

HOUSE BILL REPORT

HB 1842

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to strengthening requirements governing cosmetology professions.

Brief Description: Strengthening requirements governing cosmetology professions.

Sponsors: Representatives Kenney, Conway, Campbell, McDonald and Ormsby.

Brief History:

Committee Activity:

Commerce & Labor: 2/9/07, 2/27/07 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Licensing (DOL) to establish additional cosmetology safety and sanitation standards.
- Grants the DOL the authority to conduct risk-based inspections of salons.
- Requires the DOL to establish a penalty schedule in rule.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

Staff: Sarah Beznoska (786-7109).

Background:

Licensing

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Persons engaged in the commercial practice of cosmetology, barbering, esthetics, or manicuring must be licensed by the Department of Licensing (DOL). A license is also required for anyone who operates a salon/shop or mobile unit where cosmetology, barbering, manicuring or esthetics are being performed for a fee. The DOL issues these licenses. There is no statutory requirement related to photographs on these licenses.

The DOL provides a notice to salons and requires the notice to be posted in salons. The notice states that cosmetology, barber, 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 DOL, and contains a telephone number and address where complaints may be made.

Safety and Sanitation

The DOL may determine, by rule, safety and sanitation requirements for salon/shops or mobile units. Safety and sanitation standards established under rule include a variety of requirements. For example, there are standards related to labeling of containers and chemicals, the disinfection of supplies and tools, and the availability of first-aid supplies. There are also standards related to emptying waste receptacles, dispensing products, and washing hands.

In December 2006, the DOL began the official rule-making process to revise the safety and sanitation rules.

Inspections and Violations

The DOL is required to inspect a salon/shop or mobile unit at least once every two years and upon receipt of complaint. The DOL may enter any salon/shop or mobile unit during business hours for the purpose of inspection. The DOL may contract with health authorities of local governments to conduct the inspections.

When a violation is found, a licensee may correct it within a reasonable time. If the DOL determines that any salon/shop or mobile unit is not in compliance with this chapter, the DOL sends 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 DOL Director (Director) within a reasonable time is subject to penalties.

Enforcement

Enforcement is generally governed by the Uniform Regulations of Business and Professions Act (URBPA). With respect to unlicensed practice, the URBPA grants the DOL the authority to impose a civil fine of not more than \$1,000 per each day of unlicensed practice. Under the URBPA, the following penalties may also apply if the DOL makes any finding of unprofessional conduct:

- revocation of the license;
- suspension of the license for a fixed or indefinite term;
- restriction or limitation of the practice;

- satisfactory completion of a specific program of remedial education or treatment;
- monitoring of the practice in a manner directed by the disciplinary authority;
- censure or reprimand;
- compliance with conditions of probation for a designated period of time;
- payment of a fine for each violation, not to exceed \$5,000 per violation;
- denial of an initial or renewal license application; or
- other corrective action.

The cosmetology chapter also contains its own penalty provisions. Under the cosmetology chapter, if the DOL, following a hearing, finds that any person or an applicant or licensee has violated any requirement, the DOL may:

- deny a license or renewal;
- revoke or suspend a license;
- impose a fine of not more than \$500 per violation;
- issue a reprimand or letter of censure;
- place the licensee on probation for a fixed period of time;
- restrict the licensee's authorized scope of practice;
- require the licensee to make restitution or a refund to any individual injured by the violation; or
- require the licensee to obtain additional training or instruction.

Summary of Substitute Bill:

Licensing

The DOL must affix a permanent photograph to a license. The DOL is not required to take the photograph, but the DOL is the entity that must affix the photograph to the license.

Safety and Sanitation

The DOL is required to establish new safety and sanitation rules by January 1, 2008, including specific procedures for salons that provide manicure and pedicure services.

Inspections and Violations

The DOL is granted authority to conduct risk-based inspections. In selecting salon/shops or mobile units for risk-based inspections, the DOL must use the following criteria:

- the type and nature of the salon/shop or mobile unit;
- the history of prior safety or sanitation violations at the salon/shop or mobile unit;
- the inspection history of the salon/shop or mobile unit;
- the history of complaints involving the salon/shop or mobile unit; and
- any other factor determined by the Director by rule.

If selected for a risk-based inspection, the salon/shop or mobile unit must pay an inspection fee. The DOL must set the amount of the fee in rule.

Instead of allowing a "reasonable time" for correction of violation, a licensee is given 90 days to correct a violation. However, this only applies to a first violation in any three-year period of a particular requirement.

Enforcement

The penalties contained within the cosmetology chapter are deleted. The URBPA and penalties under the URBPA continue to apply.

The DOL must establish a schedule of penalties in rule for violations. The schedule must include specific penalties for hiring or employing unlicensed persons.

Other

The DOL must prepare a notice to consumers and provide it to all licensed salon/shops that conduct manicuring or pedicuring. The notice must state risk associated with the use of artificial nails. "Artificial nails" includes, but is not limited to, silk, linen, fiberglass, acrylic, gel, powder, tip extensions, and sculpting.

Substitute Bill Compared to Original Bill:

The substitute bill deletes the section of the bill establishing a minimum penalty of \$1,000 per person for each unlicensed person that a salon hires and requires the DOL to establish a penalty schedule in rule, including penalties for hiring or employing unlicensed persons.

Appropriation: None.

Fiscal Note: Requested on February 27, 2007.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support of original bill) This is a public health issue. There are grave results when salons do not maintain effective safety and health standards. Infections can result. Just yesterday there was an article in the paper about a woman who almost lost her finger because of an infection from a manicure. This bill will address these issues. It will also address issues related to people performing services without a license. It will inform consumers about the risks of artificial nails so consumers know there can be devastating results. It will increase inspections so the DOL knows who is complying with the law and who is not.

The licensing issue is important, particularly the requirement related to photographs on a license. Currently, it is easy to put anybody's picture on a license and fines are not high enough to deter people from doing this.

More inspectors are needed so that inspections can be done more frequently.

(Neutral on original bill) This bill would increase inspections which would require an increase in full-time employees. License costs could increase by \$5. This is a health and safety issue.

Persons Testifying: (In support of original bill) Representative Kenney, prime sponsor; and David Kile, Washington State Cosmetology Association.

(Neutral on original bill) Trudie Touchette, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.