

**Representative Sheryl L. Allen** proposes to substitute the following bill:

**ESTHETICIAN LICENSING ACT**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Sheryl L. Allen**

AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; REGULATING AND LICENSING THE PRACTICE OF ESTHETICS; ADDING ESTHETICIANS TO THE COSMETOLOGY/BARBERING LICENSING BOARD; RENAMING THE BOARD; SETTING FORTH QUALIFICATIONS FOR LICENSURE; PROVIDING EXEMPTIONS FROM LICENSURE; DEFINING UNPROFESSIONAL AND UNLAWFUL CONDUCT; REQUIRING THE BOARD TO STUDY THE NUMBER FOR SCHOOLING HOURS REQUIRED FOR LICENSURE; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**58-11a-101**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-102**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-201**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-301**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-302**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-303**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-304**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-305**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-306**, as enacted by Chapter 96, Laws of Utah 1996

**58-11a-501**, as enacted by Chapter 96, Laws of Utah 1996

ENACTS:

**58-11a-502**, Utah Code Annotated 1953

**\*HB0152S1\***

1 This act enacts uncodified material.

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

3 Section 1. Section **58-11a-101** is amended to read:

4 **58-11a-101. Title.**

5 This chapter is known as the "[Cosmetologist/Barber] Cosmetologist/Barber/Esthetician  
6 Licensing Act."

7 Section 2. Section **58-11a-102** is amended to read:

8 **58-11a-102. Definitions.**

9 (1) "Approved cosmetologist/barber apprenticeship" means an apprenticeship that meets  
10 the requirements of Section 58-11a-306(1) and the requirements established by rule.

11 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the  
12 requirements of Section 58-11a-306(2) and the requirements established by rule.

13 [~~(2)~~] (3) "Board" means the [~~Cosmetology/Barbering~~] Cosmetology/Barbering /Esthetics  
14 Licensing Board created in Section 58-11a-201.

15 [~~(3)~~] (4) "Cosmetologist/barber" means a person who is licensed under this chapter to  
16 engage in the practice of cosmetology/barbering.

17 [~~(4)~~] "~~Cosmetologist/barber apprentice~~" means a person who is licensed under this chapter  
18 ~~to engage in the practice of cosmetology/barbering in an approved cosmetologist/barber~~  
19 ~~apprenticeship.]~~

20 (5) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under  
21 this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school.

22 (6) "Cosmetology/barber [~~shop~~] salon" means a place, shop, or establishment in which  
23 cosmetology, barbering, or both, are practiced.

24 (7) "Direct supervision" means that the supervisor of the cosmetology/barber apprentice  
25 or esthetician apprentice or instructor of a cosmetology/barber student or esthetician student is  
26 immediately available for consultation, advice, instruction, and evaluation.

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

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

31 (10) "Esthetician instructor" means an esthetician who is licensed under this chapter to

1 teach esthetics at a licensed esthetics school.

2 (11) "Esthetics salon" means a place, shop, or establishment in which esthetics is  
3 practiced.

4 ~~[(9)]~~ (12) "Licensed cosmetology/barber school" means a cosmetology/barber school  
5 licensed under this chapter.

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

7 ~~[(10)]~~ (14) "Practice of cosmetology/barbering" means:

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

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

12 (c) arching eyebrows, or tinting eyebrows or eyelashes, or both;

13 (d) removing hair from the face, neck, shoulders, arms, bikini line, or legs of a person by  
14 the use of depilatories, waxing, or shaving equipment;

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

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

18 ~~[(H)]~~ (15) "Practice of cosmetology/barbering instruction" means instructing  
19 cosmetology/barbering in a licensed cosmetology/barber school.

20 ~~[(12)]~~ (16) "Practice of electrology" means the removal of superfluous hair from the body  
21 of a person by the use of electricity.

22 (17) "Practice of esthetics" means any one of the following skin care procedures done on  
23 the face, neck, torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes:

24 (a) cleansing, stimulating, manipulating, exercising, or applying oils, antiseptics, clays,  
25 masks, exfolients, depilatories, or other preparations, or procedures including waxes, sanding,  
26 tweezing, whether by hand massage or by mechanical or electrical appliances on the skin or skin  
27 spa procedures; or

28 (b) removing superfluous hair by means other than electrolysis.

29 (18) "Practice of esthetics instruction" means instructing esthetics in a licensed esthetics  
30 school.

31 ~~[(13)]~~ (19) "Recognized cosmetology/barber school" means a cosmetology/barber school

1 located in another state, whose students, upon graduation, are recognized as having completed the  
2 educational requirements for licensure in that state.

3 [(14)] (20) "Recognized electrology school" means an electrology school:

4 (a) located in this state whose curriculum consists of 500 hours of instruction approved  
5 by rule; or

6 (b) located in another state:

7 (i) whose curriculum consists of 500 hours of instruction; and

8 (ii) whose students, upon graduation, are recognized as having completed the educational  
9 requirements for licensure in that state.

10 (21) "Recognized esthetics school" means an esthetics school located in another state,  
11 whose students, upon graduation, are recognized as having completed the educational requirements  
12 for licensure in that state.

13 [(15)] (22) "Unlawful conduct" is as defined in [Section] Sections 58-1-501 and  
14 58-11a-502.

15 [(16)] (23) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501  
16 and as may be further defined by rule.

17 Section 3. Section **58-11a-201** is amended to read:

18 **58-11a-201. Board.**

19 (1) There is created the [~~Cosmetology/Barbering~~] Cosmetology/Barbering/Esthetics  
20 Licensing Board consisting of:

21 (a) three cosmetologists/barbers;

22 (b) one cosmetologist/barber instructor;

23 (c) one representative of a licensed cosmetology/barber school;

24 (d) two estheticians;

25 (e) one representative of a licensed esthetics school;

26 [~~(d)~~] (f) one electrologist; and

27 [~~(e) one member~~] (g) two members from the general public.

28 (2) The board shall be appointed and serve in accordance with Section 58-1-201.

29 (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202  
30 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating  
31 basis to:

1 (a) assist the division in reviewing complaints concerning the unlawful or unprofessional  
2 conduct of a licensee; and

3 (b) advise the division in its investigation of these complaints.

4 (4) A board member who has, under Subsection (3), reviewed a complaint or advised in  
5 its investigation may be disqualified from participating with the board when the board serves as  
6 a presiding officer in an adjudicative proceeding concerning the complaint.

7 Section 4. Section **58-11a-301** is amended to read:

8 **58-11a-301. Licensure required -- License classifications.**

9 (1) Except as specifically provided in Section 58-1-307 or 58-11a-305, a license is  
10 required to engage in the practice of:

- 11 (a) cosmetology/ barbering;
- 12 (b) cosmetology/barbering instruction; [or]
- 13 (c) electrology[-];
- 14 (d) esthetics; or
- 15 (e) esthetics instruction.

16 (2) The division shall issue to a person who qualifies under this chapter a license in the  
17 following classifications:

- 18 (a) cosmetologist/barber;
- 19 [~~(b)~~ cosmetologist/barber apprentice;]
- 20 [~~(c)~~] (b) cosmetologist/barber instructor;
- 21 [~~(d)~~] (c) cosmetology/barber school[-];
- 22 (d) electrologist; [and]
- 23 (e) esthetician;
- 24 (f) esthetician instructor; and
- 25 (g) esthetics school.

26 Section 5. Section **58-11a-302** is amended to read:

27 **58-11a-302. Qualifications for licensure.**

28 (1) Each applicant for licensure as a cosmetologist/barber shall:

- 29 (a) submit an application in a form prescribed by the division;
- 30 (b) pay a fee determined by the department under Section 63-38-3.2;
- 31 (c) be of good moral character;

- 1 (d) provide satisfactory documentation of:
- 2 (i) graduation from a licensed or recognized cosmetology/barber school whose curriculum
- 3 consists of a minimum of 2,000 hours of instruction over a period of not less than 12 months;
- 4 (ii) (A) having graduated from a recognized cosmetology/barber school whose curriculum
- 5 consists of less than 2,000 hours of instruction; and
- 6 (B) having practiced as a licensed cosmetologist/barber for a period of not less than 4,000
- 7 hours; or
- 8 (iii) having completed an approved cosmetology/barber apprenticeship; and
- 9 (e) meet the examination requirement established by rule.

10 [~~(2)~~ Each applicant for licensure as a cosmetologist/barber apprentice shall:]

11 [~~(a)~~ submit an application in a form prescribed by the division;]

12 [~~(b)~~ pay a fee determined by the department under Section 63-38-3.2;]

13 [~~(c)~~ be of good moral character;]

14 [~~(d)~~ meet the examination requirement established by rule; and]

15 [~~(e)~~ provide satisfactory documentation of having enrolled in an approved

16 cosmetology/barber apprenticeship.]

17 [(3)] (2) Each applicant for licensure as a cosmetologist/barber instructor shall:

18 (a) submit an application in a form prescribed by the division;

19 (b) pay a fee determined by the department under Section 63-38-3.2;

20 (c) provide satisfactory documentation that the applicant is currently licensed as a

21 cosmetologist/barber;

22 (d) be of good moral character;

23 (e) provide satisfactory documentation of completion of:

24 (i) an instructor training program conducted by a cosmetology/barber school consisting

25 of a minimum of 1,000 hours; or

26 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and

27 (f) meet the examination requirement established by rule.

28 [(4)] (3) Each applicant for licensure as an electrologist shall:

29 (a) submit an application in a form prescribed by the division;

30 (b) pay a fee determined by the department under Section 63-38-3.2;

31 (c) be of good moral character;

1 (d) provide satisfactory documentation of having graduated from a recognized electrology  
2 school after completing a curriculum of 500 hours of instruction approved by rule; and

3 (e) meet the examination requirement established by rule.

4 ~~[(5)]~~ (4) Each applicant for licensure as a cosmetologist/barber school shall:

5 (a) submit an application in a form prescribed by the division;

6 (b) pay a fee determined by the department under Section 63-38-3.2; and

7 (c) provide satisfactory documentation:

8 (i) of appropriate registration with the Division of Corporations and Commercial Code;

9 (ii) of business licensure from the city, town, or county in which the school is located;

10 (iii) that the applicant's physical facilities comply with the requirements established by  
11 rule; and

12 (iv) that the applicant meets the standards for cosmetology/barber schools, including staff  
13 and accreditation requirements, established by rule.

14 (5) Each applicant for licensure as an esthetician shall:

15 (a) submit an application in a form prescribed by the division;

16 (b) pay a fee determined by the department under Section 63-38-3.2;

17 (c) provide satisfactory documentation of:

18 (i) graduation from a licensed or recognized esthetic school whose curriculum consists of  
19 not less than 15 weeks of esthetic instruction with a minimum of 600 hours, which meets the  
20 standards established by division rule or completion of equivalent education and training in  
21 compliance with division rule;

22 (ii) completion of an approved esthetic apprenticeship; or

23 (iii) for individuals requesting licensure as an esthetician prior to March 31, 1999, one of  
24 the following:

25 (A) a minimum of 1,200 hours of experience in the practice of esthetics in this state or any  
26 other state; or

27 (B) a minimum of 1,200 hours of experience as an apprentice to an esthetician who has  
28 practiced esthetics in this state for a minimum of two years; and

29 (d) meet the examination requirement established by division rule.

30 (6) Each applicant for licensure as an esthetician instructor shall:

31 (a) submit an application in a form prescribed by the division;

1 (b) pay a fee determined by the department under Section 63-38-3.2;

2 (c) provide satisfactory documentation that the applicant is currently licensed as an  
3 esthetician;

4 (d) provide satisfactory documentation of completion of:

5 (i) (A) an instructor training program conducted by a licensed or recognized esthetics  
6 school consisting of a minimum of 300 hours; and

7 (B) a minimum of 1,000 hours of experience as an esthetician; or

8 (ii) a minimum of 4,000 hours of experience as an esthetician; and

9 (e) meet the examination requirement established by rule.

10 (7) Each applicant for licensure as an esthetics school shall:

11 (a) submit an application in a form prescribed by the division;

12 (b) pay a fee determined by the department under Section 63-38-3.2; and

13 (c) provide satisfactory documentation:

14 (i) of appropriate registration with the Division of Corporations and Commercial Code;

15 (ii) of business licensure from the city, town, or county in which the school is located;

16 (iii) that the applicant's physical facilities comply with the requirements established by  
17 rule; and

18 (iv) that the applicant meets the standards for esthetics schools, including staff and  
19 accreditation requirements, establish by division rule made in collaboration with the board.

20 Section 6. Section **58-11a-303** is amended to read:

21 **58-11a-303. Terms of license -- Expiration -- Renewal.**

22 (1) (a) The division shall issue each license under this chapter in accordance with a  
23 two-year renewal cycle established by rule, except that a cosmetology/barber or esthetician  
24 instructor license is a one-time certificate and does not expire unless the licensee fails to maintain  
25 a current cosmetology/barber or esthetician license.

26 (b) The division may by rule extend or shorten a renewal period by as much as one year  
27 to stagger the renewal cycles it administers.

28 (2) At the time of renewal, a licensed cosmetology/barber school shall:

29 (a) show satisfactory evidence of accreditation with the National Accrediting Commission  
30 of Cosmetology Arts and Sciences or other accrediting commissions recognized by the State Board  
31 of Regents for postsecondary schools; and



1 (b) provide satisfactory documentation that the applicant meets the standards for  
2 cosmetology/barber schools established by rule.

3 (3) At the time of renewal, a licensed esthetics school shall show satisfactory evidence that  
4 the applicant meets the standards for esthetics schools established by rule by the division, in  
5 collaboration with the board, including any rules regarding accreditation.

6 [(3)] (4) Each license expires on the expiration date shown on the license unless the  
7 licensee renews it in accordance with Section 58-1-308.

8 Section 7. Section **58-11a-304** is amended to read:

9 **58-11a-304. Exemptions from licensure.**

10 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
11 persons may engage in the practice of cosmetology/barbering without being licensed under this  
12 chapter:

13 [(1)] (a) persons licensed under the laws of this state to engage in the practice of medicine,  
14 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which they  
15 are licensed;

16 [(2)] (b) commissioned physicians and surgeons serving in the armed forces of the United  
17 States or another federal agency;

18 [(3)] (c) registered nurses, undertakers, and morticians licensed under the laws of this state  
19 when engaged in the practice of the profession for which they are licensed;

20 [(4)] (d) persons who visit the state to engage in instructional seminars, advanced  
21 cosmetology/barbering classes, trade shows, or competitions of a limited duration;

22 [(5)] (e) persons who engage in the practice of cosmetology/barbering without  
23 compensation;

24 [(6)] (f) persons instructing adult education classes and other educational programs  
25 directed toward persons who are not licensed in cosmetology/barbering and that are not intended  
26 to train persons to become licensed to engage in cosmetology/barbering, provided:

27 [(a)] (i) each instructor is licensed as a cosmetologist/barber; and

28 [(b)] (ii) attendees receive no credit toward the educational requirement for licensure; [and]

29 [(7)] (g) persons instructing in workshops, seminars, training meetings, and other  
30 educational programs whose purpose is to provide continuing professional development to licensed  
31 cosmetologist/barbers or electrologists[-]; and

1 (h) persons enrolled in an approved cosmetologist/barber apprenticeship.

2 (2) In addition to the exemptions from licensure in Section 58-1-307, the following  
3 individuals may engage in the practice of esthetics, without being licensed under this chapter:

4 (a) persons licensed under the laws of this state to engage in the practice of medicine,  
5 surgery, massage, osteopathy, or chiropractic when engaged in the practice of the profession for  
6 which they are licensed;

7 (b) commissioned physicians and surgeons serving in the armed forces of the United States  
8 or another federal agency;

9 (c) persons who visit the state to engage in instructional seminars, advanced esthetics  
10 classes, trade shows, or competitions of a limited duration;

11 (d) persons instructing adult education classes and other educational programs directed  
12 toward people who are not licensed in esthetics and that are not intended to train persons to  
13 become licensed to practice esthetics, provided:

14 (i) each instructor is licensed as an esthetician; and

15 (ii) attendees receive no credit toward the educational requirement for licensure;

16 (e) persons who engage in the practice of esthetics without compensation;

17 (f) persons employed by a licensed esthetic school to teach theory classes in anatomy,  
18 physiology, pathology, nutrition, or chemistry, who are licensed or certified in their own  
19 profession; and

20 (g) persons enrolled in an approved esthetician apprenticeship.

21 Section 8. Section **58-11a-305** is amended to read:

22 **58-11a-305. Requirement to display license.**

23 Each licensee under this chapter shall prominently display the licensee's license at the  
24 location where the licensee [is engaged] engages in the practice [of cosmetology/barbering,  
25 electrology, or cosmetology/barbering instruction] for which that license is issued under this  
26 chapter.

27 Section 9. Section **58-11a-306** is amended to read:

28 **58-11a-306. Apprenticeship.**

29 [A] (1) An approved cosmetologist/barber apprenticeship shall:

30 [(1)] (a) consist of not less than 2,500 hours of training in not less than 15 months; and

31 [(2)] (b) be conducted by a supervisor who:

1           ~~[(a)]~~ (i) is licensed under this chapter as a cosmetologist/barber instructor; and  
 2           ~~[(b)]~~ (ii) provides direct supervision of the cosmetologist/barber apprentice during the  
 3 apprenticeship program.

4           (2) An approved esthetician apprenticeship shall:

5           (a) consist of not less than 1,200 hours of training in not less than nine months; and

6           (b) be conducted by a supervisor who:

7           (i) is licensed under this chapter as an esthetician instructor; and

8           (ii) provides direct supervision of the esthetician apprentice during the apprenticeship  
 9 program.

10           Section 10. Section **58-11a-501** is amended to read:

11           **58-11a-501. Unprofessional conduct.**

12           Unprofessional conduct includes:

13           (1) failing as a licensed cosmetology/barber school or licensed esthetics school to obtain  
 14 or maintain accreditation [~~as a cosmetology/barber school~~] as required by rule;

15           (2) failing as a licensed cosmetology/barber school or licensed esthetics school to comply  
 16 with the standards of accreditation applicable to [~~cosmetology/barber~~] such schools;

17           (3) failing as a licensed cosmetology/barber school or licensed esthetics school to provide  
 18 adequate instruction to enrolled students;

19           (4) failing as [~~a cosmetology/barber~~] an apprentice supervisor to provide direct supervision  
 20 to the apprentice;

21           (5) failing as a cosmetology/barber instructor or esthetician instructor to provide direct  
 22 supervision to [~~cosmetology/barber or cosmetology/barber instructor~~] students under their  
 23 instruction;

24           ~~[(6) failing as a cosmetology/barber apprentice or supervisor to comply with the~~  
 25 ~~apprentice's or supervisor's requirements under an approved apprenticeship program;]~~

26           (6) failing as an apprentice supervisor to comply with division rules relating to  
 27 apprenticeship programs under this chapter;

28           (7) keeping a [~~shop~~] salon or school, its furnishing, tools, utensils, linen, or appliances in  
 29 an unsanitary condition;

30           (8) failing to comply with Title 26, Utah Health Code; [~~and~~]

31           (9) failing to display licenses or certificates as required under Section 58-11a-305[-];

- 1           (10) failing to comply with physical facility requirements established by rule;
- 2           (11) failing to maintain mechanical or electrical equipment in safe operating condition;
- 3           (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,
- 4 showers, or saunas; and
- 5           (13) prescribing or administering prescription drugs.

6           Section 11. Section **58-11a-502** is enacted to read:

7           **58-11a-502. Unlawful conduct.**

8           "Unlawful conduct" includes touching, or applying an instrument or device to the following

9 areas of the body:

- 10           (1) the genitals or the anus; and
- 11           (2) the breast of a female patron, except in cases in which the female patron states to a
- 12 licensee that the patron requests breast skin procedures and signs a written consent form
- 13 authorizing the licensee to perform breast skin procedures.

14           Section 12. **Study by the board.**

15           The board shall study the number of course hours in a recognized or licensed esthetics

16 school required for licensure as an esthetician. The board shall report the results of its study and

17 make a recommendation regarding the appropriate number of course hours to the Business, Labor

18 and Economic Development Interim Committee of the Legislature at or before the November,

19 1998, meeting of the committee.