

ENROLLMENT(S)



COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 9-245

"Barber and Cosmetology Revision Act
of 1992".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 9-500 on first and second readings, December 1, 1992, and December 15, 1992, respectively. Following the signature of the Mayor on January 6, 1993, this legislation was assigned Act No. 9-388, published in the January 22, 1993, edition of the D.C. Register, (Vol. 40 page 660) and transmitted to Congress on January 15, 1993 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 9-245, effective March 17, 1993.


JOHN E. WILSON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 20,21,22,25,26,27

February 2,3,4,16,17,18,19,22,23,24,25,26

March 1,2,3,4,5,8,9,10,11,12,15,16

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 6, 1993

To revise the laws of the District of Columbia relating to the practice of barbering and cosmetology and the regulation of barber and beauty salons.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Barber and Cosmetology Revision Act of 1992".

Sec. 2. Definitions.

New Section
2-421

For the purposes of this act, the term:

(1) "Barber salon" means premises, or part thereof, in which is regularly performed any service that is defined by this act as the practice of barbering.

(2) "Beauty salon" means the premises, or part thereof, in which is regularly performed any service that is defined by this act as the practice of cosmetology.

(3) "Board" means the Barber and Cosmetology Board established by section 3.

(4) "Cosmetic preparation" means an antiseptic, bleach, clay, cleanser, cream, depilatory, lotion, makeup, oil, powder, shampoo, tonic, or other chemical compound that is of generally accepted use in a practice regulated by this act.

(5) "Day" means calendar day.

(6) "Demonstrator" means an individual who, for compensation, conducts sales demonstrations on cosmetic preparations or other products or equipment for use in a practice regulated by this act.

(7) "Direct supervision" means supervision in which the supervisor is physically present and is assisting, observing, or available to the supervisee during the supervisee's practice.

(8) "District" means the District of Columbia.

(9) "Individual" means a natural person.

(10) "Instructor" means an individual who teaches a practice regulated by this act.

(11) "License" means an occupational, salon, instructor, or manager's license, as defined by this act, or certificate of registration, issued pursuant to this act, the District of Columbia Barber Act, approved June 7, 1938 (52 Stat. 620; D.C. Code § 2-401 *et seq.*), An Act To provide for the examination and licensing of those engaging in the practice of cosmetology in the District of Columbia, approved June

7, 1938 (52 Stat. 611; D.C. Code § 2-901 *et seq.*), or any other regulation or rule repealed or superseded by this act.

(12) "Manager" (including master barbers) means an individual who is responsible for overseeing the practice of an occupation in a salon, and for otherwise directing the operations of the salon.

(13) "Mayor" means the Mayor of the District of Columbia.

(14) "Occupation" means a practice that is regulated by this act, or acting as a manager or instructor of persons engaged in a practice regulated by this act.

(15) "Person" means an individual, corporation, partnership, or other legal entity.

(16) "Practice of barbering" means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: cutting, dressing, singeing, shampooing, styling, or similar work performed upon the face, hair, hairpiece, or wig of an individual; shaving or trimming of facial hair of an individual; or massaging or applying cosmetic preparations to the face, neck, or scalp of an individual. The practice of barbering shall not include manicuring, electrology, or the braiding or weaving of hair.

(17) "Practice of braiding", also known as cornrowing, means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: interweaving strands of hair, including, but not limited to, intertwining in a systematic motion to create patterns in a 3 dimensional form; inversion or outversion flat against the scalp along the part of a straight or curved row; twisting in a systematic motion; extension with natural or synthetic fibers; or shampooing, cutting, or curling of natural or synthetic hair.

(18) "Practice of cosmetology" means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: bleaching, braiding, coloring, curling, cutting, dressing, eyebrow arching, the use of devices or chemicals to straighten, curl, or wave hair, shampooing, singeing, styling, weaving, or similar work performed upon the face, hair, hairpiece, or wig of an individual; electrology; esthetics; and manicuring. The practice of cosmetology shall not include shaving or trimming the beard or moustache of an individual.

(19) "Practice of electrology" means providing or offering to the general public for a fee the following service solely for cosmetic purposes: the use of an electric current to affect the permanent removal of hair from the face and body.

(20) "Practice of esthetics" means providing or offering to the general public for a fee the following services solely for cosmetic purposes: enhancing, massaging, cleansing, or stimulating the skin of the human body, except the scalp, by the use of a cosmetic preparation, antiseptic, tonic, lotion, cream, or device, electrical or otherwise; to apply make-up to the face or body; to apply false eyelashes; to tint eyelashes or eyebrows; to lighten or darken hair on the body, except the scalp; and to remove hair from the body of an individual by the use of depilatories, wax, or tweezers. The practice of esthetics does not include the services provided by an electrologist.

(21) "Practice of manicuring" includes pedicuring and means providing or offering to the general public for a fee the following services solely for cosmetic purposes: filing, shaping, trimming, painting, cleaning, nourishing, and stimulating the natural fingernail or toenail;

the application of chemical treatments to the fingernail or toenail, including, but not limited to, the application of false fingernails, acrylic sculptured nails, nail tips, and nail wrapping; and massage of the finger, hand, arm below the elbow, toe, foot, or leg below the knee. The practice of manicuring shall not include the cutting of nailbed, corns, or callouses, or other medical treatments involving the foot or ankle of any individual.

(22) "Respondent" means an applicant for holder of a license, or an individual permitted to practice an occupation pursuant to this act, against whom a denial or disciplinary action is contemplated, proposed, or taken.

(23) "School" means premises, or part thereof, in which instruction is provided in the practice of an occupation as defined by this act.

(24) "Specialty cosmetology" means the practice or instruction of electrology, esthetics, manicuring, or braiding.

(25) "Specialty cosmetology manager" means an individual who is responsible for overseeing the practice or instruction of electrology, esthetics, manicuring, or braiding in a salon or school, and for otherwise directing the operations of the salon or school.

(26) "State" means a state, commonwealth, territory, or possession of the United States.

Sec. 3. Barber and Cosmetology Board.

New Section
2-422

(a) There is established a Barber and Cosmetology Board consisting of 9 members appointed by the Mayor with the advice and consent of the Council.

(b) The Board shall regulate the practice of barbering, barber instructors, barber managers, and barbering salons; the practice of cosmetology, cosmetology instructors, cosmetology managers, and cosmetology salons; and the practice of specialty cosmetology, specialty cosmetology instructors, specialty cosmetology managers, and specialty cosmetology salons.

(c) Three of the members of the Board shall be cosmetologists, 3 members shall be barbers, 2 members shall be specialty cosmetologists, and 1 shall be a consumer.

(d) Except as provided in subsection (e) of this section, members of the Board shall be appointed for terms of 3 years.

(e) Of the members initially appointed pursuant to this section, 1 shall be appointed for a term of 1 year, 4 shall be appointed for a term of 2 years, and 4 shall be appointed for a term of 3 years. The terms of the members first appointed shall begin on the date a majority of the first members are sworn in, which shall become the anniversary date for all subsequent appointments.

Sec. 4. Qualifications of members.

New Section
2-423

(a) The barber and cosmetology members of the Board shall be residents of the District and shall have been licensed and engaged in the practice of barbering, cosmetology, or specialty cosmetology for the 3-year period immediately preceding their appointment, except that initial appointees to the specialty cosmetology seats on the board shall be qualified for licensure upon furnishing proof to the Mayor that they were performing the services of a specialty cosmetologist during the specified

period. Such appointees shall promptly apply for licensure upon issuance of rules implementing this act.

(b) The consumer member of the Board shall:

(1) At the time of appointment and while a member of the Board, be a resident of the District;

(2) Not be, share a residence with, or be related by blood, marriage, or adoption to, an individual who is licensed or is training to become licensed in an occupation regulated by the Board; and

(3) Not have an interest in, operate, be employed by, share a residence with, or be related by blood, marriage, or adoption to an individual who has interest in, operates, or is employed by, a barber salon, beauty salon, or business that has as its primary purpose the sale of cosmetic preparations or other products or equipment for use in the practice of an occupation regulated by the Board.

Sec. 5. Conflicts of interest.

New Section
2-424

A member of the Board shall not participate in any proceeding, discussion, or decision relating to a potential Board action involving the member or person with whom the member has a personal or business affiliation that could compromise the member's objectivity.

Sec. 6. Terms of members; filling of vacancies.

New Section
2-425

(a) At the end of a term, a member shall continue to serve until a successor is appointed and sworn into office.

(b) A successor appointed to fill a vacancy shall serve until the expiration of the term or until a successor is appointed and sworn into office.

(c) No member of the Board shall be appointed to serve more than 3 consecutive 3-year terms.

Sec. 7. Removal.

New Section
2-426

(a) The Mayor may remove a member of the Board for incompetence, misconduct, or neglect of duty, after due notice and a hearing.

(b) The failure of a member of the Board to attend at least one-half of the regularly scheduled meetings of the Board within a 12-month period shall make that member subject to removal.

Sec. 8. Powers and duties.

New Section
2-427

The Board shall:

(1) Administer and enforce the provisions of this act and rules issued pursuant to this act relating to the occupations, instructors, managers, and salons regulated by the Board;

(2) Evaluate the qualifications of applicants for licenses to practice occupations, or to be instructors or managers of schools or salons;

(3) Determine the subjects, scope, form, and passing score for examinations to assess the abilities of applicants for licensure;

(4) Supervise the administration of examinations through staff support provided by the Mayor or through the use of consultant services;

(5) Approve the issuance of licenses to qualified applicants;

(6) Receive and review complaints of, and request the Mayor to conduct investigations of, possible violations of this act or rules issued pursuant to this act by persons regulated by the Board, and

(7) Issue subpoenas, conduct hearings, administer oaths, examine witnesses, and render decisions relating to the denial, suspension, or revocation of licenses or other disciplinary actions against persons regulated by the Board.

Sec. 9. Officers; meetings; quorum.

New Section
2-428

(a) The Mayor shall designate a chairperson from among the members of the Board.

(b) The Board shall determine the times for its meetings.

(c) A majority of the members serving on the Board shall constitute a quorum.

Sec. 10. Compensation.

New Section
2-429

Members of the Board shall receive compensation in accordance with section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-612.8).

Sec. 11. Annual reports.

New Section
2-430

The Board shall, before February 1 of each year, submit to the Mayor and the Council of the District of Columbia a report of its official acts during the preceding calendar year.

Sec. 12. General powers and duties of the Mayor.

New Section
2-431

The Mayor shall:

(1) Maintain and make available for public inspection an official register of current licensees containing the name of each licensee, the known place of business and residence of each licensee, and the date of issuance and number of each license;

(2) Provide information to the public concerning application, licensing, and renewal requirements and procedures;

(3) Deposit all fees, fines, and other funds collected pursuant to this act in the General Fund of the District;

(4) Conduct investigations and inspections determined by the Mayor to be necessary to ensure compliance with the provisions of this act and rules issued pursuant to this act;

(5) Issue subpoenas in connection with an investigation or proceeding initiated pursuant to this act or rules issued pursuant to this act;

(6) Establish a schedule of fees to recover the costs associated with the regulation of occupations and salons, pursuant to this act;

(7) Process and provide licenses as required and approved by the Board;

(8) Provide administrative, budgetary, personnel, and hearing support services and facilities sufficient to enable the Board to perform its duties, as the Mayor determines is necessary or appropriate;

(9) Maintain all Board records; and

(10) Publish notice of Board meetings in the District of Columbia Register.

Sec. 13. License required.

New Section
2-432

(a) Except as otherwise provided in this act, no person shall practice without a license as a barber, cosmetologist, or specialty

cosmetologist, manage a barber salon or beauty salon, teach barbering, cosmetology, or specialty cosmetology, act as a demonstrator, or operate a barber salon, or beauty school.

(b) No individual shall act as a demonstrator unless issued a certificate of registration by the Board.

(c) An individual issued a cosmetology or specialty cosmetology license may practice only in a licensed salon under the supervision of a licensed cosmetology manager or specialty cosmetology manager.

(d) Educational, examination, and training requirements for a specialty cosmetology license shall be restricted to that which is relevant to the particular practice.

Sec. 14. Exemptions.

The provisions of this act shall not apply to:

(1) Persons authorized by law of the District of Columbia to practice medicine, surgery, registered nursing, dentistry, podiatry, naturapathy, osteopathy, or chiropractic;

(2) Individuals employed in the District by the federal government while individuals are acting in the official discharge of the duties of employment;

(3) Funeral directors and their apprentices; or

(4) Persons engaged in the practice of physical therapy or massage, stimulation, or exercising of the body when done for purposes of health and hygiene rather than for cosmetic purposes.

New Section
2-433

Sec. 15. Licenses or certificates of registration issued pursuant to prior law.

Except as otherwise provided in this act, any person licensed or registered pursuant to the District of Columbia Barber Act, approved June 7, 1938 (52 Stat. 620; D.C. Code § 2-401 *et seq.*), An Act To provide for the examination and licensing of those engaging in the practice of cosmetology in the District of Columbia, approved June 7, 1938 (52 Stat. 611; D.C. Code § 2-901 *et seq.*), or other statute, regulation, or rule repealed or superseded by this act is considered for all purposes to be licensed pursuant to this act, and may apply for renewal or reinstatement pursuant to the provisions of this act.

New Section
2-434

Sec. 16. Permitted practice.

(a) An individual may practice an occupation regulated by this act without first obtaining a license if:

(1) The individual:

(A) Is enrolled in a school licensed pursuant to this act as a candidate for a degree or certificate in an occupation, as defined in this act; or

(B) Has an initial application for an occupational license pending before the Board, and has demonstrated to the Board all the qualifications for a license other than passage of the examinations required by this act and rules issued pursuant to this act;

(2) The individual's practice is under the direct supervision of an instructor or manager licensed pursuant to this act; and

(3) The individual qualifies pursuant to, and the individual's practice is performed in accordance with, rules issued pursuant to this act.

New Section
2-435

(b) For persons permitted to practice by virtue of subsection (a)(1)(A) of this section, the authority to practice shall terminate upon the individual's completion of, or termination from, the course of instruction leading to a degree or certificate in an occupation, or as provided in rules issued pursuant to this act.

(c) For persons permitted to practice by virtue of subsection (a)(1)(B) of this section, the authority to practice shall be available only during the pendency of the individual's first application for a license pursuant to this act, and shall terminate upon the failure of the individual to pass an examination required pursuant to this act, the denial of the application, or as provided in rules issued pursuant to this act.

(d) The board shall waive the examination requirement of section 18(a)(2) for any applicant for licensure as a hair braider, manicurist, electrologist, or esthetician who presents evidence satisfactory to the board that the applicant meets the qualifications required by section 18(a)(1) and (3) and has been employed in the practice of braiding, manicuring, electrology, or esthetics on a full-time or substantially full-time basis for at least 3 of the last 5 years immediately preceding the effective date of this act, provided that the application for the waiver is made within 24 months of the effective date of this act and rules issued pursuant to this act.

Sec. 17. Application for license.

New Section
2-436

An applicant for a license shall:

- (1) Submit an application to the Board on a form required by the Board; and
- (2) Pay the applicable fees established by the Mayor.

Sec. 18. Qualifications of applicants.

New Section
2-437

(a) An applicant for an occupational license by examination shall establish to the satisfaction of the Board that the applicant:

- (1) Is at least 16 years old;
- (2) Has passed the required examinations; and
- (3) Meets any other requirements established by rule to ensure that the applicant has had the proper training and is otherwise qualified to practice the occupation, manage, or teach.

(b) An applicant for a certificate of registration to act as a demonstrator shall meet the requirements of subsection (a)(1) and (2) of this section.

(c) An applicant for salon license shall establish to the satisfaction of the Board that the applicant:

- (1) Owns or leases the salon;
- (2) Employs an individual who is licensed as a manager by the Board; and
- (3) Meets any other requirements to ensure that the applicant has the qualifications to properly operate the salon, including meeting criteria governing facilities, equipment, staff, management, procedures, recordkeeping, and supervision of individuals who are practicing without a license pursuant to section 16(a).

Sec. 19. Reciprocity or endorsement.

New Section
2-438

The Board, in its discretion, may issue an occupational license by reciprocity or endorsement to an applicant:

- (1) Who is licensed or certified and in good standing in another state and who meets the criteria of the Board; and
- (2) Who pays the applicable fee established by the Mayor.

Sec. 20. Inspections.

New Section
2-439

The owner, manager, and employees of a salon shall permit the Mayor access to the premises and records of the salon for the purpose of conducting an inspection of the premises to determine compliance with District codes, determining qualifications of an applicant, compliance of a licensee with this act, or whether a non-licensee is in violation of this act.

Sec. 21. Denial of license.

New Section
2-440

The Board may deny a license to an applicant who has failed to submit evidence satisfactory to the Board that the applicant meets the qualifications for licensure under this act or rules promulgated pursuant to this act.

Sec. 22. Disciplinary action.

New Section
2-441

(a) The Board may take 1 or more of the disciplinary actions provided for in subsection (b) of this section against a respondent who, in the performance of services authorized by the license held:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the respondent or for another person;
- (2) Fraudulently or deceptively uses a license;
- (3) Is disciplined by any licensing or disciplinary authority, or convicted or disciplined by any court for conduct that would be grounds for disciplinary action pursuant to this act;
- (4) Is convicted by any court of, or pleads guilty or nolo contendere to, a crime that bears directly on the fitness of the person to be licensed;
- (5) Is mentally incompetent to practice or physically incapable of practicing the occupation for which the person is licensed;
- (6) Willfully files or prepares a false document in the practice of an occupation;
- (7) Willfully practices an occupation with an unauthorized individual, or aids or employs an unauthorized individual in the practice of an occupation;
- (8) Refuses to provide service to a person in contravention of the Human Rights Act of 1976, effective December 13, 1977 (D.C. Law 2-38; D.C Code § 1-2501 *et seq.*)
- (9) Performs, offers, or attempts to perform services beyond the scope of those authorized by the license held, this act, or rules issued pursuant to this act;
- (10) Demonstrates gross negligence with respect to the health or safety of a client, regardless of whether the client sustains actual injury as a result;
- (11) Practices or attempts to practice an occupation while under the influence of alcohol or while using any narcotic or controlled substance as defined by the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Code § 33-501 *et seq.*), or while using any other drug in excess of medically prescribed amounts;

(12) Violates this act, a rule issued pursuant to this act, or other District law applicable to the occupations and salons regulated pursuant to this act, including laws regarding public health;

(13) Violates an order of, or an agreement, consent decree, or negotiated settlement entered into with, the Board, the Mayor, or a court;

(14) Fails or refuses to comply with a subpoena issued by the Board or the Mayor pursuant to this act;

(15) Fails or refuses to provide the Board or the Mayor with access to a salon or records of a salon;

(16) Fails or refuses to pay a civil fine imposed by the Board, the Mayor, or a court; or

(17) Fails to conform to standards of acceptable and prevailing practice within an occupation, as determined by the Board.

(b) Upon a determination by the Board that a respondent committed any of the acts described in subsection (a) of this section, the Board may:

(1) Deny a license to the respondent;

(2) Revoke or suspend the license of the respondent;

(3) Revoke or suspend the privilege to practice in the District of any respondent permitted by this act to practice in the District;

(4) Reprimand the respondent;

(5) Impose a civil fine not to exceed \$5,000 for each violation;

(6) Require a course of remediation, approved by the Board, that may include:

(A) Therapy or treatment;

(B) Retraining; and

(C) Reexamination in a manner prescribed by the Board;

(7) Require a period of probation; or

(8) Issue a cease and desist order pursuant to section 31.

(c) Nothing in this act shall preclude prosecution for a criminal violation of law regardless of whether the same violation has been or is the subject of 1 or more of the disciplinary actions provided by this act. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative or civil action.

Sec. 23. Owners and managers.

New Section
2-442

(a) The owner and manager (including master barbers) of a salon employing an unlicensed individual practicing pursuant to this act shall be responsible for supervision of the practice of occupations in the owner's salon employing an unlicensed individual, and shall be subject to disciplinary action for violations of this act occurring in the course of the operation.

(b) The owner of a salon shall notify the Board in writing of any change in designated managers within 15 days of the change.

(c) The manager of a salon shall be responsible for the direct supervision of the practice of occupations in the salon, and for otherwise directing the operations of the salon, and shall be subject to disciplinary action for violations of this act occurring in the salon while on duty.

(d) The owner of a salon shall maintain a manager licensed by the the Board on the premises during all hours of operation.

Sec. 24. Voluntary surrender of occupational license.

New Section
2-443

(a) A licensee who is the subject of an investigation into, or a pending proceeding involving allegations of, misconduct may voluntarily surrender his or her license or privilege to practice in the District by delivering to the Board an affidavit stating that the licensee desires to surrender the license or privilege and that the action is freely and voluntarily taken and not the result of duress or coercion.

(b) Upon receipt of an affidavit submitted pursuant to this section, the Board shall enter an order revoking or suspending the license or the privilege to practice.

(c) The voluntary surrender of a license shall not preclude the imposition of civil or criminal proceedings against the licensee.

Sec. 25. Term and renewal of license.

New Section
2-444

(a) A license shall be issued for a period to be determined by the Mayor.

(b) At least 30 days before the license expires, or a greater period as established by the Mayor by rule, the Board shall send to each licensee, by first class mail to the last known address of the licensee, a renewal notice that states:

(1) The date that the license expires;

(2) The date by which a renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and

(3) The amount of the renewal fee.

(c) Before the license expires, a licensee may renew it if the licensee:

(1) Submits a timely application to the Board;

(2) Is otherwise entitled to be licensed; and

(3) Pays the renewal fee established by the Mayor.

Sec. 26. Display of license; change of address.

New Section
2-445

(a) A licensee shall display the license conspicuously in all places of business or employment of the licensee.

(b) A licensee shall notify the Board of any change of address of the licensee's place of residence, business, or employment within 30 days after the change of address.

Sec. 27. Reinstatement of expired license.

New Section
2-446

(a) An applicant for reinstatement of an expired license shall:

(1) Establish to the satisfaction of the Board that the applicant meets the requirements for reinstatement of expired licenses as established by rule;

(2) Apply for reinstatement of the license within 5 years after the date of expiration of the license; and

(3) Pay a reinstatement fee established by the Mayor.

(b) For purposes of subsection (a)(2) of this section, the effective date of this act shall be deemed the expiration date of a license that expired prior to this act.

(c) The Board shall not reinstate the license of any person who fails to apply for reinstatement of a license within 5 years after the license expires. The applicant may become licensed by meeting the

requirements then in existence for obtaining an initial license under this act.

Sec. 28. Reinstatement of revoked licenses.

New Section
2-447

An applicant for reinstatement of a license that has been revoked shall:

- (1) Establish to the satisfaction of the Board regulating the occupation or salon that the applicant meets the requirements established by rule to ensure that the applicant is qualified for reinstatement, and that reinstatement of the license will not be detrimental to the public interest or the integrity of the occupation or type of salon; and
- (2) Pay the reinstatement fee established by the Mayor.

Sec. 29. Hearings.

New Section
2-448

(a) Before denying a license or taking other disciplinary action against a respondent, the Board shall give the respondent an opportunity for a hearing before the Board, except where the denial of an occupational license is based solely on the respondent's failure to meet minimum qualifications.

(b) The Board may request respondents to attend a settlement conference and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) The Board shall send a notice of intended action or hearing by certified mail to the last known address of the respondent at least 15 days before the hearing.

(d) A respondent has the right to be represented by counsel at a hearing.

(e) The Board may administer oaths, require the attendance and testimony of witnesses, and the production of books, papers, and other evidence in connection with any proceeding pursuant to this section.

(f) In case of failure or refusal to obey a subpoena issued by the Board to any person, the Board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If a respondent fails to request or appear at a hearing, the Board may issue a final decision without conducting a hearing.

(h) The Board shall issue a final decision in writing within 90 days after conducting a hearing or after the failure of a respondent to request or appear at a hearing.

(i) The Board may delegate its authority to conduct a hearing and issue a final decision to a panel of 3 members of the Board or to the Office of Adjudication of the Department of Consumer and Regulatory Affairs in accordance with rules issued pursuant to this act.

Sec. 30. Summary actions.

New Section
2-449

(a) If the Mayor determines, after investigation, that the conduct of a respondent presents an imminent danger to the public, the Mayor may summarily suspend or restrict, without a hearing, the respondent's license.

(b) The Mayor, at the time of a summary suspension or restriction of a license, shall provide the respondent with a written notice stating

the action that is being taken, the basis for the action, and the right of the respondent to request a hearing.

(c) A respondent shall have the right to request a hearing within 15 days after service of a notice of summary suspension or restriction of the license. The Mayor shall hold a hearing within 3 days of receipt of timely request, and shall issue a decision within 3 days after the hearing.

Sec. 31. Cease and desist orders.

New Section
2-450

(a) When the Board or the Mayor, prior to a hearing, has cause to believe that a person is violating any provision of this act, or rules issued pursuant to this act, and the violation has caused or may cause immediate and irreparable harm to the public, the Board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(b)(1) An alleged violator may, within 15 days of the service of an order, submit a written request to the Board or the Mayor to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the Board or the Mayor shall, within 30 days of receiving the request, serve an alleged violator with a written notice of hearing, conduct the hearing no more than 30 days after service of the hearing notice, and render a decision within 3 days after the hearing.

(c)(1) An alleged violator may, within 10 days of the service of an order, submit a written request to the Board or the Mayor for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by section 29(c).

(2) The Board or the Mayor shall serve an alleged violator with a written notice of hearing no more than 5 days after the receipt of a timely request for an expedited hearing and shall conduct a hearing no less than 3 days after service of the hearing notice on the alleged violator and no more than 10 days after receipt of the request for an expedited hearing.

(3) The Board or the Mayor shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made within 15 days of the service of an order, the order of the Board or the Mayor to cease and desist is final.

(e) If any person fails to comply with an order of the Board or the Mayor issued pursuant to this section, the Board or the Mayor may petition the Superior Court of the District of Columbia to issue an order compelling compliance or take any action authorized by this act.

Sec. 32. Judicial review.

New Section
2-451

A person aggrieved by a final decision of the Board or the Mayor may appeal the decision to the District of Columbia Court of Appeals pursuant to section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Code § 1-1510).

Sec. 33. Prohibited acts.

No person shall:

New Section
2-452

(1) Represent to the public by title, designation, descriptive material, or otherwise that the person is authorized to engage in activities for which a license is required pursuant to this act, unless the person is licensed or exempt from licensing pursuant to this act;

(2) Knowingly make a statement to the Board or the Mayor that is false or misleading;

(3) Knowingly file, or attempt to file, with the Board or the Mayor any submission that is false or misleading;

(4) Sell or fraudulently obtain or furnish any submission required by this act, or rules issued pursuant to this act, by the Board or by the Mayor; or

(5) Charge a fee to the public for services or materials used in connection with a sales demonstration of cosmetic preparations or other products or equipment for use in a practice regulated pursuant to this act.

Sec. 34. Criminal and civil sanctions.

New Section
2-453

(a) Any person who violates any provision of this act shall, upon conviction, be subject to imprisonment not to exceed 6 months, or a fine not to exceed \$1,000, or both. Each unlawful act shall constitute a separate violation of this act.

(b) Any person who has been previously convicted pursuant to this act shall, upon conviction, be subject to imprisonment not to exceed 1 year, or a fine not to exceed \$5,000, or both.

(c) Civil fines and penalties may be imposed as alternative sanctions for any violation of the provisions of this act, or rules issued under the authority of this act, pursuant to titles I through III the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 ("Civil Infractions Act"), effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2701 *et seq.*). The adjudication of any infraction issued pursuant to the Civil Infractions Act shall be pursuant to titles I through III of the Civil Infractions Act.

Sec. 35. Prosecutions.

New Section
2-454

(a) Prosecutions for violations of this act shall be brought by the Corporation Counsel in the name of the District.

(b) In prosecutions initiated pursuant to this act, a person claiming an exemption from a licensing requirement of this act shall have the burden of proving entitlement to the exemption.

Sec. 36. Injunctions.

New Section
2-455

(a) The Corporation Counsel may bring an action for injunctive relief in the Superior Court of the District of Columbia in the name of the District.

(b) Remedies established by this section are in addition to criminal sanctions, civil sanctions, and disciplinary action by the Board.

(c) In any proceeding pursuant to this section, it shall not be necessary to prove that any person is injured by the violation alleged.

Sec. 37. Amendments.

DCMR

Section 1.1(b) of the Regulation Establishing Administrative Rules for Occupational and Professional Licensing Boards, enacted January 28,

1972 (Reg. 72-3; 17 DCMR 100.1), is amended by striking the phrases "(2) Board of Barber Examiners;" and "(4) Board of Cosmetology;".

Sec. 38. Repeals.

(a) The District of Columbia Barber Act, approved June 7, 1938 (52 Stat. 620; D.C. Code § 2-401 *et seq.*), is repealed. §§ 2-401 - 2-419

(b) An Act To provide for the examination and licensing of those engaging in the practice of cosmetology in the District of Columbia, approved June 7, 1938 (52 Stat. 622; D.C. Code § 2-901 *et seq.*), is repealed. §§ 2-901 - 2-928

(c) The Board of Barber Examiners for the District of Columbia, established by section 3 of the District of Columbia Barber Act, approved June 7, 1938 (52 Stat. 620; D.C. Code § 2-1103 (1973 edition)), which was abolished and the functions redelegated by Reorganization Plan No. 5 of 1952, and the functions of which were eventually delegated to the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983, is abolished.

(d) The District of Columbia Board of Cosmetology, established by section 2 of An Act To provide for the examination and licensing of those engaging in the practice of cosmetology in the District of Columbia, approved June 7, 1938 (52 Stat. 612; D.C. Code § 2-902), is abolished. Note, Section 2-902

Sec. 39. Regulations.

(a) The Mayor shall issue all rules necessary to implement the provisions of this act, including: New Section 2-456

(1) The establishment of qualifications for licenses issued pursuant to this act;

(2) The establishment of minimum standards of practice for occupational licensees;

(3) The delineation of the scope of practice or responsibilities of occupational licensees, and any restrictions on practice activities;

(4) The establishment of minimum standards of operation for salon licensees, including health standards and requirements concerning facilities, equipment, staff, management, procedures, recordkeeping, and supervising individuals who are practicing without a license pursuant to section 16(a); and

(5) The addition of disciplinary grounds determined by the Mayor to be necessary for the protection of the public.

(b) The following regulations, to the extent they are consistent with and are not superseded by the provisions of this act, shall remain in effect until the Mayor issues rules pursuant to this act:

(1) The Regulations Concerning Barber Shops and the Practice of Barbering, issued March 9, 1961, (C.O. 61-412; 17 DCMR Chapter 37).

(2) The Regulations Governing Beauty Shops and the Practice of Cosmetology, issued June 23, 1955 (C.O. 55-1193; 17 DCMR Chapter 38).

Sec. 40. Transitional provisions.

(a) The personnel, records, property, unexpended balances of appropriations, and other funds that relate to the functions of the Board of Barber Examiners for the District of Columbia abolished by this act are transferred to the Barber and Cosmetology Board established by this act. Note, New Section 2-422

(b) The personnel, records, property, unexpended balances of appropriations, and other funds that relate primarily to the functions of the District of Columbia Board of Cosmetology abolished by this act are transferred to the Barber and Cosmetology Board established by this act.

(c) The members of the existing Boards shall continue to serve until a majority of the members appointed pursuant to section 3 are installed.

Sec. 41. Pending actions and proceedings; existing orders.

(a) No suit, action, or judicial or administrative proceeding commenced by or against any person, or board abolished by this act, or any member, officer or employee of the board abolished by this act in his or her official capacity, shall abate by reason of the taking of effect of this act. The action or proceeding shall be continued with substitutions as to parties and officers or agencies as are appropriate.

(b) All decisions issued by the boards abolished by this act shall continue in effect until modified, rescinded, or superseded by action of their successor Board.

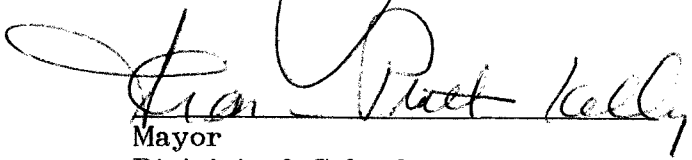
Note, New
Section
2-421

Sec. 42. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: January 6, 1993



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Nine

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 9-500

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 12-1-92

VOICE VOTE: Approved

Recorded vote on request

Absent: Cropp, Jarvis and Thomas

ROLL CALL VOTE: — RESULT _____ (___/___/___)

| COUNCIL MEMBER | AYE | NAY | N.V. | A.B. | COUNCIL MEMBER | AYE | NAY | N.V. | A.B. | COUNCIL MEMBER | AYE | NAY | N.V. | A.B. |
|----------------|-----|-----|------|------|----------------|-----|-----|------|------|----------------|-----|-----|------|------|
| CHMN. WILSON | | | | | JARVIS | | | | | ROLARK | | | | |
| BRAZIL | | | | | LIGHTFOOT | | | | | SMITH, JR. | | | | |
| CRAWFORD | | | | | MASON | | | | | THOMAS, SR. | | | | |
| CROPP | | | | | NATHANSON | | | | | | | | | |
| EVANS | | | | | RAY | | | | | | | | | |

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

December 22, 1992
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 12-15-92

VOICE VOTE: Approved

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT _____ (___/___/___)

| COUNCIL MEMBER | AYE | NAY | N.V. | A.B. | COUNCIL MEMBER | AYE | NAY | N.V. | A.B. | COUNCIL MEMBER | AYE | NAY | N.V. | A.B. |
|----------------|-----|-----|------|------|----------------|-----|-----|------|------|----------------|-----|-----|------|------|
| CHMN. WILSON | | | | | JARVIS | | | | | ROLARK | | | | |
| BRAZIL | | | | | LIGHTFOOT | | | | | SMITH, JR. | | | | |
| CRAWFORD | | | | | MASON | | | | | THOMAS, SR. | | | | |
| CROPP | | | | | NATHANSON | | | | | | | | | |
| EVANS | | | | | RAY | | | | | | | | | |

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

[Signature]
Secretary to the Council

December 22, 1992
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (___/___/___)

| COUNCIL MEMBER | AYE | NAY | N.V. | A.B. | COUNCIL MEMBER | AYE | NAY | N.V. | A.B. | COUNCIL MEMBER | AYE | NAY | N.V. | A.B. |
|----------------|-----|-----|------|------|----------------|-----|-----|------|------|----------------|-----|-----|------|------|
| CHMN. WILSON | | | | | JARVIS | | | | | ROLARK | | | | |
| BRAZIL | | | | | LIGHTFOOT | | | | | SMITH, JR. | | | | |
| CRAWFORD | | | | | MASON | | | | | THOMAS, SR. | | | | |
| CROPP | | | | | NATHANSON | | | | | | | | | |
| EVANS | | | | | RAY | | | | | | | | | |

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date