H-3803.1				

SUBSTITUTE HOUSE BILL 2512

State of Washington 63rd Legislature 2014 Regular Session

By House Business & Financial Services (originally sponsored by Representative Kirby)

READ FIRST TIME 02/03/14.

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- 1 AN ACT Relating to cosmetology, hair design, barbering, esthetics,
- 2 and manicuring; amending RCW 18.16.030, 18.16.050, 18.16.060,
- 3 18.16.130, 18.16.170, 18.16.175, 18.16.180, 18.16.190, 18.16.200,
- 4 18.16.290, and 18.16.900; and reenacting and amending RCW 18.16.020.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 6 **Sec. 1.** RCW 18.16.020 and 2013 c 187 s 1 are each reenacted and 7 amended to read as follows:
 - As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:
- 10 (1) "Apprentice" means a person who is engaged in a state-approved 11 apprenticeship program and who must receive a wage or compensation 12 while engaged in the program.
- (2) "Apprentice monthly report" means the apprentice record of daily activities and the number of hours completed in each course of a curriculum that is prepared monthly by the approved apprenticeship program and provided to the apprentice, audited annually by the department, and kept on file by the approved apprenticeship program for three years.

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- 1 (3) "Apprentice trainer" means a person who gives training to an 2 apprentice in an approved apprenticeship program and who is approved 3 under RCW 18.16.280.
 - (4) "Apprenticeship program" means a state-approved apprenticeship program pursuant to chapter 49.04 RCW and approved under RCW 18.16.280 for the training of cosmetology, <u>hair design</u>, barbering, esthetics, master esthetics, and manicuring.
 - (5) "Apprenticeship training committee" means a committee approved by the Washington apprenticeship and training council established in chapter 49.04 RCW.
 - (6) "Approved apprenticeship shop" means a salon/shop that has been approved under RCW 18.16.280 and chapter 49.04 RCW to participate in an apprenticeship program.
 - (7) "Approved security" means surety bond.

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- 15 (8) "Barber" means a person licensed under this chapter to engage 16 in the practice of barbering.
- 17 (9) "Board" means the cosmetology, <u>hair design</u>, barbering, 18 esthetics, and manicuring advisory board.
 - (10) "Cosmetologist" means a person licensed under this chapter to engage in the practice of cosmetology.
 - (11) "Crossover training" means training approved by the director as training hours that may be credited to current licensees for similar training received in another profession licensed under this chapter.
 - (12) "Curriculum" means the courses of study taught at a school, ((er)) online by a school, in an approved apprenticeship program established by the Washington state apprenticeship and training council and conducted in an approved salon/shop, or online by an approved apprenticeship program, set by rule under this chapter, and approved by the department. After consulting with the board, the director may set by rule a percentage of hours in a curriculum, up to a maximum of ten percent, that could include hours a student receives while training in a salon/shop under a contract approved by the department. Each curriculum must include at least the following required hours:
 - (a) School curriculum:
- (i) Cosmetologist, one thousand six hundred hours;
- 36 (ii) Hair design, one thousand four hundred hours;
- 37 (iii) Barber, one thousand hours;
- 38 (((iii))) <u>(iv)</u> Manicurist, six hundred hours;

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1 (((iv))) (v) Esthetician, seven hundred fifty hours;
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- $((\frac{v}{v}))$ (vi) Master esthetician either:
- (A) One thousand two hundred hours; or

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- 4 (B) Esthetician licensure plus four hundred fifty hours of training;
 - (vi) Instructor-trainee, five hundred hours.
 - (b) Apprentice training curriculum:
 - (i) Cosmetologist, two thousand hours;
- 9 (ii) Hair design, one thousand seven hundred fifty hours;
- 10 (iii) Barber, one thousand two hundred hours;
- 11 (((iii))) <u>(iv)</u> Manicurist, eight hundred hours;
- 12 (((iv))) <u>(v)</u> Esthetician, eight hundred hours;
- (((v))) <u>(vi)</u> Master esthetician, one thousand four hundred hours.
- 14 (13) "Department" means the department of licensing.
- 15 (14) "Director" means the director of the department of licensing 16 or the director's designee.
 - (15) "Distance or online learning" means theory training provided online, by a school licensed under this chapter or an approved apprenticeship program established by the Washington state apprenticeship and training council, in the areas of cosmetology, manicuring, barbering, esthetics, and instructor-training.
- 22 (16) "Esthetician" means a person licensed under this chapter to 23 engage in the practice of esthetics.
 - ((\(\frac{(16)}{16}\))) (17) "Hair design" means the practice of arranging, dressing, cutting, trimming, styling, extensions, weaving, shampooing, permanent waving, chemical relaxing, straightening, curling, bleaching, lightening, coloring, mustache and beard design, and superficial skin stimulation of the scalp.
- 29 (18) "Hair designer" means a person licensed under this chapter to 30 engage in the practice of hair design.
 - (19) "Individual license" means a cosmetology, <u>hair design</u>, barber, manicurist, esthetician, master esthetician, or instructor license issued under this chapter.
 - (((17))) (20) "Instructor" means a person who gives instruction in a school, or who provides classroom theory training to apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this chapter, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a

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school, and has passed a licensing examination approved or administered 1 2 by the director. An applicant who holds a degree in education from an 3 accredited postsecondary institution shall upon application be licensed 4 as an instructor to give instruction in a school, or to provide 5 classroom theory training to apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this 6 7 chapter. An applicant who holds an instructional credential from an 8 accredited community or technical college and who has passed a licensing examination approved or administered by the director shall 9 10 upon application be licensed as an instructor to give instruction in a school, or to provide classroom theory training to apprentices in 11 12 locations other than in a school, in a curriculum in which he or she 13 holds a license under this chapter. To be approved as an "instructor" 14 in an approved apprenticeship program, the instructor must be a competent instructor as defined in rules adopted under chapter 49.04 15 16 RCW.

- $((\frac{18}{18}))$ (21) "Instructor-trainee" means a person who is currently licensed in this state as a cosmetologist, barber, manicurist, esthetician, or master esthetician, and is enrolled in an instructor-trainee curriculum in a school licensed under this chapter.
- 21 $((\frac{(19)}{(19)}))$ "Location license" means a license issued under this 22 chapter for a salon/shop, school, personal services, or mobile unit.
- $((\frac{(20)}{(20)}))$ "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.
 - $((\frac{21}{21}))$ <u>(24)</u> "Master esthetician" means a person licensed under this chapter to engage in the practice of master esthetics.
 - $((\frac{22}{2}))$ <u>(25)</u> "Mobile unit" is a location license under this chapter where the practice of cosmetology, barbering, esthetics, master esthetics, or manicuring is conducted in a mobile structure. Mobile units must conform to the health and safety standards set by rule under this chapter.
 - $((\frac{(23)}{)})$ <u>(26)</u> "Person" means any individual, partnership, professional service corporation, joint stock association, joint venture, or any other entity authorized to do business in this state.
 - $((\frac{24}{1}))$ (27) "Personal services" means a location licensed under this chapter where the practice of cosmetology, barbering, manicuring, esthetics, or master esthetics is performed for clients in the client's home, office, or other location that is convenient for the client.

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 $((\frac{(25)}{)})$ (28) "((The)) Practice of barbering" means the cutting, trimming, arranging, dressing, curling, shampooing, shaving, and mustache and beard design of the hair of the face, neck, and scalp.

(((26))) (<u>29)</u> "((The)) Practice of cosmetology" means arranging, dressing, cutting, trimming, styling, shampooing, permanent waving, chemical relaxing, straightening, curling, bleaching, lightening, coloring, waxing, tweezing, shaving, and mustache and beard design of the hair of the face, neck, and scalp; temporary removal of superfluous hair by use of depilatories, waxing, or tweezing; manicuring and pedicuring, limited to cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and nails of the hands and feet, excluding the application and removal of sculptured or otherwise artificial nails; esthetics limited to toning the skin of the scalp, stimulating the skin of the body by the use of preparations, tonics, lotions, or creams; and tinting eyelashes and eyebrows.

((\(\frac{(27+)}{(30)}\)] "Practice of esthetics" means the care of the skin for compensation by application, use of preparations, antiseptics, tonics, essential oils, exfoliants, superficial and light peels, or by any device, except laser, or equipment, electrical or otherwise, or by wraps, compresses, cleansing, conditioning, stimulation, superficial skin stimulation, pore extraction, or product application and removal; temporary removal of superfluous hair by means of lotions, creams, appliance, waxing, threading, tweezing, or depilatories, including chemical means; and application of product to the eyelashes and eyebrows, including extensions, design and treatment, tinting and lightening of the hair, excluding the scalp. Under no circumstances does the practice of esthetics include the administration of injections.

 $((\frac{28}{28}))$ (31) "Practice of manicuring" means the cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and the nails of the hands or feet, and the application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.

 $((\frac{29}{1}))$ (32) "Practice of master esthetics" means the care of the skin for compensation including all of the methods allowed in the definition of the practice of esthetics. It also includes the performance of medium depth peels and the use of medical devices for care of the skin and permanent hair reduction. The medical devices

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include, but are not limited to, lasers, light, radio frequency, plasma, intense pulsed light, and ultrasound. The use of a medical device must comply with state law and rules, including any laws or rules that require delegation or supervision by a licensed health professional acting within the scope of practice of that health profession.

- ((\(\frac{(30)}{30}\))) (33) "Salon/shop" means any building, structure, or any part thereof, other than a school, where the commercial practice of cosmetology, barbering, hair design, esthetics, master esthetics, or manicuring is conducted; provided that any person, except employees of a salon/shop, who operates from a salon/shop is required to meet all salon/shop licensing requirements and may participate in the apprenticeship program when certified as established by the Washington state apprenticeship and training council established in chapter 49.04 RCW.
- 16 (((31))) <u>(34)</u> "School" means any establishment that offers 17 curriculum of instruction in the practice of cosmetology, barbering, 18 esthetics, master esthetics, manicuring, or instructor-trainee to 19 students and is licensed under this chapter.
 - $((\frac{32}{1}))$ (35) "Student" means a person sixteen years of age or older who is enrolled in a school licensed under this chapter and receives instruction in any of the curricula of cosmetology, barbering, hair design, esthetics, master esthetics, manicuring, or instructor-training with or without tuition, fee, or cost, and who does not receive any wage or commission.
 - (((33))) <u>(36)</u> "Student monthly report" means the student record of daily activities and the number of hours completed in each course of a curriculum that is prepared monthly by the school and provided to the student, audited annually by the department, and kept on file by the school for three years.
- **Sec. 2.** RCW 18.16.030 and 2013 c 187 s 2 are each amended to read 32 as follows:
- In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director shall have the following powers and duties:
- 36 (1) To set all license, examination, and renewal fees in accordance 37 with RCW 43.24.086;

1 (2) To adopt rules necessary to implement this chapter;

- (3) To prepare and administer or approve the preparation and administration of licensing examinations;
 - (4) To establish minimum safety and sanitation standards for schools, instructors, cosmetologists, barbers, <u>hair designers</u>, manicurists, estheticians, master estheticians, salons/shops, personal services, and mobile units;
 - (5) To establish curricula for the training of students and apprentices under this chapter;
- (6) To maintain the official department record of applicants and licensees;
- 12 (7) To establish by rule the procedures for an appeal of an examination failure;
- 14 (8) To set license expiration dates and renewal periods for all licenses consistent with this chapter;
 - (9) To ensure that all informational notices produced and mailed by the department regarding statutory and regulatory changes affecting any particular class of licensees are mailed to each licensee in good standing or on inactive status in the affected class whose mailing address on record with the department has not resulted in mail being returned as undeliverable for any reason; and
- 22 (10) To make information available to the department of revenue to 23 assist in collecting taxes from persons required to be licensed under 24 this chapter.
- **Sec. 3.** RCW 18.16.050 and 2013 c 187 s 3 are each amended to read as follows:
 - (1) There is created a state cosmetology, hair design, barbering, esthetics, and manicuring advisory board consisting of a maximum of ten members appointed by the director. These members of the board shall include: A representative of private schools licensed under this chapter; a representative from an approved apprenticeship program conducted in an approved salon/shop; a representative of public vocational technical schools licensed under this chapter; a consumer who is unaffiliated with the cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring industry; and six members who are currently practicing licensees who have been engaged in the practice of manicuring, esthetics, master esthetics, barbering, <a href="hair.com/

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- 1 <u>design</u>, or cosmetology for at least three years. Members shall serve
- 2 a term of three years. Any board member may be removed for just cause.
- 3 The director may appoint a new member to fill any vacancy on the board
- 4 for the remainder of the unexpired term.
- 5 (2) Board members shall be entitled to compensation pursuant to RCW
- 6 43.03.240 for each day spent conducting official business and to
- 7 reimbursement for travel expenses as provided by RCW 43.03.050 and
- 8 43.03.060.
- 9 (3) The board may seek the advice and input of officials from the
- 10 following state agencies: (a) The workforce training and education
- 11 coordinating board; (b) the employment security department; (c) the
- department of labor and industries; (d) the department of health; (e)
- 13 the department of licensing; and (f) the department of revenue.
- 14 Sec. 4. RCW 18.16.060 and 2013 c 187 s 4 are each amended to read
- 15 as follows:
- 16 (1) It is unlawful for any person to engage in a practice listed in
- 17 subsection (2) of this section unless the person has a license in good
- 18 standing as required by this chapter. A license issued under this
- 19 chapter shall be considered to be "in good standing" except when:
- 20 (a) The license has expired or has been canceled and has not been
- 21 renewed in accordance with RCW 18.16.110;
- 22 (b) The license has been denied, revoked, or suspended under RCW
- 23 18.16.210, 18.16.230, or 18.16.240, and has not been reinstated;
- 24 (c) The license is held by a person who has not fully complied with
- 25 an order of the director issued under RCW 18.16.210 requiring the
- 26 licensee to pay restitution or a fine, or to acquire additional
- 27 training; or
- 28 (d) The license has been placed on inactive status at the request
- 29 of the licensee, and has not been reinstated in accordance with RCW
- 30 18.16.110(3).
- 31 (2) The director may take action under RCW 18.235.150 and
- 32 18.235.160 against any person who does any of the following without
- 33 first obtaining, and maintaining in good standing, the license required
- 34 by this chapter:
- 35 (a) Except as provided in subsections (3) and (4) of this section,
- 36 engages in the commercial practice of cosmetology, hair design,
- 37 barbering, esthetics, master esthetics, or manicuring;

1 (b) Instructs in a school;

- (c) Operates a school; or
- (d) Operates a salon/shop, personal services, or mobile unit.
- (3) A person who receives a license as an instructor may engage in the commercial practice for which he or she held a license when applying for the instructor license without also renewing the previously held license. However, a person licensed as an instructor whose license to engage in a commercial practice is not or at any time was not renewed may not engage in the commercial practice previously permitted under that license unless that person renews the previously held license.
 - (4) An apprentice actively enrolled in an apprenticeship program for cosmetology, barbering, <u>hair design</u>, esthetics, master esthetics, or manicuring may engage in the commercial practice as required for the apprenticeship program.
- Sec. 5. RCW 18.16.130 and 2013 c 187 s 5 are each amended to read as follows:
- (1) Any person who is properly licensed in any state, territory, or possession of the United States, or foreign country shall be eligible for examination if the applicant submits the approved application and fee and provides proof to the director that he or she is currently licensed in good standing as a cosmetologist, <u>hair designer</u>, barber, manicurist, esthetician, <u>master esthetician</u>, instructor, or the equivalent in that jurisdiction. Upon passage of the required examinations the appropriate license will be issued.
- (2)(a) The director shall, upon passage of the required examinations, issue a license as master esthetician to an applicant who submits the approved application and fee and provides proof to the director that the applicant is currently licensed in good standing in esthetics in any state, territory, or possession of the United States, or foreign country and holds a diplomate of the comite international d'esthetique et de cosmetologie diploma, or an international therapy examination council diploma, or a certified credential awarded by the national coalition of estheticians, manufacturers/distributors & associations.
- 36 (b) The director may upon passage of the required examinations,
 37 issue a master esthetician license to an applicant that is currently

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- licensed in esthetics in any other state, territory, or possession of
- 2 the United States, or foreign country and submits an approved
- 3 application and fee and provides proof to the director that he or she
- 4 is licensed in good standing and:
- 5 (i) The licensing state, territory, or possession of the United
- 6 States, or foreign country has licensure requirements that the director
- 7 determines are substantially equivalent to a master esthetician license
- 8 in this state; or
- 9 (ii) The applicant has certification or a diploma or other
- 10 credentials that the director determines has licensure requirements
- 11 that are substantially equivalent to the degree listed in (a) of this
- 12 subsection.
- 13 Sec. 6. RCW 18.16.170 and 2013 c 187 s 6 are each amended to read
- 14 as follows:
- 15 (1) Subject to subsection (2) of this section, licenses issued
- 16 under this chapter expire as follows:
- 17 (a) A salon/shop, personal services, or mobile unit license expires
- 18 one year from issuance or when the insurance required by RCW
- 19 18.16.175(1)(g) expires, whichever occurs first;
- 20 (b) A school license expires one year from issuance; and
- 21 (c) Cosmetologist, <u>hair designer</u>, barber, manicurist, esthetician,
- 22 master esthetician, and instructor licenses expire two years from
- 23 issuance.
- 24 (2) The director may provide for expiration dates other than those
- 25 set forth in subsection (1) of this section for the purpose of
- 26 establishing staggered renewal periods.
- 27 Sec. 7. RCW 18.16.175 and 2013 c 187 s 7 are each amended to read
- 28 as follows:
- 29 (1) A salon/shop or mobile unit shall meet the following minimum
- 30 requirements:
- 31 (a) Maintain an outside entrance separate from any rooms used for
- 32 sleeping or residential purposes;
- 33 (b) Provide and maintain for the use of its customers adequate
- 34 toilet facilities located within or adjacent to the salon/shop or
- 35 mobile unit;

- (c) Any room used wholly or in part as a salon/shop or mobile unit shall not be used for residential purposes, except that toilet facilities may be used for both residential and business purposes;
- (d) Meet the zoning requirements of the county, city, or town, as appropriate;
- (e) Provide for safe storage and labeling of chemicals used in the practices under this chapter;
 - (f) Meet all applicable local and state fire codes; and

- (g) Certify that the salon/shop or mobile unit is covered by a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability.
- (2) The director may by rule determine other requirements that are necessary for safety and sanitation of salons/shops, personal services, or mobile units. The director may consult with the state board of health and the department of labor and industries in establishing minimum salon/shop, personal services, and mobile unit safety requirements.
- (3) Personal services license holders shall certify coverage of a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability.
- (4) Upon receipt of a written complaint that a salon/shop or mobile unit has violated any provisions of this chapter, chapter 18.235 RCW, or the rules adopted under either chapter, or at least once every two years for an existing salon/shop or mobile unit, the director or the director's designee shall inspect each salon/shop or mobile unit. If the director determines that any salon/shop or mobile unit is not in compliance with this chapter, the director shall send written notice to the salon/shop or mobile unit. A salon/shop or mobile unit which fails to correct the conditions to the satisfaction of the director within a reasonable time shall, upon due notice, be subject to the penalties imposed by the director under RCW 18.235.110. The director may enter any salon/shop or mobile unit during business hours for the purpose of inspection. The director may contract with health authorities of local governments to conduct the inspections under this subsection.
- (5) A salon/shop, personal services, or mobile unit shall obtain a certificate of registration from the department of revenue.

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1 (6) This section does not prohibit the use of motor homes as mobile 2 units if the motor home meets the health and safety standards of this 3 section.

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- (7) Salon/shop or mobile unit licenses issued by the department must be posted in the salon/shop or mobile unit's reception area.
- (8) Cosmetology, <u>hair design</u>, barbering, esthetics, master esthetics, and manicuring licenses issued by the department must be posted at the licensed person's work station.
- 9 **Sec. 8.** RCW 18.16.180 and 2013 c 187 s 8 are each amended to read 10 as follows:
 - (1) The director shall prepare and provide to all licensed salons/shops a notice to consumers. At a minimum, the notice shall state that cosmetology, <u>hair design</u>, barber, esthetics, master esthetics, and manicure salons/shops are required to be licensed, that salons/shops are required to maintain minimum safety and sanitation standards, that customer complaints regarding salons/shops may be reported to the department, and a telephone number and address where complaints may be made.
- 19 (2) An approved apprenticeship shop must post a notice to consumers 20 in the reception area of the salon/shop stating that services may be 21 provided by an apprentice. At a minimum, the notice must state: "This 22 shop is a participant in a state-approved apprenticeship program. 23 Apprentices in this program are in training and have not yet received 24 a license."
- 25 **Sec. 9.** RCW 18.16.190 and 2013 c 187 s 9 are each amended to read 26 as follows:

27 It is a violation of this chapter for any person to engage in the 28 commercial practice of cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring, except in a licensed salon/shop or the 29 30 home, office, or other location selected by the client for obtaining the services of a personal service operator, or with the appropriate 31 32 individual license when delivering services to placebound clients. 33 Placebound clients are defined as persons who are ill, disabled, or 34 otherwise unable to travel to a salon/shop.

Sec. 10. RCW 18.16.200 and 2013 c 187 s 10 are each amended to 2 read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action against any applicant or licensee under this chapter if the licensee or applicant:

- 6 (1) Has been found to have violated any provisions of chapter 19.86 7 RCW;
- 8 (2) Has engaged in a practice prohibited under RCW 18.16.060 9 without first obtaining, and maintaining in good standing, the license 10 required by this chapter;
- 11 (3) Has engaged in the commercial practice of cosmetology, <u>hair</u>
 12 <u>design</u>, barbering, manicuring, esthetics, or master esthetics in a
 13 school;
- 14 (4) Has not provided a safe, sanitary, and good moral environment 15 for students in a school or the public;
 - (5) Has failed to display licenses required in this chapter; or
- 17 (6) Has violated any provision of this chapter or any rule adopted under it.
- **Sec. 11.** RCW 18.16.290 and 2013 c 187 s 12 are each amended to 20 read as follows:
 - (1) If the holder of an individual license in good standing submits a written and notarized request that the licensee's cosmetology, hair design, barber, manicurist, esthetician and master esthetician, or instructor license be placed on inactive status, together with a fee equivalent to that established by rule for a duplicate license, the department shall place the license on inactive status until the expiration date of the license. If the date of the request is no more than six months before the expiration date of the license, a request for a two-year extension of the inactive status, as provided under subsection (2) of this section, may be submitted at the same time as the request under this subsection.
 - (2) If the holder of a license placed on inactive status under this section submits, by the expiration date of the license, a written and notarized request to extend that status for an additional two years, the department shall, without additional fee, extend the expiration date of: (a) The licensee's individual license; and (b) the inactive status for two years from the expiration date of the license.

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(3) A license placed on inactive status under this section may not be extended more frequently than once in any twenty-four month period or for more than six consecutive years.

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- (4) If, by the expiration date of a license placed on inactive status under this section, a licensee is unable, or fails, to request that the status be extended and the license is not renewed, the license shall be canceled.
- 8 **Sec. 12.** RCW 18.16.900 and 2002 c 111 s 17 are each amended to 9 read as follows:
- This ((act)) <u>chapter</u> shall be known and may be cited as the "Washington cosmetologists, <u>hair designers</u>, barbers, manicurists, and estheticians act".

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