticeship of 18 months, shall file application for examination at the next examination held by the board in accordance with the requirements of section 8 of this act.

The board shall furnish to each registered apprentice a certificate of registration of said apprenticeship.

Sec. 15. Board to furnish certificate of registration. Said board shall furnish to each registered barber a certificate of registration bearing the seal of the board certifying that the holder thereof is entitled to practice barbering in this state, and it shall be the duty of the holder of such certificate of registration to post the same in a conspicuous place where it may be readily seen by all persons whom he may serve. Said certificate of registration shall be renewed on or before the 1st day of January in each year, and the holder of said certificate of registration shall pay to the secretary of said board the sum of \$3 for said renewal.

Any registered barber or any person registered to practice hairdressing or beauty culture who fails to renew his certificate of registration during any license year, in subsequent years may renew his certificate of registration only after payment of all unpaid renewal fees.

Sec. 16. Board may suspend or revoke certificates of registration, when; appeal. Said board may either refuse to issue or renew or may suspend or revoke any certificate of registration granted by it under this

act, for (a) conviction of a felony shown by a certified copy of the record of the court of conviction; (b) gross malpractice or gross incompetency; (c) continued practice by a person knowingly having an infectious or contagious disease; (d) habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit forming drugs; (e) immoral or unprofessional conduct; (f) the keeping of a shop or other establishment, or the tools, appliances, or furnishings thereof in an unclean or insanitary condition; (g) failure to comply with any of the prescribed requirements of this act; (h) for misrepresentation of qualifications; provided that before any certificate shall be suspended or revoked, the holder thereof shall have notice in writing of the charge or charges against him, and shall have reasonable opportunity to be heard in his defense. Any person whose certificate has been so suspended or revoked may apply to have the same reissued, and the same shall be reissued upon satisfactory evidence that the disqualifications have ceased.

Any such certificate of registration suspended or revoked shall be delivered to any agent of the board upon demand.

Sec. 17. Hearings. The board may neither refuse to issue, nor refuse to renew, nor suspend, nor revoke any certificate of registration, however, for any of these causes enumerated in section 16 of this act, unless the person accused has been given at least 10 days' notice in writing of the charge against him and an opportunity to be heard at a public hearing held by the board.

It shall be deemed that the board has duly notified the person accused of such hearing, when the notice has been sent to the last known address of accused by registered letter.

Upon hearing of any such proceeding, the board may administer oaths and may procure by its subpoena, the attendance of witnesses and the production of relevant books and papers.

Any justice of the superior court or of the supreme court, either in term time or in vacation, upon application either of the accused or of the board may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the board in any hearing relating to the refusal, suspension or revocation of certificates of registration.

Sec. 18. Penalties. Any person engaged in the practice of barbering in this state without having obtained a certificate of registration as provided by this act, or employing a person to practice barbering who has not such a certificate of registration or who has not a certificate of registration as an apprentice barber, or falsely pretending to be qualified to

practice barbering under this act, or violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$20 nor more than \$100, or by imprisonment for not more than 3 months, and every such person shall be deemed guilty of a separate and distinct offense for each month or part thereof during which such practice or employment shall be repeated or continued after prosecution has been begun against any such person for the violation of any of the provisions of this act.

Sec. 19. Limitations of act. The prohibitions and penalties of this act shall not apply to the following persons, when acting within the scope of their profession or occupation; (a) persons authorized by law of this state to practice medicine and surgery; (b) commissioned medical officers of the United States army, navy or marine hospital service; (c) registered nurses; (d) persons authorized by the law of this state to practice beauty culture; provided, however, that the provisions of this section shall not be construed to authorize any of the persons exempted to shave any person or trim the beard or cut the hair of any male person for cosmetic purposes.

Sec. 20. Present practitioners. Any person, who for 2 years immediately preceding the 1st day of January, 1938, was continuously engaged in the practice of barbering, at one or more established places of business in this state, shall be granted a certificate of registration as a registered barber, without examination, by making application to the board on or before the 1st day of January, 1938, and paying the required fee.

Any person who on and prior to the 1st day of January, 1938, was practicing barbering as an apprentice under the supervision of a practicing barber in this state shall be granted a certificate of registration to practice as an apprentice by making application to the board on or before the 1st day of January, 1938, and paying the required fee, and shall be given credit for the time previously spent in such practice.

Any person who on and prior to the 1st day of January, 1938, was a student in a school of barbering shall be given credit for the time previously spent in such school.

Sec. 21. Constitutionality. If any section or part thereof of this act, shall be declared unconstitutional it shall not affect the constitutionality of the remaining parts of this act which can be given effect without the invalid portions.

Sec. 22. Repealing clause. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed or amended to conform with the provisions of this act.