

**BARBER, COSMETOLOGIST/BARBER, ESTHETICIAN,  
ELECTROLOGIST, AND NAIL TECHNICIAN LICENSING**

**ACT AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Holly J. Richardson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends definitions and exemptions from licensure in the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act regarding the practice of eyelash extension application.

**Highlighted Provisions:**

This bill:

- ▶ defines "eyelash extension application training and certification program" and "practice of eyelash extension application" for purposes of the act; and
- ▶ provides an exemption.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

**Utah Code Sections Affected:**

AMENDS:

**58-11a-102**, as last amended by Laws of Utah 2010, Chapter 145

**58-11a-304**, as last amended by Laws of Utah 2007, Chapter 209

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

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

30 **58-11a-102. Definitions.**

31 As used in this chapter:

32 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship  
33 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection  
34 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the  
35 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
36 Administrative Rulemaking Act.

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

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

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

49 (5) "Barber" means a person who is licensed under this chapter to engage in the  
50 practice of barbering.

51 (6) "Barber instructor" means a barber who is licensed under this chapter to teach  
52 barbering at a licensed barber school or in an apprenticeship program as defined in Section  
53 58-11a-306.

54 (7) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology, and  
55 Nail Technology Licensing Board created in Section 58-11a-201.

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

58 (9) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed

59 under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school,  
60 licensed barber school, licensed nail technology school, or in an apprenticeship program as  
61 defined in Subsection 58-11a-306(2).

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

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

66 (12) "Electrologist instructor" means an electrologist who is licensed under this chapter  
67 to teach electrology at a licensed electrology school.

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

70 (14) "Esthetician instructor" means a master esthetician who is licensed under this  
71 chapter to teach the practice of esthetics and the practice of master-level esthetics at a licensed  
72 esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as  
73 defined in Subsection 58-11a-306(3).

74 (15) "Eyelash extension application training and certification program" means a  
75 program that trains and certifies individuals in the proper application techniques and safety  
76 procedures of the practice of eyelash extension application.

77 [~~(15)~~] (16) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist,  
78 and Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

79 [~~(16)~~] (17) "Licensed barber or cosmetology/barber school" means a barber or  
80 cosmetology/barber school licensed under this chapter.

81 [~~(17)~~] (18) "Licensed electrology school" means an electrology school licensed under  
82 this chapter.

83 [~~(18)~~] (19) "Licensed esthetics school" means an esthetics school licensed under this  
84 chapter.

85 [~~(19)~~] (20) "Licensed nail technology school" means a nail technology school licensed  
86 under this chapter.

87 [~~(20)~~] (21) "Master esthetician" means an individual who is licensed under this chapter  
88 to engage in the practice of master-level esthetics.

89 [~~(21)~~] (22) "Nail technician" means an individual who is licensed under this chapter to

90 engage in the practice of nail technology.

91 ~~[(22)]~~ (23) "Nail technician instructor" means a nail technician licensed under this  
92 chapter to teach the practice of nail technology in a licensed nail technology school, a licensed  
93 cosmetology/barber school, or in an apprenticeship program as defined in Subsection  
94 58-11a-306(5).

95 ~~[(23)]~~ (24) "Practice of barbering" means:

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

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

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

100 ~~[(24)]~~ (25) "Practice of barbering instruction" means instructing barbering in a licensed  
101 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined  
102 in Subsection 58-11a-306(1).

103 ~~[(25)]~~ (26) "Practice of basic esthetics" means any one of the following skin care  
104 procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for  
105 cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

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

110 (b) limited chemical exfoliation as defined by rule;

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

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

116 (e) cosmetic laser procedures under direct supervision of a licensed health care  
117 practitioner as defined by rule, limited to the following:

118 (i) superfluous hair removal;

119 (ii) anti-aging resurfacing enhancements;

120 (iii) photo rejuvenation; or

- 121 (iv) tattoo removal.
- 122 [~~(26)~~] (27) (a) "Practice of cosmetology/barbering" means:
- 123 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,  
124 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a  
125 person;
- 126 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or  
127 other appliances;
- 128 (iii) arching eyebrows, or tinting eyebrows or eyelashes, applying eyelash extensions,  
129 or any combination of these procedures;
- 130 (iv) removing hair from the face, neck, shoulders, arms, back, torso, feet, bikini line,  
131 or legs of a person by the use of depilatories, waxing, or shaving equipment;
- 132 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces  
133 or both on the human head; or
- 134 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted  
135 hair.
- 136 (b) The term "practice of cosmetology/barbering" includes:
- 137 (i) the practice of basic esthetics; and
- 138 (ii) the practice of nail technology.
- 139 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in  
140 the practice of threading.
- 141 [~~(27)~~] (28) "Practice of cosmetology/barbering instruction" means instructing  
142 cosmetology/barbering as defined in Subsection [~~(26)~~] (27) in a licensed cosmetology/barber  
143 school or in an apprenticeship program as defined in Subsection 58-11a-306(2).
- 144 [~~(28)~~] (29) "Practice of electrology" means:
- 145 (a) the removal of superfluous hair from the body of a person by the use of electricity,  
146 waxing, shaving, or tweezing; or
- 147 (b) cosmetic laser procedures under the general supervision of a licensed health care  
148 practitioner as defined by rule, limited to superfluous hair removal.
- 149 [~~(29)~~] (30) "Practice of electrology instruction" means instructing electrology in a  
150 licensed electrology school.
- 151 [~~(30)~~] (31) "Practice of esthetics instruction" means instructing esthetics in a licensed

152 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a  
153 licensed esthetics school or in an apprenticeship program as defined in Subsections  
154 58-11a-306(2), (3), and (4).

155 (32) "Practice of eyelash extension" means the process of applying with a bonding  
156 agent an artificial eyelash, of either natural or synthetic material, to a real eyelash attached to  
157 the eyelid of an individual.

158 [~~31~~] (33) (a) "Practice of master-level esthetics" means:

159 (i) any of the following when done for cosmetic purposes on the head, face, neck,  
160 torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment  
161 of medical, physical, or mental ailments:

- 162 (A) body wraps as defined by rule;
- 163 (B) hydrotherapy as defined by rule;
- 164 (C) chemical exfoliation as defined by rule;
- 165 (D) advanced pedicures as defined by rule;
- 166 (E) sanding, including microdermabrasion;
- 167 (F) advanced extraction;

168 (G) other esthetic preparations or procedures with the use of:

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

173 (H) cosmetic laser procedures under the general supervision of a licensed health care  
174 practitioner as defined by rule, with a physician's evaluation before the procedure, as needed,  
175 and limited to the following:

- 176 (I) superfluous hair removal;
- 177 (II) anti-aging resurfacing enhancements;
- 178 (III) photo rejuvenation; or
- 179 (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;

180 and

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

182 (b) Notwithstanding the provisions of Subsection [~~31~~] (33)(a), a master-level

183 esthetician may perform procedures listed in Subsection [~~(31)~~] (33)(a)(i) for noncosmetic  
184 purposes if done under the supervision of a licensed health care practitioner acting within the  
185 scope of the licensed health care practitioner's license as defined by rule.

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

189 [~~(32)~~] (34) "Practice of nail technology" means to trim, cut, clean, manicure, shape,  
190 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of  
191 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the  
192 application and removal of sculptured or artificial nails.

193 [~~(33)~~] (35) "Practice of nail technology instruction" means instructing nail technology  
194 in a licensed nail technician school, licensed cosmetology/barber school, or in an  
195 apprenticeship program as defined in Subsection 58-11a-306(5).

196 [~~(34)~~] (36) "Recognized barber school" means a barber school located in a state other  
197 than Utah, whose students, upon graduation, are recognized as having completed the  
198 educational requirements for licensure in that state.

199 [~~(35)~~] (37) "Recognized cosmetology/barber school" means a cosmetology/barber  
200 school located in a state other than Utah, whose students, upon graduation, are recognized as  
201 having completed the educational requirements for licensure in that state.

202 [~~(36)~~] (38) "Recognized electrology school" means an electrology school located in a  
203 state other than Utah, whose students, upon graduation, are recognized as having completed the  
204 educational requirements for licensure in that state.

205 [~~(37)~~] (39) "Recognized esthetics school" means an esthetics school located in a state  
206 other than Utah, whose students, upon graduation, are recognized as having completed the  
207 educational requirements for licensure in that state.

208 [~~(38)~~] (40) "Recognized nail technology school" means a nail technology school  
209 located in a state other than Utah, whose students, upon graduation, are recognized as having  
210 completed the educational requirements for licensure in that state.

211 [~~(39)~~] (41) "Salon" means a place, shop, or establishment in which  
212 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

213 [~~(40)~~] (42) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

214            [~~(41)~~] (43) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
215 58-11a-501 and as may be further defined by rule by the division in collaboration with the  
216 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

217            Section 2. Section **58-11a-304** is amended to read:

218            **58-11a-304. Exemptions from licensure.**

219            In addition to the exemptions from licensure in Section 58-1-307, the following persons  
220 may engage in the practice of barbering, cosmetology/barbering, esthetics, master-level  
221 esthetics, electrology, or nail technology without being licensed under this chapter:

222            (1) persons licensed under the laws of this state to engage in the practice of medicine,  
223 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which  
224 they are licensed;

225            (2) commissioned physicians and surgeons serving in the armed forces of the United  
226 States or another federal agency;

227            (3) registered nurses, undertakers, and morticians licensed under the laws of this state  
228 when engaged in the practice of the profession for which they are licensed;

229            (4) persons who visit the state to engage in instructional seminars, advanced classes,  
230 trade shows, or competitions of a limited duration;

231            (5) persons who engage in the practice of barbering, cosmetology/barbering, esthetics,  
232 master-level esthetics, electrology, or nail technology without compensation;

233            (6) persons instructing adult education classes and other educational programs directed  
234 toward persons who are not licensed under this chapter and that are not intended to train  
235 persons to become licensed under this chapter, provided:

236            (a) attendees receive no credit toward the educational requirement for licensure under  
237 this chapter; and

238            (b) (i) the instructor is properly licensed; or

239            (ii) the instructor receives no compensation;

240            (7) persons instructing in workshops, seminars, training meetings, and other  
241 educational programs whose purpose is to provide continuing professional development to  
242 licensed barbers, cosmetologist/barbers, estheticians, master estheticians, nail technicians, or  
243 electrologists;

244            (8) persons currently enrolled in a licensed barber or cosmetology/barber school when



245 participating in an on the job training internship under the direct supervision of a licensed  
 246 barber or cosmetologist/barber upon completion of a basic program under the standards  
 247 established by rule by the division in collaboration with the board;

248 (9) persons enrolled in an approved apprenticeship pursuant to Section 58-11a-306;

249 [~~and~~]

250 (10) employees of a company which is primarily engaged in the business of selling  
 251 products used in the practice of barbering, cosmetology/barbering, esthetics, master-level  
 252 esthetics, electrology, or nail technology when demonstrating the company's products to  
 253 potential customers[-]; and

254 (11) a person engaged in the practice of eyelash extension application as a profession  
 255 or trade if:

256 (a) the person has completed an eyelash extension application training and certification  
 257 program; and

258 (b) the practice of eyelash extension application ~~H→~~ **, defined by Section 58-11a-102,** ~~←H~~  
 258a is the only activity in which the person  
 259 is engaged without a license.

260 Section 3. **Effective date.**

261 If approved by two-thirds of all the members elected to each house, this bill takes effect  
 262 upon approval by the governor, or the day following the constitutional time limit of Utah  
 263 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
 264 the date of veto override.

**Legislative Review Note**  
 as of 2-22-11 7:20 PM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 430

SHORT TITLE: Barber, Cosmetologist/barber, Esthetician, Electrologist, and Nail Technician Licensing Act Amendments

SPONSOR: Richardson, H.

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will result in a loss of \$6,000 revenue to the Commerce Service Fund and a decrease of \$900 in expenses from the same fund. Commerce Service Fund revenue and expenditures affect the annual transfer to the General Fund.

### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
<b>Revenue:</b>			
General Fund	\$0	(\$5,100)	(\$5,100)
Commerce Service Fund	\$0	(\$900)	(\$900)
Total Revenue	<u>\$0</u>	<u>(\$6,000)</u>	<u>(\$6,000)</u>
<b>Expenditure:</b>			
Commerce Service Fund	\$0	(\$900)	(\$900)
Total Expenditure	<u>\$0</u>	<u>(\$900)</u>	<u>(\$900)</u>
Net Impact, All Funds (Rev.-Exp.)	<u>\$0</u>	<u>(\$5,100)</u>	<u>(\$5,100)</u>
Net Impact, General/Education Funds	\$0	(\$5,100)	(\$5,100)

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this legislation will result in an estimated 100 licensees no longer needing to be licensed, saving them the \$60 fee.