

# HB0126S01 compared with HB0126

~~text~~ shows text that was in HB0126 but was deleted in HB0126S01.

inserted text shows text that was not in HB0126 but was inserted into HB0126S01.

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Senator Todd D. Weiler proposes the following substitute bill:

## LICENSING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brady Brammer**

Senate Sponsor: ~~\_\_\_\_\_~~ Curtis S. Bramble

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### LONG TITLE

#### General Description:

This bill modifies provisions of the Cosmetology and Associated Professions Licensing Act (the act).

#### Highlighted Provisions:

This bill:

- ▶ modifies the definition of "hair braiding" in the act to include the use of wefts if applied without the use of glue or tape;~~;~~
- ▶ ~~modifies the definition of the "practice of barbering" in the act;~~ and
- ▶ makes technical changes.

#### Money Appropriated in this Bill:

None

#### Other Special Clauses:

## HB0126S01 compared with HB0126

None

### Utah Code Sections Affected:

AMENDS:

**58-11a-102**, as last amended by Laws of Utah 2020, Chapter 339

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **58-11a-102** is amended to read:

#### **58-11a-102. Definitions.**

As used in this chapter:

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Approved hair designer apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(6) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) "Barber" means a person who is licensed under this chapter to engage in the

## HB0126S01 compared with HB0126

practice of barbering.

(7) "Barber instructor" means a barber who is licensed under this chapter to engage in the practice of barbering instruction.

(8) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.

(9) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.

(10) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

(11) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

(12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

(13) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is immediately available for consultation, advice, instruction, and evaluation.

(14) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

(15) "Electrologist instructor" means an electrologist who is licensed under this chapter to engage in the practice of electrology instruction.

(16) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

(17) "Esthetician instructor" means a master esthetician who is licensed under this chapter to engage in the practice of esthetics instruction.

(18) "Fund" means the Cosmetology and Associated Professions Education and Enforcement Fund created in Section 58-11a-103.

(19) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's natural human hair.

(b) "Hair braiding" includes the following methods or styles:

- (i) African-style braiding;
- (ii) box braids;
- (iii) cornrows;
- (iv) dreadlocks;

## HB0126S01 compared with HB0126

- (v) french braids;
- (vi) invisible braids;
- (vii) micro braids;
- (viii) single braids;
- (ix) single plaits;
- (x) twists;
- (xi) visible braids;
- (xii) the use of lock braids; [~~and~~]
- (xiii) the use of decorative beads, accessories, and [~~nonhair~~] extensions[-]; and
- (xiv) the use of wefts if applied without the use of glue or tape.

(c) "Hair braiding" does not include:

(i) the use of:

(A) wefts if applied with the use of glue or tape;

(B) synthetic tape;

(C) synthetic glue;

(D) keratin bonds;

(E) fusion bonds; or

(F) heat tools;

(ii) the cutting of human hair; or

(iii) the application of heat, dye, a reactive chemical, or other preparation to:

(A) alter the color of the hair; or

(B) straighten, curl, or alter the structure of the hair.

(20) "Hair designer" means a person who is licensed under this chapter to engage in the practice of hair design.

(21) "Hair designer instructor" means a hair designer who is licensed under this chapter to engage in the practice of hair design instruction.

(22) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

(23) "Licensed electrology school" means an electrology school licensed under this chapter.

(24) "Licensed esthetics school" means an esthetics school licensed under this chapter.

## HB0126S01 compared with HB0126

(25) "Licensed hair design school" means a hair design school licensed under this chapter.

(26) "Licensed nail technology school" means a nail technology school licensed under this chapter.

(27) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

(28) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.

(29) "Nail technician instructor" means a nail technician licensed under this chapter to engage in the practice of nail technology instruction.

(30) "Practice of barbering" means:

(a) cutting, clipping, or trimming the ~~natural~~ hair of the head of any person by the use of scissors, shears, clippers, or other appliances;

(b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(c) removing hair from the face or neck of a person by the use of shaving equipment; and

(d) when providing other services described in this Subsection (30), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

(31) "Practice of barbering instruction" means teaching the practice of barbering at a licensed barber school, at a licensed cosmetology/barber school, or for an approved barber apprenticeship.

(32) "Practice of basic esthetics" means any one of the following skin care procedures done on the body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

(c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;

## HB0126S01 compared with HB0126

(d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

(e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying eyelash or eyebrow extensions; or

(f) except as provided in Subsection (32)(f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:

(i) superfluous hair removal which shall be under indirect supervision;

(ii) anti-aging resurfacing enhancements;

(iii) photo rejuvenation; or

(iv) tattoo removal.

(33) (a) "Practice of cosmetology/barbering" means:

(i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying eyelash or eyebrow extensions;

(iv) removing hair from the body of a person by the use of depilatories, waxing, or shaving equipment;

(v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or

(vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

(b) The term "practice of cosmetology/barbering" includes:

(i) the practice of barbering;

(ii) the practice of basic esthetics; and

(iii) the practice of nail technology.

(c) An individual is not required to be licensed as a cosmetologist/barber to engage in

## HB0126S01 compared with HB0126

the practice of threading.

(34) "Practice of cosmetology/barbering instruction" means teaching the practice of cosmetology/barbering:

(a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail technology school; or

(b) for an approved cosmetologist/barber apprenticeship.

(35) "Practice of electrology" means:

(a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or

(b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.

(36) "Practice of electrology instruction" means teaching the practice of electrology at a licensed electrology school.

(37) "Practice of esthetics instruction" means teaching the practice of basic esthetics or the practice of master-level esthetics:

(a) at a licensed esthetics school or a licensed cosmetology/barber school; or

(b) for an approved esthetician apprenticeship or an approved master esthetician apprenticeship.

(38) "Practice of hair design" means:

(a) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or both on the human head; or

(d) practicing hair weaving, hair fusing, or servicing previously medically implanted hair.

(39) "Practice of hair design instruction" means teaching the practice of hair design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed barber school.

(40) (a) "Practice of master-level esthetics" means:

## HB0126S01 compared with HB0126

(i) any of the following when done for cosmetic purposes on the body and not for the treatment of medical, physical, or mental ailments:

- (A) body wraps as defined by rule;
- (B) hydrotherapy as defined by rule;
- (C) chemical exfoliation as defined by rule;
- (D) advanced pedicures as defined by rule;
- (E) sanding, including microdermabrasion;
- (F) advanced extraction;
- (G) other esthetic preparations or procedures with the use of:
  - (I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or

(H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

- (I) superfluous hair removal;
- (II) anti-aging resurfacing enhancements;
- (III) photo rejuvenation; or

(IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and

(ii) lymphatic massage by manual or other means as defined by rule.

(b) Notwithstanding the provisions of Subsection (40)(a), a master-level esthetician may perform procedures listed in Subsection (40)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term "practice of master-level esthetics" includes the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading.

(41) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands,

## **HB0126S01 compared with HB0126**

mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.

(42) "Practice of nail technology instruction" means teaching the practice of nail technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for an approved nail technician apprenticeship.

(43) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(44) "Recognized cosmetology/barber school" means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(45) "Recognized electrology school" means an electrology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(46) "Recognized esthetics school" means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(47) "Recognized hair design school" means a hair design school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(48) "Recognized nail technology school" means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(49) "Salon" means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

(50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

(51) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501 and as may be further defined by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.