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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 158  
135<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Passed by the House

**Primary Sponsors:** Reps. Roemer and M. Miller

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## SUMMARY

### School licenses

- Eliminates the barber school license and school of cosmetology license, and instead creates a single school license.
- Establishes the requirements for an applicant to be issued a school license that are similar to current law requirements.
- Allows a school to employ individuals who are not licensed barber instructors to teach subjects related to barbering at the school.
- Allows an applicant meeting the bill's requirements to renew an expired barber school or school of cosmetology license as a school license, and extends the licensing term for a barber school license set to expire on August 31, 2024, until January 31, 2025.

### Disciplinary actions

- Modifies the list of reasons for which the State Cosmetology and Barber Board may take disciplinary action against a person for a violation of the Barber Law.
- Makes changes to the amount of a fine the Board may impose for a violation of the Barber Law and requires the Board to certify a fine that remains unpaid for 91 days to the Attorney General for collection.
- Allows the Board to enter into a consent agreement with a license holder in lieu of an adjudication under the Barber Law.
- Permits the Board to report violations of the Barber Law and Cosmetology Law to the proper prosecuting officer.

## **Barber Law changes**

- Modifies the requirements for an applicant to be issued a barber license by changing the minimum age for an applicant and adding that an applicant must submit certain documentation with the license application.
- Eliminates requirements regarding barber examinations dealing with minimum passing scores, waiting periods to reapply to retake parts of an examination, and required additional study in certain circumstances.
- Establishes a fee of not more than \$100 for each time an applicant applies to take an examination for which the applicant previously applied to take but failed to appear.
- Requires the Board to issue a temporary pre-examination work permit to practice barbering to an individual who applies for and is eligible to take the examination required for a barber license if the individual meets certain conditions.
- Changes the “barber teacher” and “assistant barber teacher” licenses to “barber instructor” and “assistant barber instructor” licenses, and modifies the requirements for an applicant to be issued a license.
- Establishes a fee of not more than \$150 for the issuance or renewal of an assistant barber instructor license.
- Modifies the requirements for an applicant to be issued a barber shop license and specifies that a barber shop license is not transferrable from one owner to another or from one location to another.
- Prohibits an individual from providing massage therapy, cosmetic therapy, or any other professional service in a barber shop without a current, valid license or Board authorization.
- Expands the list of individuals engaged in certain professions who are exempt from regulation under the Barber Law.

## **Cosmetology Law changes**

- Modifies the requirements an applicant must meet to be issued a cosmetology practicing license, advanced license, or instructor license by the Board.
- Eliminates the temporary work permit allowing an individual holding an inactive practicing, advanced, or cosmetology instructor license to practice or teach a branch of cosmetology.
- Removes requirements relating to education level and disclosing where an applicant is practicing for an applicant to be issued a boutique services registration.
- Establishes civil penalties for violations of the Cosmetology Law relating to unlicensed practice and fraud and eliminates the criminal penalties for those violations.

## Changes to Barber and Cosmetology Laws

- Permits any individual to file a confidential complaint with the Board alleging that an individual, salon, barber shop, school, or tanning facility has violated the Barber Law or Cosmetology Law or rules adopted under either law.
- Eliminates the requirement that an applicant for an independent contractor license hold either a barber shop or salon license and specifies the requirements the applicant must meet to be issued the license.
- Permits, rather than requires, the Board to adopt rules to establish a continuing education requirement for the holder of a barber, barber instructor, or assistant barber instructor license to renew the license.
- Removes, for purposes of renewing a cosmetology license or boutique services registration, the Board's authority to extend the period for a licensee or registrant to complete continuing education requirements and charge a fine for that extension.
- Allows an individual licensed in another state or country to teach the theory and practice of barbering to apply to the Board to be issued a barber instructor or assistant barber instructor license.
- Removes the requirement that, to be issued a license by the Board, an applicant hold a license from a state or country that extends similar reciprocity to individuals holding a license the Board issues (under current law, with respect to out-of-state licenses, this requirement no longer applies beginning December 29, 2023).
- Expands the Board's authority to develop procedures to classify as inactive a barber license, barber instructor license, or assistant barber instructor license.
- Establishes the fees to restore an expired assistant barber instructor license and increases the cap on the restoration fee for an expired barber license.
- Adds that the holder of an expired barber instructor or assistant barber instructor license must pay a restoration fee to the Board to have the license restored.
- Requires the holder of an expired barber, barber instructor, assistant barber instructor, or a practicing or advanced cosmetology license to complete continuing education requirements for ordinary license renewal to restore the license.
- Makes the fees charged by the Board under continuing law nonrefundable.
- Establishes that the statutory amount is the ceiling for a fee and makes other changes to the amount of fees charged under the Barber Law.
- Allows a license or registration holder to practice barbering or a branch of cosmetology on a dead human body at a funeral home or embalming facility.
- Requires the holder of a barber, barber instructor, or assistant barber instructor license, independent contractor license to practice barbering, or advanced cosmetology license to maintain the Board-issued license or an electronically generated license certification.

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## **DETAILED ANALYSIS**

The bill amends a number of provisions in the Barber Law<sup>1</sup> to resemble current law under the Cosmetology Law.<sup>2</sup> It also eliminates the barber school and school of cosmetology licenses issued under current law and creates a single school license, and modifies the reasons for which the State Cosmetology and Barber Board may take disciplinary action for a violation of the Barber Law. The bill makes numerous other changes to both laws.

### **School licenses**

The bill eliminates the barber school license and school of cosmetology license issued under current law, and instead creates a single school license.<sup>3</sup> To be issued a school license, an applicant must meet the general requirements established by the bill, as well as more specific requirements based on whether the applicant will be offering instruction in cosmetology or barbering at the school. An applicant must meet the following general requirements to be issued a school license, which are the current law requirements for a school of cosmetology license:

- Maintain a course of training for the branch or branches of cosmetology or barbering to be taught at the school that is equal to the requirements under the law for an individual to be granted a license (similar to current law for barber school licenses);
- Have sufficient equipment to teach all subjects in the curriculum (similar to current law for barber school licenses);
- Notify the Board of each new student and keep records related to the student's progress (similar to current law for barber school licenses);
- Keep a record of attendance if the school offers clock hours (added by the bill for schools that teach barbering);

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<sup>1</sup> R.C. Chapter 4709.

<sup>2</sup> R.C. Chapter 4713.

<sup>3</sup> R.C. 4713.44 and 4713.45, repealed and reenacted, and R.C. 4709.10, repealed and reenacted, with conforming changes throughout the bill.

- File a surety bond with the Board in the amount of \$10,000 (similar to current law for barber school licenses);
- Establish an internal procedure for processing complaints (added by the bill for schools that teach barbering).<sup>4</sup>

If an applicant for a school license will offer instruction in one or more branches of cosmetology at the school, the applicant must also meet certain current law requirements for an applicant to be issued a school of cosmetology license. These requirements include that the applicant maintain licensed instructors for the branch or branches of cosmetology offered at the school, instruct a maximum of six apprentice instructors at one time, and certify each apprentice instructor to the Board when the apprentice instructor begins training.<sup>5</sup>

For an applicant for a school that offers instruction in barbering, the bill expressly requires that the school pass an initial inspection for the applicant to be issued the license. It also requires the applicant to meet current law requirements for barber schools regarding amounts and ratios of licensed teaching personnel and minimum standards for student acceptance to the school. The bill lowers the age for a barber student applicant from 17 years old to 16 years old. It also, similar to current law, allows a school to adopt more stringent standards than those prescribed by the Board for barber student applicants.<sup>6</sup>

The bill specifies that a school license is not transferable from one owner to another or from one location to another.<sup>7</sup>

### **Unlicensed instructors**

Under continuing law, a school offering cosmetology instruction may employ an individual not licensed under the Cosmetology Law to teach at the school. A licensed instructor must be present when an unlicensed individual is teaching unless an exception applies. The bill extends this authority to a school offering instruction in the practice of barbering, allowing the school to employ an individual who does not hold a barber instructor license to teach subjects related to barbering at the school.<sup>8</sup>

### **School license fee**

The bill establishes that the fee for a school license, or to change the name or ownership of a licensed school, as added by the bill, is not more than \$250 (the current fee for a school of cosmetology license). Because the Board no longer issues a separate barber school license under the bill, the current law fees for inspecting a new or relocated barber school and the

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<sup>4</sup> R.C. 4713.44(A) and R.C. 4709.10(B), repealed.

<sup>5</sup> R.C. 4713.44(B).

<sup>6</sup> R.C. 4709.10, reenacted, 4713.08(A)(20) and (21), and 4713.45(A)(4).

<sup>7</sup> R.C. 4713.44(E).

<sup>8</sup> R.C. 4713.45(A)(2) and (B).

issuance, renewal, or restoration of a barber school license are eliminated. The bill also eliminates the fee for a barber student registration.<sup>9</sup>

### **Conversion of barber school or school of cosmetology license**

The bill specifies that a valid school of cosmetology license held by a person on or after the bill's effective date is valid for the duration of the license term (the current license term expires on January 31, 2025), and a valid barber school license set to expire on August 31, 2024, is valid until January 31, 2025. A person who holds a school of cosmetology or barber school license may, on the license's expiration, renew the license as a school license if the person meets the requirements to be issued the school license under the bill.<sup>10</sup>

### **Disciplinary actions**

The bill makes changes to the reasons the Board may take disciplinary action against a person who violates the Barber Law, as well as the types of disciplinary actions the Board may take. The bill also makes changes to adjudication procedures, processes for assessing and collecting fines, and reporting violations and injunctions.

#### **Reasons for taking disciplinary action**

Under the bill, the Board may take disciplinary action against a person for a violation of the Barber Law for any of the following reasons (the Board currently may take disciplinary action under the Cosmetology Law for these reasons):

- Willful, false, and fraudulent or deceptive advertising (similar to current law);
- Habitual drunkenness or addiction to any habit-forming drug (similar to current law);
- Failure to comply with the safety, infection control, and licensing requirements of the law or rules adopted under it (current law allows the Board to discipline a person who violates a sanitary rule or remains employed in a barber shop where rules are violated);
- Continued practice by an individual knowingly having an infectious or contagious disease (similar to current law);
- Falsification of any record or application required to be filed with the Board (added by the bill);
- Failure to pay a fine or abide by a suspension order issued by the Board, cooperate with an investigation or inspection, or respond to a subpoena (added by the bill);
- Conviction of or plea of guilty to a human trafficking violation, or, in the case of a barber shop, any individual's conviction of or plea of guilty to a human trafficking violation for an activity that took place on the barber shop premises (under current law the Board

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<sup>9</sup> R.C. 4713.10(A)(8) and R.C. 4709.12(A)(10) to (13), repealed.

<sup>10</sup> R.C. 4713.01(D) and Sections 9 and 10.

may take action against an individual who has been convicted of or pled guilty to a felony).<sup>11</sup>

Currently, the Board may take disciplinary action for employing any person who does not have a current Ohio license to perform the practice of barbering or personally performing the practice of barbering without a current barber license. The bill eliminates the Board's authority to take disciplinary action for these actions and instead subjects a violator to a civil penalty of not less than \$100 and not more than \$500 for a first violation. For each subsequent violation, the penalty is not less than \$500 and not more than \$1,000. The civil penalties apply to any violation of the Barber Law under current law. The bill, however, limits the civil penalties to violations related to unlicensed practice, practice at an unauthorized location, aiding and abetting an individual or entity in violating the Barber Law, and fraud.<sup>12</sup>

Under current law, the Board also may take disciplinary action for unprofessional conduct, gross incompetence, not indicating that the practice of barbering is exclusively performed by students at a barber school, and operating a barber shop without a sign or barber pole to indicate that it is a barber shop. The Board also has the authority under current law to adopt rules specifying additional grounds for which the Board may take disciplinary action. The bill eliminates the authority for both of these actions.<sup>13</sup>

The bill prohibits the Board from taking disciplinary action against a barber shop owner for a violation committed by a licensed barber in the barber shop, if the barber's action were beyond the owner's control (similar to current law regarding not taking action against a salon or school owner).<sup>14</sup>

### **Types of disciplinary actions**

Under the bill, the Board may require a license or permit holder who violates the Barber Law to take corrective action courses, in an amount and the content of which is determined by Board rule. The Board currently has this authority for violators of the Cosmetology Law. Under continuing law, the Board may impose a fine or deny, revoke, suspend, or impose conditions on a license, permit, or registration issued under either law. The Board may also suspend a license, permit, or registration after a hearing or pursuant to a consent agreement (see "**Hearings and consent agreements**," below) if the license or permit holder or registrant fails to correct an unsafe condition in violation of the rules or cooperate in an inspection (added by the bill for violations of the Barber Law).<sup>15</sup>

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<sup>11</sup> R.C. 4709.13(A) and 4713.64(A) and R.C. 4709.02(H) and 4709.13(B), repealed, by reference to R.C. 2905.32, not in the bill.

<sup>12</sup> R.C. 4709.02, 4709.13, repealed and reenacted, and 4709.99.

<sup>13</sup> R.C. 4709.13(A) and (D), repealed.

<sup>14</sup> R.C. 4709.13(H) and 4713.64(I).

<sup>15</sup> R.C. 4709.13 and 4713.64 and R.C. 4709.14(B), repealed, by reference to R.C. Chapter 119.



## Fines

Currently, for a violation of the Barber Law, the Board may impose a maximum fine of \$500 for a first offense or a maximum fine of \$1,000 for each subsequent offense. The bill instead allows the Board to impose the following fines against a violator (these are the fines the Board may impose for a violation of the Cosmetology Law):

- If the violator had not previously been fined for an offense resulting from an inspection, not more than \$250 and not more than \$100 for each additional violation during the inspection;
- If the violator had been fined for the same offense once before, not more than \$500 and not more than \$200 for each additional violation during a second inspection;
- If the violator had been fined for the same offense two or more times, not more than \$1,000 and not more than \$300 for each additional violation during a third inspection.

If the Board imposes a fine, it must issue an order notifying the violator and specifying the date by which the fine must be paid. Generally, the date is to be less than 45 days after the Board issues the order. However, the Board may extend the time period to pay to 90 days after issuing the order. The amount of a fine that is unpaid 91 days after the Board issued the order must be certified to the Attorney General for collection.<sup>16</sup> The bill removes the Board's authority under the Cosmetology Law to charge an additional 10% penalty or interest at a rate specified by the Board in rule on a fine not paid on time.<sup>17</sup>

## Hearings and consent agreements

Continuing law requires the Board to conduct a hearing in accordance with the Administrative Procedures Act before taking a disciplinary action against a person for a violation of the Barber Law, and current law allows the person to appeal the Board's decision or waive the hearing by paying the amount of a proposed fine. However, under the bill, the Board may take action against an individual or barber shop for a human trafficking violation without conducting an adjudication if the Board gives the individual or barber shop notice of the right to a hearing afterwards. The bill also gives the Board the authority to enter into a consent agreement with a license holder in lieu of an adjudication under the Barber Law. If the individual or owner of the barber shop fails to request a hearing or enter into a consent agreement 30 days after the Board notifies the individual or owner it intends to take disciplinary action, the Board may proceed without a hearing by a majority vote of a quorum of Board members. The Board currently has this authority under the Cosmetology Law.

If an inspector reasonably believes that a violation of the Barber Law, as added by the bill, or the Cosmetology Law creates an immediate danger to the health and safety of any individual using a facility, the inspector may suspend the license or permit of the facility or the individual responsible for the violation without a hearing. The Board may uphold the

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<sup>16</sup> R.C. 4709.13(E) and 4713.64(E) and R.C. 4709.14(B), repealed.

<sup>17</sup> R.C. 4713.64(E)(4) and (5), repealed.

suspension or reinstate the license or permit either (1) when the violation is corrected, (2) after a hearing, or (3) when a consent agreement is entered into.<sup>18</sup>

### **Reporting violations**

The bill allows, rather than requires, the Board to report violations of the Cosmetology Law governing unauthorized practice to the proper prosecuting officer, and adds that the Board may report violations of the Barber Law to the proper prosecuting officer.<sup>19</sup>

### **Injunctions**

The bill removes the requirement that the Board apply for an injunction against an individual violating or about to violate the Barber Law in a court of competent jurisdiction in the county where the violation occurred or will occur, meaning the Board may apply for the injunction in any court. It also removes the requirement that the violation or potential violation threaten health and safety to apply for the injunction.<sup>20</sup>

## **Barber Law changes**

### **Barber licenses**

The bill modifies the requirements an applicant must meet to be issued a barber license. The bill lowers the age that an applicant must be from 18 years old to 16 years old. It also requires an applicant to submit to having a photograph and biometric fingerprint scan taken by the Board. The applicant, under the bill, also must submit a photocopy of the applicant's driver's license or other proof of residence and an oath verifying the information in the application is true. The bill maintains the current law requirement that an applicant have an 8<sup>th</sup> grade or equivalent education.<sup>21</sup>

Continuing law requires an applicant to have 1,800 hours of Board-approved training to be issued a barber license. The bill specifies that, in determining an applicant's total hours of instruction required for licensure, the Board may count ten hours of instruction per day. The bill removes the prohibition on counting hours of study the applicant earned five or more years before the applicant takes the barber examination and instead requires the Board to adopt rules establishing the conditions under which it will consider instruction an applicant received more than five years before the application date. The Board must consider any instruction that satisfies those conditions when determining whether to issue the applicant the license.<sup>22</sup> These

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<sup>18</sup> R.C. 4709.13 and 4713.64 and R.C. 4709.13(C) and 4709.14(C), repealed, by reference to R.C. Chapter 119.

<sup>19</sup> R.C. 4713.07, with conforming changes in R.C. 4713.06.

<sup>20</sup> R.C. 4709.14(A).

<sup>21</sup> R.C. 4709.07(A) and (B).

<sup>22</sup> R.C. 4709.05(A)(8), 4709.07(A)(5), and 4709.073.

provisions are similar to continuing law for cosmetology practicing, advanced, and instructor licenses.<sup>23</sup>

### **Barber examinations**

The bill eliminates the requirement that an individual must attain at least a 75% score on each part of the barber examination to be eligible for a barber license. Instead, the Board must adopt rules specifying a passing score for the examination, and an individual is ineligible for a barber license if the individual fails any part of the examination. Under continuing law, an applicant who does not pass a part of the barber examination may reapply for examination. The bill eliminates the requirement that the applicant wait 90 days after the date the scores are released before reapplying to retake that part of the examination. The bill also eliminates the requirement for an individual who does not pass a part of the barber examination and fails to reapply within 90 days or fails the part a second time to complete an additional 200 hours of Board approved study to reapply for the examination.<sup>24</sup>

Additionally, the bill establishes a fee of not more than \$100 for each time an applicant applies to take a portion of the examination for which the applicant previously applied to take but failed to appear. This is different from the fee to retake an examination portion that the applicant failed.<sup>25</sup>

### **Temporary pre-examination work permit to practice barbering**

The bill requires the Board to issue a temporary pre-examination work permit to practice barbering to an individual who applies for and is eligible to take the examination required for a barber license under continuing law if the individual satisfies all of the following conditions:

- The individual has not previously failed an examination required for a barber license;
- The individual pays a fee of not more than \$15 as set by the Board;
- The individual satisfies all other conditions established by rules adopted by the Board.

A permit holder under the bill may practice barbering until the date the holder is scheduled to take the barber examination, and must practice under the supervision of an individual holding a current, valid barber license. A permit issued under the bill is renewable in accordance with rules adopted by the Board.<sup>26</sup>

The Board must adopt rules regarding conditions an individual must satisfy to qualify for a permit and the conditions and methods for renewing a permit. The Board may adopt in these

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<sup>23</sup> R.C. 4713.08(A)(4) and R.C. 4713.32, not in the bill.

<sup>24</sup> R.C. 4709.05(A)(8)(b) and 4709.07(C).

<sup>25</sup> R.C. 4709.12(A)(2) and (3).

<sup>26</sup> R.C. 4709.071 and 4709.12(A)(17), with conforming changes throughout the bill.

rules additional conditions for a temporary pre-examination work permit that are applicable to individuals who are licensed to practice barbering in another state or country.<sup>27</sup>

Under continuing law, the Board must issue a similar temporary pre-examination work permit to practice a branch of cosmetology to an individual who applies for and is eligible to take the examination required for a practicing license under the Cosmetology Law.<sup>28</sup>

### **Barber instructors and assistant barber instructors**

The bill changes the “barber teacher” and “assistant barber teacher” licenses issued under current law to “barber instructor” and “assistant barber instructor” licenses.<sup>29</sup> It makes barber instructors and assistant barber instructors subject to Ohio law regarding revocation or suspension of a license due to a drug offense (cosmetology instructors are subject under continuing law).<sup>30</sup>

Continuing law requires an applicant for either license to hold a current barber license. Under the bill, an applicant for a barber instructor or assistant barber instructor license must be at least 18 years old. The bill also changes the requirement that an applicant for a barber instructor license who has been employed as an assistant barber instructor be under the supervision of a licensed barber, rather than a licensed barber teacher as under current law. Alternatively, continuing law allows the applicant to satisfy this requirement by having at least 18 months of work experience in a licensed barber shop. Continuing law also requires an applicant for a barber instructor license to pass an examination and pay a license fee. The bill adds a fee of not more than \$150 for the issuance or renewal of an assistant barber instructor license.<sup>31</sup>

The bill specifies that, in determining an applicant’s total hours of instruction required for licensure, the Board may count ten hours of instruction per day. Under the bill, the Board also must adopt rules establishing the conditions under which it will consider instruction an applicant received more than five years before the application date. The Board must consider any instruction that satisfies those conditions when determining whether to issue the applicant the license.<sup>32</sup> These provisions are similar to continuing law for cosmetology practicing, advanced, and instructor licenses.<sup>33</sup> The requirements specified in continuing law and the bill do not include a specific amount of instruction required, however, it is possible that this could

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<sup>27</sup> R.C. 4709.05(A)(8) and (D).

<sup>28</sup> R.C. 4713.22, not in the bill.

<sup>29</sup> R.C. 4709.01(C) and (D), with conforming changes throughout the bill.

<sup>30</sup> R.C. 2925.01.

<sup>31</sup> R.C. 4709.072 and 4709.12(A)(12) and (13) and R.C. 4709.10, repealed.

<sup>32</sup> R.C. 4709.05(A)(8) and 4709.073.

<sup>33</sup> R.C. 4713.08(A)(4) and R.C. 4713.32, not in the bill.

be a requirement the Board could add, as continuing law allows the Board to adopt rules to establish additional requirements.

### **Barber shops**

The bill modifies the requirements for an applicant to be issued a barber shop license. An applicant, under the bill, must ensure that the barber shop is in compliance with the Board's infection control standards (see "**Infection control**," below), instead of meeting specific requirements that all instruments and supplies in the barber shop be sanitized and maintained in a sanitary condition and that towels and linens be kept clean and sanitary. The bill also expressly requires the applicant to pass an inspection and eliminates references to an inspection fee (a license fee is still charged). Under continuing law, to be issued a barber shop license an applicant also must ensure that the barber shop is in the charge and under the immediate supervision of a licensed barber and is equipped to provide running hot and cold water and proper drainage.

The bill requires the Board to supply a copy of the poster created by the Division of Criminal Justice Services that provides information on the National Human Trafficking Resource Center Hotline to every person authorized to operate a barber shop.

The bill removes the requirement for an owner or operator of a barber shop to return the license to the Board if the owner or operator permanently ceases offering barber services at the shop. A license is not transferrable from one owner to another under continuing law or from one location to another, as added by the bill.<sup>34</sup> Additionally, the bill eliminates a prohibition against using any room or place for barbering that is also used for residential or other business purposes, unless it is separated by a substantial ceiling-high partition.<sup>35</sup>

### **Practice of other professions in a barber shop**

The bill prohibits an individual from providing massage therapy or any other professional service at a barber shop without a current, valid license or certificate issued by the State Medical Board or appropriate Ohio regulatory board. It also prohibits an individual from providing cosmetic therapy in a barber shop unless authorized by the Board. A similar prohibition applies to individuals providing services in a salon under continuing law.<sup>36</sup> An individual providing massage therapy, cosmetic therapy, or any other professional service in a barber shop must satisfy the standards established in rules adopted by the Board.<sup>37</sup>

Under continuing law and the bill, the Board also must adopt rules specifying which professions may be practiced in a barber shop or salon (including whether cosmetic therapy

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<sup>34</sup> R.C. 4709.05(A)(6), 4709.09(A) and (D), and 4709.12(A)(8).

<sup>35</sup> R.C. 4709.02(L), repealed.

<sup>36</sup> R.C. 4709.02(H) and 4713.14(J).

<sup>37</sup> R.C. 4709.05(A)(8) and 4709.091.

may be practiced in a barber shop or salon). A profession cannot be included on the list if doing so would violate a law or rule governing the profession.<sup>38</sup>

### **Professions exempt from the Barber Law**

Under continuing law, individuals engaged in certain professions are exempt from regulation under the Barber Law and Cosmetology Law.<sup>39</sup> The bill makes the following individuals exempt from regulation under the Barber Law (these individuals are currently also exempt from the Cosmetology Law):

- Dentists;
- Hospital and nursing home volunteers who provide services to patients and inpatients and do not use chemical products that would pose a health or safety problem to the patient;
- Nurse aides and other hospital or nursing home employees who practice barbering on patients as part of general patient care and do not charge patients directly on a fee for service basis;
- Massage therapists who hold a current, valid license while acting within the scope of practice for the license;
- Inmates who provide services related to barbering to other inmates, except when those services are provided in a licensed barber shop or school within a state correctional institution (with respect to practicing cosmetology, the bill expands this exception to include all state correctional institutions and not just those for females as under current law).<sup>40</sup>

## **Cosmetology Law changes**

### **Cosmetology license applications**

The bill makes changes to several of the requirements an applicant must meet to be issued a cosmetology practicing, advanced, or instructor license. The bill allows an applicant for a practicing license to complete the Board-approved training required under continuing law in Ohio or another state (current law only allows training in Ohio).

Continuing law requires an applicant for an advanced or instructor license to complete a specific number of hours of practice in a salon or Board-approved training at a school. For an applicant who completes the hours in a salon, the bill eliminates the requirement that a licensed professional or owner of the salon certify to the Board that the applicant has completed the hours. Instead, the bill requires the applicant to submit proof, as determined by

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<sup>38</sup> R.C. 4709.05(A)(8) and (F) and 4713.08(A)(11) and (D).

<sup>39</sup> R.C. 4709.03 and 4713.17.

<sup>40</sup> R.C. 4709.03 and 4713.17(A)(8), by reference to R.C. 3721.01, not in the bill.

the Board, that the applicant has completed the required hours of practice (or, as under continuing law, have a school certify the applicant completed the Board-approved training).

Similar to continuing law requirements for applicants for practicing licenses, the bill requires an applicant for an advanced or instructor license to pay a license fee of \$75, in addition to the current law application fee, to be issued the license. Lastly, the bill requires an applicant for any of the licenses to submit to a photograph taken by the Board.<sup>41</sup>

The bill also removes the requirement that an advanced license issued by the Board specify the type of salon where the license holder is permitted to work and instead requires the Board to specify on the advanced license the branch of cosmetology the license entitles the holder to practice, similar to a practicing license.<sup>42</sup>

### **Temporary work permits**

The bill eliminates the temporary work permit allowing an individual holding an inactive practicing or advanced license to practice a branch of cosmetology or an instructor license to practice or teach that branch of cosmetology (see **“Inactive license restoration,”** below).<sup>43</sup>

### **Boutique services registration**

The bill removes the requirement that an applicant for a boutique services registration have a tenth grade education. It also removes the requirement that an applicant include in the application the address and telephone number where the applicant will perform boutique services.<sup>44</sup>

### **Braiding and the practice of braiding**

The bill consolidates the definitions of “braiding” and the “practice of braiding,” and adds further detail to the definition. Under current law, the term “practice of braiding,” although defined, is not used, and the bill eliminates the definition.<sup>45</sup>

### **Practice of natural hair styling**

The bill expands the definition of the “practice of natural hair styling” to include cleansing the hair in preparation for other services.<sup>46</sup>

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<sup>41</sup> R.C. 4713.10, 4713.28, 4713.30, and 4713.31.

<sup>42</sup> R.C. 4713.55.

<sup>43</sup> R.C. 4713.08(A)(18) and (B)(2), 4713.14, and 4713.61.

<sup>44</sup> R.C. 4713.69.

<sup>45</sup> R.C. 4713.01(F), with conforming changes in R.C. 4709.01.

<sup>46</sup> R.C. 4713.01(JJ).

## **Advanced cosmetology licenses**

The bill removes the terms “advanced cosmetologist,” “advanced esthetician,” “advanced hair designer,” “advanced manicurist,” and “advanced natural hair stylist,” and instead refers to an “advanced license” to practice cosmetology, esthetics, hair design, manicuring, or natural hair styling.<sup>47</sup>

## **Penalties for violations of the Cosmetology Law**

The bill eliminates the criminal penalties, and establishes civil fines, for the following violations of the Cosmetology Law:

- Practicing a branch of cosmetology without the proper license, permit, or registration;
- Practicing a branch of cosmetology at a salon as an independent contractor without an independent contractor license;
- Using fraud or deceit in obtaining or applying for a license, permit, or registration;
- Operating a salon without a license;
- Operating a school without a license;
- Employing an individual who does not have the proper license, permit, or registration to practice a branch of cosmetology;
- Teaching a branch of cosmetology at a school without a proper license or permit to teach it;
- Teaching a branch of cosmetology at a salon, unless the individual receiving the instruction has a proper license or permit;
- Advertising or operating a glamour photography service in which a branch of cosmetology is practiced without the proper license or permit or at a location not specified by the Board in rule;
- Providing specified professional services in a salon without holding a license or being otherwise authorized to do so;
- Using or possessing a cosmetic product at a salon or school in violation of specified U.S. Food and Drug Administration regulations;
- Using or possessing a liquid nail monomer containing any trace of methyl methacrylate (MMA);
- Allowing any room used wholly or in part as a salon or school for residential purposes while in charge of the salon or school;

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<sup>47</sup> R.C. 4713.01, with conforming changes throughout the bill.



- Maintaining a sleeping or residential area as an established place of business for the practice of a branch of cosmetology;
- Operating a tanning facility without a permit;
- Practicing a branch of cosmetology in a location other than a licensed facility unless exempt;
- Using cosmetology to treat or attempt to cure a physical or mental disease or ailment;
- Aiding or abetting violations of the Cosmetology Law or administrative rules, obtaining a license, permit, or registration fraudulently, or falsely pretending to have a license or permit.

Under the bill, whoever violates the prohibitions listed above is subject to a fine of at least \$100 but not more than \$500 for a first offense. For any subsequent violation, the fine is increased to at least \$500 but not more than \$1,000. The amounts are the same as the penalties for violating similar prohibitions in the Barber Law.

Currently, an individual who violates any of the prohibitions is guilty of a fourth degree misdemeanor for a first offense. For each subsequent offense, a violator is guilty of a third degree misdemeanor.<sup>48</sup>

## **Changes to Barber and Cosmetology Laws**

### **Complaints**

The bill modifies the complaint process by expanding who may file a complaint with the Board, against whom the complaint may be filed, and the purposes for which the complaint may be filed. Under the bill, any individual may file a complaint with the Board alleging that an individual, salon, barber shop, school, or tanning facility has violated the Barber Law or Cosmetology Law or rules adopted under either law (currently, only a student may file a complaint against a school of cosmetology). The bill eliminates the requirement that the complaint be signed and in writing. If the Board determines it is probable that a violation was committed, the bill allows the Board, rather than requires as under current law, to proceed against the violator.<sup>49</sup> If the Board proceeds, continuing law requires the Board to comply with notice and hearing requirements under the Administrative Procedures Act.<sup>50</sup> The bill eliminates certain other notice, hearing, and transcription requirements if the Board determines there is reasonable cause to believe a violation occurred, although the Board may continue to be required to comply with those requirements under the Administrative Procedure Act.<sup>51</sup>

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<sup>48</sup> R.C. 4709.99 and 4713.99, by reference to R.C. 4713.14.

<sup>49</sup> R.C. 4713.641 and 4713.66(A).

<sup>50</sup> R.C. 4713.641, by reference to R.C. Chapter 119.

<sup>51</sup> R.C. 4713.66(B) and (C), repealed.

## **Independent contractor licenses**

Under continuing law, an individual must obtain a separate license to practice barbering or a branch of cosmetology as an independent contractor (an individual who is not a barber shop or salon employee but practices barbering or a branch of cosmetology within the barber shop or salon).<sup>52</sup> The bill removes the requirement that a licensed barber who leases space in a barber shop and practices independently obtain a barber shop license, and instead requires a barber to obtain an independent contractor license. The barber must pay the license fee and satisfy conditions established by the Board in rule to be issued the license.<sup>53</sup> Instead of requiring an applicant for a cosmetology independent contractor license to hold a salon license as under current law, the bill requires the applicant to hold a license for the branch of cosmetology the applicant practices.<sup>54</sup>

Under the bill, an individual cannot practice barbering in a barber shop as an independent contractor without a current, valid license (similar to the prohibition in the Cosmetology Law).<sup>55</sup> The bill adds that a licensed barber independent contractor is subject to Ohio law regarding revocation or suspension of a license due to a drug offense (licensed cosmetology independent contractors are subject under continuing law).<sup>56</sup> Additionally, the bill specifies that an independent contractor barber is considered an individual barber shop by the Board for purposes of conducting inspections. Under continuing law, an individual licensed as an independent contractor to practice a branch of cosmetology is considered an individual salon for the Board's records.<sup>57</sup>

## **License renewal and continuing education**

The bill permits, rather than requires, the Board to adopt rules to establish a continuing education requirement for a holder of a barber, barber instructor, or assistant barber instructor license to renew the license. A continuing education requirement cannot be more than eight hours in a biennial licensing period (the two-year period beginning September 1 of an even-numbered year and ending August 31 of the next even-numbered year), and must include courses in safety and infection control and law and rule changes. The Board may include as a requirement training in identifying and addressing human trafficking. Any continuing education program must be approved by the Board, and excess hours cannot be applied to the following biennial licensing period. If the Board adopts rules establishing a continuing education requirement as a condition of renewal, the bill requires the Board to notify holders of barber licenses, barber instructor licenses, and assistant barber instructor licenses of that requirement.

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<sup>52</sup> R.C. 4709.01(I) and 4713.01(S).

<sup>53</sup> R.C. 4709.05(A)(8) and 4709.09(C)(1).

<sup>54</sup> R.C. 4713.39, with conforming changes in R.C. 4713.55.

<sup>55</sup> R.C. 4709.02(G) and 4713.14(H).

<sup>56</sup> R.C. 2925.01.

<sup>57</sup> R.C. 4713.07(A)(10).

The bill allows the Board to waive or extend the period to complete a continuing education requirement for a barber, barber instructor, or assistant barber instructor license holder because of an emergency, illness, or active duty in the armed forces, similar to continuing law for license holders under the Cosmetology Law.<sup>58</sup>

The bill requires that an individual seeking to renew a cosmetology practicing, advanced, or instructor license or a boutique services registration to attest to the completion of continuing education requirements in the renewal application, rather than include proof in the application as under current law. The bill eliminates requirements that, if the individual fails to provide satisfactory proof, the Board must notify the individual that the application is incomplete and refuse to renew the license or registration. It also eliminates the Board's authority to extend the time for the individual to complete those requirements and charge a fine of up to \$100 for that extension.<sup>59</sup>

### **License endorsement**

Under the bill, an individual who holds a license to teach the theory and practice of barbering in another state or country whose licensure requirements are substantially similar to Ohio may apply to the Board for a barber instructor or assistant barber instructor license. Similar to continuing law for barber licenses, the individual must be at least 18 years old and pay the required fees to be issued the license.

The bill requires an applicant seeking a license to practice barbering to pass an examination unless the applicant satisfies the conditions specified in rules to be issued the license without taking the examination, including that the Board has determined that an examination is unnecessary. It removes the Board's authority under current law to require the applicant to pass an examination or waive any of the license requirements.<sup>60</sup>

The bill also removes the current law requirement under the Barber Law and Cosmetology Law that the jurisdiction that issued the applicant's license extends similar reciprocity to individuals holding a license the Board issues.<sup>61</sup>

Beginning December 29, 2023, the Board must grant a license to an applicant in accordance with the Occupational License Reciprocity Law if either of the following applies:

- The applicant holds a license in another state; or

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<sup>58</sup> R.C. 4709.01(G), 4709.05(E), repealed, 4709.051, and 4709.11, with conforming changes in R.C. 4713.62.

<sup>59</sup> R.C. 4713.60, with conforming changes in R.C. 4713.58 and 4713.59.

<sup>60</sup> R.C. 4709.05(A)(8) and (E) and 4709.08.

<sup>61</sup> R.C. 4709.08 and 4713.34.

- The applicant has satisfactory work experience, a government certification, or a private certification as described in the Occupational License Reciprocity Law in a state that does not issue that license.<sup>62</sup>

### **Inactive license restoration**

Under continuing law, an individual holding a practicing, advanced, or cosmetology instructor license who is not currently practicing or teaching a branch of cosmetology but wishes to do so in the future may apply to the Board to have the individual's license classified inactive. The bill also allows a barber, barber instructor, or assistant barber instructor to classify a license as inactive. Under continuing law and the bill, the Board can establish the procedures to classify a license as inactive only if the Board requires a licensee to complete continuing education requirements. The Board must adopt rules to establish the fee to classify a barber, barber instructor, or assistant barber instructor license as inactive and specify the continuing education an individual must complete to restore the license. The individual must submit satisfactory proof to the Board of having completed the continuing education requirement to have the license restored. Similar to continuing law regarding restoring inactive cosmetology licenses, the continuing education requirement to restore an inactive license must be sufficient to ensure minimum competency in the use or administration of a new procedure or product as necessary to ensure public health and safety, and the required number of hours cannot exceed the amount otherwise required to retain an active license.<sup>63</sup>

The bill adds a fee of not more than \$225 to restore an expired assistant barber instructor license, and not more than \$60 for each lapsed year, up to a total fee of \$450. It also increases the restoration fee for an expired barber license from \$100 to not more than \$150, but maintains the current law penalty of not more than \$75 for each lapsed year, up to a total fee of \$690.<sup>64</sup>

Additionally, the bill eliminates the Board's ability to restore an inactive practicing, advanced, or cosmetology instructor license until January 31 of the next odd-numbered year after the license was classified inactive, thus allowing the Board to restore it only when the Board receives satisfactory proof regarding completion of continuing education requirements set by the Board in rule as under continuing law. Current law allows restoration only on the later of those two events.<sup>65</sup>

### **Restoration of an expired license**

The bill adds that a holder of an expired barber instructor or assistant barber instructor license may have the license restored. It maintains the ability of a holder of an expired barber license to restore the license, but modifies the requirements for restoration. Under the bill, the

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<sup>62</sup> R.C. 4709.07, 4713.28, 4713.30, and 4713.31, by reference to R.C. Chapter 4796.

<sup>63</sup> R.C. 4709.05(A)(8) and (G), 4709.111, and 4713.61.

<sup>64</sup> R.C. 4709.12(A)(6) and (14).

<sup>65</sup> R.C. 4713.61.

holder of an expired barber, barber instructor, or assistant barber instructor license must complete any continuing education requirement for license renewal established by the Board in rules. This is in addition to paying the restoration fee described above in **“Inactive license restoration.”** Currently, the holder of an expired barber license must pay a restoration fee of \$100 and \$75 for each lapsed year (not to exceed \$690). If the license is not restored within six years, the holder must take the barber examination.<sup>66</sup>

The bill makes similar changes to expired practicing and advanced cosmetology licenses and cosmetology instructor licenses. Under the bill, the holder of an expired practicing license, advanced license, or instructor license must complete the continuing education requirements in place for that renewal period and pay a restoration fee established by the Board. Currently, an expired license holder must pay the restoration fee and, in the case of a practicing or advanced license expired for three or more renewal periods, complete eight hours of continuing education for each period that has elapsed since the last issuance or renewal up to a maximum of 24 hours.

The bill also eliminates the requirement that all fees collected by the Board relating to the restoration of a cosmetology practicing, advanced, or instructor license be deposited into the GRF, which would mean they are deposited into the Occupational Licensing and Regulatory Fund.<sup>67</sup>

## **Fees**

Continuing law requires the Board to charge and collect fees for the issuance, renewal, and restoration of licenses, application to take examinations, and other fees. The bill makes these fees nonrefundable. It also removes the Board’s ability to establish an installment plan for paying fines and fees for a license under the Cosmetology Law.

For licenses and permits issued under the Barber Law, the bill establishes that the statutory amount is the ceiling for that fee and requires the Board to adjust the fees every two years within the limits in the law to provide sufficient revenue to meet its expenses, similar to the Cosmetology Law. It also permits the Board to extend by up to 90 days the date a barber fee payment is due and certify the fee amount to the Attorney General for collection if the fee is unpaid after that date. The Board currently has this authority regarding cosmetology fees. The bill removes the Board’s authority to ask for a \$2 donation to the Ed Jeffers Barber Museum as part of a renewal application.<sup>68</sup>

## **Infection control**

The bill replaces the terms “sanitary,” “sanitation,” and “sanitize” with “disinfect” and “infection control.” It defines “infection control” as the practice of preventing the spread of

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<sup>66</sup> R.C. 4709.11 and 4709.112.

<sup>67</sup> R.C. 4713.63 and R.C. 4743.05, not in the bill.

<sup>68</sup> R.C. 4709.12 and 4713.10.

infections and disease by ensuring that a barber shop, salon, school, or tanning facility, including all equipment and implements in those places, are maintained by doing all of the following, as applicable:

- Removing surface or visible dirt or debris by cleaning with soap, detergent, or a chemical cleaner, followed by rinsing with clean water;
- Using a chemical disinfectant to kill or denature bacteria, fungi, and viruses;
- Applying heat or using other procedures to eliminate, remove, or kill all forms of microbial life present on a surface or contained in a fluid.<sup>69</sup>

Current law defines “sanitary” for purposes of the Barber Law as free of infectious agents, disease, or infestation by insects or vermin and free of soil, dust, or foreign material.<sup>70</sup>

Similar to current law regarding sanitary standards, the bill requires the Board to adopt rules to establish infection control standards and furnish a copy of the standards to license and registration holders and cosmetic and massage therapists.<sup>71</sup> The bill adds that the infection control standards the Board establishes under the Barber Law must focus on precautions to prevent infectious or contagious diseases being created or spread, which the Board is currently required to do under the Cosmetology Law. The bill eliminates the requirement that the Board consult with the Department of Health when adopting the standards.<sup>72</sup>

### **Practice in a funeral home**

The bill specifies that nothing in the Barber Law or Cosmetology Law prohibits an individual who holds a license or registration issued by the Board under either law from practicing barbering or a branch of cosmetology on a dead human body at a licensed funeral home or embalming facility.<sup>73</sup>

### **License maintenance**

The bill adds that the holder of a barber instructor or assistant barber instructor license, independent contractor license to practice barbering, or advanced cosmetology license must maintain the Board-issued license or an electronically generated license certification, as well as state-issued photo identification, that can be produced on inspection or request. The holder of a practicing cosmetology license, cosmetology instructor license, cosmetology independent contractor license, or boutique services registration must maintain the license or registration under continuing law. It removes the requirement that a licensed barber display the license in a

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<sup>69</sup> R.C. 4709.01(J) and 4713.01(T), with conforming changes throughout the bill.

<sup>70</sup> R.C. 4709.01(B), repealed.

<sup>71</sup> R.C. 4709.05(A)(5) and (8), 4713.08(A)(15), and 4713.081.

<sup>72</sup> R.C. 4709.05(B) and 4713.08(E).

<sup>73</sup> R.C. 4709.031 and 4713.16, by reference to R.C. 4717.06, not in the bill.

conspicuous place near the licensed barber's work chair, and instead requires the barber to maintain the license and photo identification.<sup>74</sup>

The bill also requires an individual providing massage therapy or another professional service in a barber shop to maintain the individual's professional license or certification or an electronically generated copy of the license or certification and a state-issued photo identification that can be produced on inspection or request, similar to an individual providing the service in a salon under continuing law.<sup>75</sup>

## Administration

### State Cosmetology and Barber Board membership

Under the bill, the licensed independent contractor member of the Board is no longer required to practice a branch of cosmetology and may be an independent contractor barber. The bill also requires that not more than one member have a common financial connection with any tanning facility (as added by the bill), school, salon, or barber shop. These changes do not affect the terms of members serving on the Board on the bill's effective date.<sup>76</sup>

Under current law, the Board consists of the following members:<sup>77</sup>

Board membership	
A licensed cosmetologist or cosmetology instructor	2 licensed cosmetologists who have actively managed beauty salons for at least 5 years
A licensed independent contractor practicing a branch of cosmetology	An individual representing cosmetology instructors at vocational and technical schools
An owner or executive actively engaged in daily operations of a licensed school	An owner of at least 5 salons
A nurse or doctor	A member representing the general public
An individual holding a valid tanning permit who has owned or managed a tanning facility for at least the last 5 years	A licensed esthetician who has been actively practicing esthetics for at least the past 5 years

<sup>74</sup> R.C. 4709.07(D), 4709.072(C), 4709.09(C)(2), and 4713.56.

<sup>75</sup> R.C. 4709.091(C) and 4713.56.

<sup>76</sup> R.C. 4713.02; Section 8.

<sup>77</sup> R.C. 4713.02.

Board membership	
An employer barber who has been licensed for at least the last 5 years	A barber or barber instructor who has been licensed for at least the past 5 years

### Annual report

The bill requires the written report the Board must prepare under continuing law to be submitted by November 15 of each year and address the previous fiscal year, rather than the previous 12-month period.<sup>78</sup>

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## HISTORY

Action	Date
Introduced	04-25-23
Reported, H. Commerce and Labor	06-20-23
Passed House (92-3)	06-27-23

ANHB0158PH-135/ts

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<sup>78</sup> R.C. 4713.071.