

AN ACT

ENTITLED, An Act to repeal the manager license, revise the requirements for a salon license, and revise the requirements for an instructor license with regard to the practice of cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 36-15-1 be amended to read as follows:

36-15-1. Terms used in this chapter mean:

- (1) "Apprentice," any person licensed by the commission to receive education through an apprenticeship in a salon;
- (2) "Apprentice salon," any salon licensed by the commission to teach apprentices;
- (3) "Booth," any part within a licensed salon that is rented or leased for the purpose of rendering licensed cosmetology services as a separate, independent salon business;
- (4) "Commission," the Cosmetology Commission as established and created in § 36-15-3;
- (5) "Cosmetologist," any person who, for compensation, engages in any of the practices of cosmetology;
- (6) "Cosmetology," any one or any combination of the practices set forth in § 36-15-2;
- (7) "Demonstrator," any person licensed to practice cosmetology, nail technology, or esthetics in this state, in another state, or in another country, who demonstrates the various practices of cosmetology, as applicable, in order to inform or educate other licensees or the public;
- (8) "Esthetician," any person who, for compensation, engages in the practice of esthetics, but not in other practices of cosmetology;
- (9) "Esthetics," any one or any combination of the practices set forth in § 36-15-2.2;
- (10) "Junior instructor," any person licensed by the commission to instruct in a school and who is enrolled in instructor education as set forth in § 36-15-26;

- (11) "Nail technology," any one or any combination of the practices set forth in § 36-15-17.2;
- (12) "Nail technician," any person who, for compensation, engages in the practice of nail technology, but not in other practices of cosmetology;
- (13) "Salon," any place, premise, or building or any part of a building operated for the purpose of engaging in the practice of cosmetology, nail technology, or esthetics, or any combination of these practices;
- (14) "School," any place, premise, or building that is licensed by the commission to provide education to students in the practice of cosmetology, nail technology, or esthetics, or any combination of these practices;
- (15) "Senior instructor," any person licensed by the commission to instruct in a school who has previous instructor education and experience and meets the requirements set forth in § 36-15-25;
- (16) "Student," any person who is licensed by the commission to receive education in a licensed school.

Section 2. That § 36-15-21 be repealed.

Section 3. That § 36-15-21.1 be repealed.

Section 4. That § 36-15-21.2 be repealed.

Section 5. That § 36-15-21.3 be repealed.

Section 6. That § 36-15-25 be amended to read as follows:

36-15-25. No person may teach in a school unless that person is licensed by the commission as an instructor. Any person may qualify and be licensed by the commission as a senior instructor for cosmetology, nail technology, or esthetics, as applicable, upon application made to the commission.

The application shall be accompanied by satisfactory evidence that the applicant:

- (1) Possesses the qualifications required by § 36-15-15;

- (2) Currently holds a valid cosmetologist, nail technician, or esthetician license, as applicable;
- (3) Has complied with any instructor education as prescribed by § 36-15-26.2;
- (4) Has completed the requirements as a junior instructor set forth in § 36-15-26 or has at least one year of teaching experience as a licensed instructor from another state in cosmetology, nail technology, or esthetics, as applicable; and
- (5) Has passed an examination prescribed by the commission.

However, the applicant may receive the license conditionally, dependent on completing instructor education and passing the examination as prescribed by the commission in rules adopted pursuant to chapter 1-26.

A senior instructor with a cosmetologist license may instruct in any practice of cosmetology. A senior instructor with a nail technician license may only instruct in the practice of nail technology. A senior instructor with an esthetician license may only instruct in the practice of esthetics.

Section 7. That § 36-15-26 be amended to read as follows:

36-15-26. Any person may qualify and be licensed by the commission as a junior instructor for cosmetology, nail technology, or esthetics, as applicable, upon application made to the commission.

The application shall be accompanied by satisfactory evidence that such applicant:

- (1) Possesses the qualifications required by § 36-15-15;
- (2) Currently holds a valid cosmetologist, nail technician, or esthetician license, as applicable;
- (3) Has complied with any instructor education as required by § 36-15-26.2;
- (4) Will be working and providing education in a licensed school in this state under the supervision of a senior instructor;
- (5) Has completed at least one thousand hours salon experience as a licensed cosmetologist, nail technician, or esthetician, as applicable; and
- (6) Has passed an examination prescribed by the commission.

However, the applicant may receive the license conditionally, dependent on completing instructor education and passing the examination as prescribed by the commission in rules adopted pursuant to chapter 1-26.

A junior instructor with a cosmetologist license may instruct in any practice of cosmetology and shall be supervised by a senior cosmetologist instructor. A junior instructor with a nail technician license may only instruct in the practice of nail technology and shall be supervised by a senior cosmetologist instructor or a senior nail technician instructor. A junior instructor with an esthetician license may only instruct in the practice of esthetics and shall be supervised by a senior cosmetologist instructor or a senior esthetician instructor.

Section 8. That § 36-15-51.1 be amended to read as follows:

36-15-51.1. The owner of a salon or booth shall apply to the commission for a new license pursuant to § 36-15-51 if:

- (1) A salon or booth address is changed;
- (2) Sole ownership is changed;
- (3) A partnership has a change in any partner; or
- (4) The controlling ownership in a corporation is transferred or a corporation is reorganized.

The application shall be accompanied by the license fee provided for in this chapter. The commission may issue a temporary permit to the applicant which is valid for ninety days. During that time, the commission shall inspect the premises. The owner or manager of a salon or booth that changes location or ownership or is closed shall immediately notify the commission of that fact.

Section 9. That § 36-15-53.1 be repealed.

Section 10. That § 36-15-60 be amended to read as follows:

36-15-60. No person may:

- (1) Practice cosmetology, nail technology, or esthetics without a license;

- (2) Intentionally make any false oath or affirmation whenever an oath or affirmation is required by this chapter or rules promulgated to this chapter;
- (3) Fail to display any license in a conspicuous place in the salon, booth, or school;
- (4) Fail to comply with the plumbing, electrical, physical, or sanitary requirements as stated in the rules promulgated by the commission;
- (5) Charge or receive compensation for teaching an apprentice any of the practices of cosmetology;
- (6) Operate a school without a license as provided for in this chapter;
- (7) Employ or allow any unlicensed person to perform work which under this chapter may lawfully be done only by licensed persons;
- (8) Operate a salon, booth, or school for any of the practices of cosmetology without having first obtained the applicable license as provided in this chapter;
- (9) Practice any cosmetology services for which the commission requires additional continuing education in which the education has not been completed; and
- (10) Do any act prohibited by this chapter.

A violation of this section is a Class 2 misdemeanor.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1040

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1040
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor

=====
STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State