

SECOND REGULAR SESSION

HOUSE BILL NO. 2082

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOUGHERTY.

Read 1st time February 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4991L.01I

AN ACT

To repeal sections 328.030, 328.040, 328.050, 328.060, 328.090, 328.110, 328.115, 328.140, 328.150, 329.010, 329.025, 329.028, 329.035, 329.040, 329.050, 329.120, 329.180, 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 329.255, and 329.265, RSMo, and to enact in lieu thereof thirteen new sections relating to the regulation of barber and cosmetology licensing by the Missouri board of cosmetology and barber examiners, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 328.030, 328.040, 328.050, 328.060, 328.090, 328.110, 328.115, 2 328.140, 328.150, 329.010, 329.025, 329.028, 329.035, 329.040, 329.050, 329.120, 329.180, 3 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 329.255, and 329.265, RSMo, 4 are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 328.060, 5 328.090, 328.110, 328.115, 328.150, 329.010, 329.025, 329.028, 329.035, 329.040, 329.050, 6 329.120, and 329.255, to read as follows:

328.060. [1.] The board shall [set the amount of the fees which this chapter authorizes 2 and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees 3 shall be set at a level to produce revenue which shall not substantially exceed the cost and 4 expense of administering this chapter.

5 2. The board shall, with the approval of the department of health and senior services,] 6 prescribe such sanitary rules as it may deem necessary to prevent the creation and spread of

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

7 infectious and contagious diseases. [A copy of such rules shall be posted in a conspicuous place
8 in every barber shop and barber school or college in this state.]

328.090. Any person desiring to teach barbering in this state in a barber school, college
2 or barber [shop] **establishment** must first possess a license to practice the occupation of
3 barbering and make application to the board for an examination as a teacher or instructor in said
4 occupation and shall pay the required instructor examination fee. The board shall examine such
5 applicant and after finding that he or she is duly qualified to teach said occupation, the board
6 shall issue to him or her a license entitling him or her to teach barbering in this state, subject to
7 all the provisions of this chapter. Holders of licenses to teach barbering shall, on or before the
8 expiration of their respective licenses, make application for the renewal of same, and shall in
9 each case pay the instructor renewal fee. Should any person holding a license to teach barbering
10 fail to renew same within the time prescribed herein, such person shall be required to pay a
11 reinstatement fee in addition to the regular license fee provided for herein. Any person failing
12 to renew his or her license to teach barbering for a period not exceeding two years may reinstate
13 said license upon the payment of the renewal fee in addition to the reinstatement fee, but any
14 person failing to renew his or her license to teach barbering for a period exceeding two years and
15 desiring to be licensed as a teacher of barbering in this state will be required to pass a satisfactory
16 examination as to his or her qualifications to teach barbering and shall pay the instructor
17 examination fee.

328.110. 1. Every person engaged in barbering shall on or before the renewal date apply
2 for the renewal of his or her license.

3 2. Each application for renewal shall state the number of the licensee's expiring license,
4 and be accompanied by his or her renewal fee. Any person holding a license as a barber, except
5 as herein provided, who fails to apply for renewal within two months of the expiration date of
6 his or her license, shall pay a reinstatement fee in addition to the regular license renewal fee.
7 Any person who fails to renew his or her license, except as herein provided, for a period not
8 exceeding two years may reinstate his or her license upon payment of the license renewal fee for
9 each delinquent year in addition to the reinstatement fee prescribed herein, but any barber, except
10 as herein provided, who fails to renew his or her license for a period exceeding two years but less
11 than five years and desires to be licensed as a barber in this state will be required to pass the
12 practicum portion of the state's licensing examination as to his or her qualifications to practice
13 barbering and shall pay the barber examination fee.

14 3. A holder of a barber license who has been honorably discharged from the United
15 States armed forces, and has not renewed his or her license as herein provided, shall, upon his
16 or her return to barbering within one year from date of honorable discharge, pay one dollar for
17 renewal of same.

18 **4. In lieu of renewal, a licensed barber may apply for an inactive license at the time**
19 **the cosmetologist submits his or her application for renewal of the barber license and pay**
20 **the required renewal fee. An inactive license shall then be issued, and shall be renewed**
21 **biennially. While the inactive license is in effect, the barber shall not practice as a**
22 **cosmetologist in the state of Missouri. An inactive licensee may apply for an active barber**
23 **license upon filing a written application on a form provided by the board and submitting**
24 **the fee established by the board.**

328.115. 1. The owner of every [shop or] establishment in which the occupation of
2 barbering is practiced shall obtain a license for such [shop or] establishment issued by the board
3 before barbering is practiced therein. A new license shall be obtained for a barber establishment
4 within forty-five days when the establishment changes ownership or location. The state
5 inspector shall inspect the sanitary conditions required for licensure, established under subsection
6 2 of this section, for an establishment that has changed ownership or location without requiring
7 the owner to close business or deviate in any way from the establishment's regular hours of
8 operation.

9 2. The board shall issue a license for a [shop or] establishment upon receipt of the license
10 fee from the applicant if the board finds that the [shop or] establishment complies with the
11 sanitary regulations adopted pursuant to section 328.060. All barber establishments shall
12 continue to comply with the sanitary regulations. Failure of a barber establishment to comply
13 with the sanitary regulations shall be grounds for the board to file a complaint with the
14 administrative hearing commission to revoke, suspend, or censure the establishment's license or
15 place the establishment's license on probation.

16 3. The license for a barber establishment shall be renewable. The applicant for renewal
17 of the license shall on or before the renewal date submit the completed renewal application
18 accompanied by the required renewal fee. If the renewal application and fee are not submitted
19 within thirty days following the renewal date, a penalty fee plus the renewal fee shall be paid to
20 renew the license. If a new establishment opens any time during the licensing period and does
21 not register a license before opening, there shall be a delinquent fee in addition to the regular fee.
22 The license shall be kept posted in plain view within the barber establishment at all times.

328.150. 1. The board may refuse to issue any certificate of registration or authority,
2 permit or license required pursuant to this chapter for one or any combination of causes stated
3 in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for
4 the refusal and shall advise the applicant of his right to file a complaint with the administrative
5 hearing commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter [161] **621**, RSMo, against any holder of any certificate of

8 registration or authority, permit or license required by this chapter or any person who has failed
9 to renew or has surrendered his certificate of registration or authority, permit or license for any
10 one or any combination of the following causes:

11 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
12 beverage to an extent that such use impairs a person's ability to perform the work of any
13 profession licensed or regulated by this chapter;

14 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty
15 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,
16 for any offense reasonably related to the qualifications, functions or duties of any profession
17 licensed or regulated under this chapter, for any offense an essential element of which is fraud,
18 dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not
19 sentence is imposed;

20 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
21 registration or authority, permit or license issued pursuant to this chapter or in obtaining
22 permission to take any examination given or required pursuant to this chapter;

23 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
24 fraud, deception or misrepresentation;

25 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
26 in the performance of the functions or duties of any profession licensed or regulated by this
27 chapter;

28 (6) Violation of, or assisting or enabling any person to violate, any provision of this
29 chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

30 (7) Impersonation of any person holding a certificate of registration or authority, permit
31 or license or allowing any person to use his or her certificate of registration or authority, permit,
32 license or diploma from any school;

33 (8) Disciplinary action against the holder of a license or other right to practice any
34 profession regulated by this chapter granted by another state, territory, federal agency or country
35 upon grounds for which revocation or suspension is authorized in this state;

36 (9) A person is finally adjudged insane or incompetent by a court of competent
37 jurisdiction;

38 (10) Assisting or enabling any person to practice or offer to practice any profession
39 licensed or regulated by this chapter who is not registered and currently eligible to practice under
40 this chapter;

41 (11) Issuance of a certificate of registration or authority, permit or license based upon
42 a material mistake of fact;

43 (12) Failure to display a valid certificate or license if so required by this chapter or any
44 rule promulgated hereunder;

45 (13) Violation of any professional trust or confidence;

46 (14) Use of any advertisement or solicitation which is false, misleading or deceptive to
47 the general public or persons to whom the advertisement or solicitation is primarily directed;

48 (15) Failure or refusal to properly guard against contagious, infectious or communicable
49 diseases or the spread thereof.

50 3. After the filing of such complaint, the proceedings shall be conducted in accordance
51 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
52 commission that the grounds, provided in subsection 2, for disciplinary action are met, the board
53 may, singly or in combination, censure or place the person named in the complaint on probation
54 on such terms and conditions as the board deems appropriate for a period not to exceed five
55 years, or may suspend, for a period not to exceed three years, or revoke the license, certificate,
56 or permit.

329.010. As used in this chapter, unless the context clearly indicates otherwise, the
2 following words and terms mean:

3 (1) "Accredited school of cosmetology or school of manicuring", an establishment
4 operated for the purpose of teaching cosmetology as defined in this section and meeting the
5 criteria set forth under 34 C.F.R. Part 600, sections 600.1 and 600.2;

6 (2) "Apprentice" or "student", a person who is engaged in training within a cosmetology
7 establishment or school, and while so training performs any of the practices of the classified
8 occupations within this chapter under the immediate direction and supervision of a licensed
9 cosmetologist or instructor;

10 (3) "Board", the state board of cosmetology and barber examiners;

11 (4) "Cosmetologist", any person who, for compensation, engages in the practice of
12 cosmetology, as defined in subdivision (5) of this section;

13 (5) "Cosmetology" includes performing or offering to engage in any acts of the classified
14 occupations of cosmetology for compensation, which shall include:

15 (a) "Class CH - hairdresser" includes arranging, dressing, curling, singeing, waving,
16 permanent waving, cleansing, cutting, bleaching, tinting, coloring or similar work upon the hair
17 of any person by any means; or removing superfluous hair from the body of any person by means
18 other than electricity, or any other means of arching or tinting eyebrows or tinting eyelashes.
19 Class CH - hairdresser also includes any person who either with the person's hands or with
20 mechanical or electrical apparatuses or appliances, or by the use of cosmetic preparations,
21 antiseptics, tonics, lotions or creams engages for compensation in any one or any combination
22 of the following: massaging, cleaning, stimulating, manipulating, exercising, beautifying or

23 similar work upon the scalp, face, neck, arms or bust. **A Class-CH license shall not be issued**
24 **by the board after August 28, 2008, provided that any person who is licensed as a Class-CH**
25 **cosmetologist by the board on August 28, 2008, or who is enrolled in or has completed the**
26 **required training or education for a Class-CH license on August 28, 2008, shall be issued**
27 **and entitled to renew their Class-CH license upon satisfying all applicable examination and**
28 **licensing requirements. A Class-CH license issued shall be recognized by the board and**
29 **shall be entitled to retain any existing status, so long as the licensee complies with the**
30 **provisions of sections 329.010 to 329.265 and any rules promulgated thereto;**

31 (b) "Class MO - manicurist" includes cutting, trimming, polishing, coloring, tinting,
32 cleaning or otherwise beautifying a person's fingernails, applying artificial fingernails,
33 massaging, cleaning a person's hands and arms; pedicuring, which includes cutting, trimming,
34 polishing, coloring, tinting, cleaning or otherwise beautifying a person's toenails, applying
35 artificial toenails, massaging and cleaning a person's legs and feet;

36 (c) "Class CA - hairdressing and manicuring" includes all practices of cosmetology, as
37 defined in paragraphs (a) and (b) of this subdivision;

38 (d) "Class E - estheticians" includes the use of mechanical, electrical apparatuses or
39 appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, not to
40 exceed ten percent phenol, engages for compensation, either directly or indirectly, in any one,
41 or any combination, of the following practices: massaging, cleansing, stimulating, manipulating,
42 exercising, beautifying or similar work upon the scalp, face, neck, ears, arms, hands, bust, torso,
43 legs or feet and removing superfluous hair by means other than electric needle or any other
44 means of arching or tinting eyebrows or tinting eyelashes, of any person;

45 (6) "Cosmetology establishment", that part of any building wherein or whereupon any
46 of the classified occupations are practiced including any space rented within a licensed
47 establishment by a person licensed under this chapter, for the purpose of rendering cosmetology
48 services;

49 (7) "Cross-over license", a license that is issued to any person who has met the licensure
50 and examination requirements for both barbering and cosmetology;

51 (8) "Hairdresser", any person who, for compensation, engages in the practice of
52 cosmetology as defined in paragraph (a) of subdivision (5) of this section;

53 (9) "Instructor", any person who is licensed to teach cosmetology or any practices of
54 cosmetology pursuant to this chapter;

55 (10) "Manicurist", any person who, for compensation, engages in any or all of the
56 practices in paragraph (b) of subdivision (5) of this section;

57 (11) "Parental consent", the written informed consent of a minor's parent or legal
58 guardian that must be obtained prior to providing body waxing on or near the genitalia;

59 (12) "School of cosmetology" or "school of manicuring", an establishment operated for
60 the purpose of teaching cosmetology as defined in subdivision (5) of this section.

329.025. 1. The board shall have power to:

2 (1) Prescribe by rule for the examination of applicants for licensure to practice the
3 classified occupations of barbering and cosmetology and issue licenses;

4 (2) Prescribe by rule for the inspection of barber and cosmetology establishments and
5 schools and appoint the necessary inspectors and examining assistants;

6 (3) Prescribe by rule for the inspection of establishments and schools of barbering and
7 cosmetology as to their sanitary conditions and to appoint the necessary inspectors and, if
8 necessary, examining assistants;

9 (4) Set the amount of the fees that this chapter and chapter 328, RSMo, authorize and
10 require, by rules promulgated under section 536.021, RSMo. The fees shall be set at a level
11 sufficient to produce revenue that shall not substantially exceed the cost and expense of
12 administering this chapter and chapter 328, RSMo;

13 (5) Employ and remove board personnel, as set forth in subdivision (4) of subsection 15
14 of section 620.010, RSMo, including an executive secretary or comparable position, inspectors,
15 investigators, legal counsel and secretarial support staff, as may be necessary for the efficient
16 operation of the board, within the limitations of its appropriation;

17 (6) Elect one of its members president, one vice president, and one secretary with the
18 limitation that no single profession can hold the positions of president and vice president at the
19 same time;

20 (7) Promulgate rules necessary to carry out the duties and responsibilities designated by
21 this chapter and chapter 328, RSMo;

22 (8) Determine the sufficiency of the qualifications of applicants; and

23 (9) Prescribe by rule the minimum standards and methods of accountability for the
24 schools of barbering and cosmetology licensed under this chapter and chapter 328, RSMo.

25 **2. The board shall keep a register, in which shall be entered the names of all**
26 **persons to whom certificates, licenses, or permits are issued, and to whom permits for**
27 **servicing apprenticeships, or as students, are issued under Chapter 328 and Chapter 329,**
28 **RSMo, and said register shall be open to public inspection at all reasonable times.**

29 **3.** The board shall create no expense exceeding the sum received from time to time from
30 fees imposed under this chapter and chapter 328, RSMo.

31 [3.] **4.** A majority of the board, with at least one representative of each profession being
32 present, shall constitute a quorum for the transaction of business.

33 [4.] **5.** The board shall meet not less than six times annually.

34 [5.] 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
35 that is created under the authority delegated in this chapter and chapter 328, RSMo, shall become
36 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
37 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
38 nonseverable and if any of the powers vested with the general assembly under chapter 536,
39 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
40 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
41 after August 28, 2001, shall be invalid and void.

329.028. 1. There is hereby created in the state treasury a fund to be known as the
2 "Board of Cosmetology and Barber Examiners Fund", which shall consist of all moneys collected
3 by the board. All fees provided for in this chapter and chapter 328, RSMo, shall be payable to
4 the director of the division of professional registration in the department of [economic
5 development] **insurance, financial institutions and professional registration**, who shall keep
6 a record of the account showing the total payments received and shall immediately thereafter
7 transmit them to the department of revenue for deposit in the state treasury to the credit of the
8 board of cosmetology and barber examiners fund. All the salaries and expenses for the operation
9 of the board shall be appropriated and paid from such fund.

10 2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in
11 this fund shall not be transferred and placed to the credit of general revenue until the amount in
12 the fund at the end of the biennium exceeds two times the amount of the appropriation from the
13 board's funds for the preceding fiscal year or, if the board requires by rule license renewal less
14 frequently than yearly, then three times the appropriation from the board's funds for the preceding
15 fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which
16 exceeds the appropriate multiple of the appropriations from the board's funds for the preceding
17 fiscal year.

18 3. Upon appointment by the governor and confirmation by the senate of the board, all
19 moneys deposited in the board of barbers fund created in section 328.050, RSMo, and the state
20 board of cosmetology fund created in section 329.240, shall be transferred to the board of
21 cosmetology and barber examiners fund created in subsection 1 of this section. The board of
22 barbers fund and the state board of cosmetology fund shall be abolished when all moneys are
23 transferred to the board of cosmetology and barber examiners fund.

329.035. 1. For the purposes of this section, "person employed in retail cosmetic sales"
2 means any person who assists customers to select cosmetics by allowing the customer to apply
3 samples of demonstration cosmetics, assisting the customer to apply cosmetics, or applying the
4 cosmetic to the customer. There shall be no skin-to-skin contact between the salesperson and
5 the customer. Assisted cosmetic applications by the customer or the person employed in retail

6 cosmetic sales shall be performed with single-use applicators, except for perfume or cologne,
7 samples applied to the hand or the arm or dispensed from a tube, pump, spray or shaker
8 container, or samples or applicators that have been cleansed before each use or application. No
9 person employed in retail cosmetic sales as provided in this section shall accept any
10 remuneration from the customer for performing any of the acts described in this section or make
11 such assistance or application conditioned on any sale.

12 2. A license as required under section 329.030 is not required for persons who are
13 employed in retail cosmetic sales if such persons do not hold themselves out to have a license,
14 permit, certificate of registration or any other authority authorizing such person to practice the
15 professions licensed by the board.

16 3. The board may promulgate rules establishing minimum sanitation standards for
17 persons employed in retail cosmetic sales, but such rules shall not require a sink at the cosmetic
18 counter for a source and drainage of water or any other electrical sanitation equipment required
19 in hairdressing or cosmetologist's or manicurist's [shops] **establishments** licensed pursuant to
20 this chapter. The board may inspect retail cosmetic sales establishments to ensure compliance
21 with this section and rules promulgated thereunder.

329.040. 1. Any person of good moral character may make application to the board for
2 a license to own a school of cosmetology on a form provided upon request by the board. Every
3 school of cosmetology in which any of the classified occupations of cosmetology are taught shall
4 be required to obtain a license from the board prior to opening. The license shall be issued upon
5 approval of the application by the board, the payment of the required fees, and the applicant
6 meets other requirements provided in this chapter. The license shall be kept posted in plain view
7 within the school at all times.

8 2. A school license renewal fee shall be due on or before the renewal date of any school
9 license issued pursuant to this section. If the school license renewal fee is not paid on or before
10 the renewal date, a late fee shall be added to the regular school license fee.

11 3. No school of cosmetology shall be granted a license pursuant to this chapter unless
12 it:

13 (1) Employs and has present in the school a competent licensed instructor for every
14 twenty-five students in attendance for a given class period and one to ten additional students may
15 be in attendance with the assistance of an instructor trainee. One instructor is authorized to teach
16 up to three instructor trainees immediately after being granted an instructor's license;

17 (2) Requires all students to be enrolled in a course of study of no less than three hours
18 per day and no more than twelve hours per day with a weekly total that is no less than fifteen
19 hours and no more than seventy-two hours;

20 (3) Requires for the classified occupation of cosmetologist, the course of study shall be
21 no less than one thousand five hundred hours or, for a student in public vocational/technical
22 school no less than one thousand two hundred twenty hours; provided that, a school may elect
23 to base the course of study on credit hours by applying the credit hour formula in Subpart A of
24 Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The
25 student must earn a minimum of one hundred and sixty hours or equivalent credits of classroom
26 training before the student may perform any of the acts of the classified occupation of
27 cosmetology on any patron or customer of the school of cosmetology;

28 (4) Requires for the classified occupation of manicurist, the course of study shall be no
29 less than four hundred hours or the credit hours determined by the formula in Subpart A of Part
30 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student
31 must earn a minimum of fifty hours or equivalent credits of classroom training before the student
32 may perform any of the acts of the classified occupation of manicurist on any patron or customer
33 of the school of cosmetology;

34 (5) Requires for the classified occupation of esthetician, the course of study shall be no
35 less than seven hundred fifty hours or the credit hours determined by the formula in Subpart A
36 of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The
37 student shall earn a minimum of seventy-five hours or equivalent credits of classroom training
38 before the student may perform any of the acts of the classified occupation of esthetics on any
39 patron or customer of the school of cosmetology or an esthetics school.

40 4. The subjects to be taught for the classified occupation of cosmetology shall be as
41 follows and the hours required for each subject shall be not less than those contained in this
42 subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section
43 668.8 of Title 34 of the Code of Federal Regulations, as amended:

- 44 (1) Shampooing of all kinds, forty hours;
- 45 (2) Hair coloring, bleaches and rinses, one hundred thirty hours;
- 46 (3) Hair cutting and shaping, one hundred thirty hours;
- 47 (4) Permanent waving and relaxing, one hundred twenty-five hours;
- 48 (5) Hairsetting, pin curls, fingerwaves, thermal curling, two hundred twenty-five hours;
- 49 (6) Combouts, **braiding**, and hair styling techniques, one hundred five hours;
- 50 (7) Scalp treatments and scalp diseases, thirty hours;
- 51 (8) Facials, eyebrows and arches, forty hours;
- 52 (9) Manicuring, hand and arm massage and treatment of nails, one hundred ten hours;
- 53 (10) Cosmetic chemistry, twenty-five hours;
- 54 (11) Salesmanship and [shop] **establishment** management, ten hours;
- 55 (12) Sanitation and sterilization, thirty hours;

56 (13) Anatomy, twenty hours;

57 (14) State law, ten hours;

58 (15) Curriculum to be defined by school, not less than four hundred seventy hours.

59 5. The subjects to be taught for the classified occupation of manicurist shall be as
60 follows and the hours required for each subject shall be not less than those contained in this
61 subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section
62 668.8 of Title 34 of the Code of Federal Regulations, as amended:

63 (1) Manicuring, hand and arm massage and treatment of nails, two hundred twenty
64 hours;

65 (2) Salesmanship and shop management, twenty hours;

66 (3) Sanitation and sterilization, twenty hours;

67 (4) Anatomy, ten hours;

68 (5) State law, ten hours;

69 (6) Study of the use and application of certain chemicals, forty hours; and

70 (7) Curriculum to be defined by school, not less than eighty hours.

71 6. The subjects to be taught for the classified occupation of esthetician shall be as
72 follows, and the hours required for each subject shall not be less than those contained in this
73 subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section
74 668.8 of Title 34 of the Code of Federal Regulations, as amended:

75 (1) Facials, cleansing, toning, massaging, one hundred twenty hours;

76 (2) Makeup application, all phases, one hundred hours;

77 (3) Hair removal, thirty hours;

78 (4) Body treatments, aromatherapy, wraps, one hundred twenty hours;

79 (5) Reflexology, thirty-five hours;

80 (6) Cosmetic sciences, structure, condition, disorder, eighty-five hours;

81 (7) Cosmetic chemistry, products and ingredients, seventy-five hours;

82 (8) Salon management and salesmanship, fifty-five hours;

83 (9) Sanitation and sterilization, safety, forty-five hours;

84 (10) State law, ten hours; and

85 (11) Curriculum to be defined by school, not less than seventy-five hours.

86 7. Training for all classified occupations shall include practical demonstrations, written
87 and/or oral tests, and practical instruction in sanitation, sterilization and the use of antiseptics,
88 cosmetics and electrical appliances consistent with the practical and theoretical requirements as
89 applicable to the classified occupations as provided in this chapter.

90 8. No school of cosmetology shall operate within this state unless a proper license
91 pursuant to this chapter has first been obtained.

92 9. Nothing contained in this chapter shall prohibit a licensee within a cosmetology
93 establishment from teaching any of the practices of the classified occupations for which the
94 licensee has been licensed for not less than two years in the licensee's regular course of business,
95 if the owner or manager of the business does not hold himself or herself out as a school and does
96 not hire or employ or personally teach regularly at any one and the same time, more than one
97 apprentice to each licensee regularly employed within the owner's business, not to exceed one
98 apprentice per establishment, and the owner, manager, or trainer does not accept any fee for
99 instruction.

100 10. Each licensed school of cosmetology shall provide a minimum of two thousand
101 square feet of floor space, adequate rooms and equipment, including lecture and demonstration
102 rooms, lockers, an adequate library and two restrooms. The minimum equipment requirements
103 shall be: six shampoo bowls, ten hair dryers, two master dustproof and sanitary cabinets, wet
104 sterilizers, and adequate working facilities for twenty students.

105 11. Each licensed school of cosmetology for manicuring only shall provide a minimum
106 of one thousand square feet of floor space, adequate room for theory instruction, adequate
107 equipment, lockers, an adequate library, two restrooms and a clinical working area for ten
108 students. Minimum floor space requirement proportionately increases with student enrollment
109 of over ten students.

110 12. Each licensed school of cosmetology for esthetics only shall provide a minimum of
111 one thousand square feet of floor space, adequate room for theory instruction, adequate
112 equipment, lockers, an adequate library, two restrooms and a clinical working area for ten
113 students. Minimum floor space requirement increases fifty square feet per student with student
114 enrollment of over ten.

115 13. No school of cosmetology may have a greater number of students enrolled and
116 scheduled to be in attendance for a given class period than the total floor space of that school will
117 accommodate. Floor space required per student shall be no less than fifty square feet per
118 additional student beyond twenty students for a school of cosmetology, beyond ten students for
119 a school of manicuring and beyond ten students for a school of esthetics.

120 14. Each applicant for a new school shall file a written application with the board upon
121 a form approved and furnished upon request by the board. The applicant shall include a list of
122 equipment, the proposed curriculum, and the name and qualifications of any and all of the
123 instructors.

124 15. Each school shall display in a conspicuous place, visible upon entry to the school,
125 a sign stating that all cosmetology services in this school are performed by students who are in
126 training.

127 16. Any student who wishes to remain in school longer than the required training period
128 may make application for an additional training license and remain in school. A fee is required
129 for such additional training license.

130 17. All contractual fees that a student owes to any cosmetology school shall be paid
131 before such student may be allowed to apply for any examination required to be taken by an
132 applicant applying for a license pursuant to the provisions of this chapter.

 329.050. 1. Applicants for examination or licensure pursuant to this chapter shall
2 possess the following qualifications:

3 (1) They must be persons of good moral character, have an education equivalent to the
4 successful completion of the tenth grade and be at least seventeen years of age;

5 (2) If the applicants are apprentices, they shall have served and completed, as an
6 apprentice under the supervision of a licensed cosmetologist, the time and studies required by
7 the board which shall be no less than three thousand hours for cosmetologists, and no less than
8 eight hundred hours for manicurists and no less than fifteen hundred hours for esthetics.
9 However, when the classified occupation of manicurist is apprenticed in conjunction with the
10 classified occupation of cosmetologist, the apprentice shall be required to successfully complete
11 an apprenticeship of no less than a total of three thousand hours;

12 (3) If the applicants are students, they shall have had the required time in a licensed
13 school of no less than one thousand five hundred hours training or the credit hours determined
14 by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal
15 Regulations, as amended, for the classification of cosmetologist, with the exception of public
16 vocational technical schools in which a student shall complete no less than one thousand two
17 hundred twenty hours training. All students shall complete no less than four hundred hours or
18 the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34
19 of the Code of Federal Regulations, as amended, for the classification of manicurist. All students
20 shall complete no less than seven hundred fifty hours or the credit hours determined by the
21 formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal
22 Regulations, as amended, for the classification of esthetician. However, when the classified
23 occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist,
24 the student shall not be required to serve the extra four hundred hours or the credit hours
25 determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of
26 Federal Regulations, as amended, otherwise required to include manicuring of nails; and

27 (4) They shall have passed an examination to the satisfaction of the board.

28 2. A person may apply to take the examination required by subsection 1 of this section
29 if the person is a graduate of a school of cosmetology or apprentice program in another state or
30 territory of the United States which has substantially the same requirements as an educational

31 establishment licensed pursuant to this chapter. A person may apply to take the examination
32 required by subsection 1 of this section if the person is a graduate of an educational
33 establishment in a foreign country that provides training for a classified occupation of
34 cosmetology, as defined by section 329.010, and has educational requirements that are
35 substantially the same requirements as an educational establishment licensed under this chapter.
36 The board has sole discretion to determine the substantial equivalency of such educational
37 requirements. The board may require that transcripts from foreign schools be submitted for its
38 review, and the board may require that the applicant provide an approved English translation of
39 such transcripts.

40 3. Each application shall contain a statement that, subject to the penalties of making a
41 false affidavit or declaration, the application is made under oath or affirmation and that its
42 representations are true and correct to the best knowledge and belief of the person signing the
43 application.

44 4. The sufficiency of the qualifications of applicants shall be determined by the board,
45 but the board may delegate this authority to its executive director subject to such provisions as
46 the board may adopt.

47 5. For the purpose of meeting the minimum requirements for examination, training
48 **hours** completed by a student or apprentice shall be recognized by the board for a period of no
49 more than five years from the date it is received.

329.120. 1. The holder of a license issued by the board who continues in active practice
2 or occupation shall on or before the license renewal date renew the holder's license and pay the
3 renewal fee. A license which has not been renewed prior to the renewal date shall expire on the
4 renewal date. The holder of an expired license may have the license restored within two years
5 of the date of expiration without examination, upon the payment of a delinquent fee in addition
6 to the renewal fee.

7 **2. In lieu of renewal, a licensed cosmetologist may apply for an inactive license at**
8 **the time the cosmetologist submits his or her application for renewal of the cosmetologist**
9 **license and pay the required renewal fee. An inactive license shall then be issued, and shall**
10 **be renewed biennially. While the inactive license is in effect the cosmetologist shall not**
11 **practice as a cosmetologist in the state of Missouri. An inactive licensee may apply for an**
12 **active cosmetology license upon filing of a written application on a form provided by the**
13 **board and submitting the fees established by the board.**

329.255. 1. Any person:

2 (1) Offering to engage or engaging in the performance of any acts or practices for which
3 a certificate of registration or authority, permit or license is required by this chapter upon a

4 showing that such acts or practices were performed or offered to be performed without a
5 certificate of registration or authority, permit or license; or

6 (2) Engaging in any practice or business authorized by a certificate of registration or
7 authority, permit or license issued pursuant to this chapter upon a showing that the holder
8 presents a substantial probability of serious danger to the health, safety or welfare of any resident
9 of this state or client of the licensee.

10 2. Any person violating the provisions of subsection 1 or 2 of this section shall be
11 deemed guilty of [an infraction] **a class C misdemeanor.**

2 [328.030. A board of examiners consisting of four members, including
3 one voting public member, shall be appointed by the governor, by and with the
4 advice and consent of the senate. Each member of the board shall be a United
5 States citizen, shall have been a resident of Missouri for one year and, except for
6 the public member, shall have been a registered and practicing barber for the five
7 years immediately preceding his or her initial appointment. The public member
8 shall be a registered voter and a person who is not and never was a member of
9 any profession licensed or regulated pursuant to this chapter or the spouse of such
10 person; and a person who does not have and never has had a material, financial
11 interest in either the providing of the professional services regulated by this
12 chapter, or an activity or organization directly related to any profession licensed
13 or regulated pursuant to this chapter. All members, including public members,
14 shall be chosen from lists submitted by the director of the division of professional
15 registration. The duties of the public member shall not include the determination
16 of the technical requirements to be met for licensure or whether any person meets
17 such technical requirements or of the technical competence or technical judgment
18 of a licensee or a candidate for licensure. Each member shall serve for a term of
19 four years and until his or her successor is appointed and qualified, except that
20 the successors to the members whose terms expire in 1981 shall consist of one
21 member whose term shall be for two years, one member whose term shall be for
22 three years, and one member whose term shall be for four years. Each member
23 shall take the oath provided by law for public officers. Vacancies on the board
24 shall be filled by appointment by the governor.]

2 [328.040. The board shall annually elect from its number a president,
3 vice president, and secretary-treasurer, shall have its headquarters in Jefferson
4 City, Missouri, may employ such board personnel, as defined in subdivision (4)
5 of subsection 16 of section 620.010, RSMo, as it shall deem necessary within the
6 appropriation therefor. The board shall not create any expense exceeding the sum
7 received from time to time as fees as provided by law, shall have a common seal,
8 and the president and vice president shall have the power to administer oaths. A
9 majority of the board, in meeting duly assembled, may perform the duties and
10 exercise the powers devolving upon the board under the provisions of this
chapter.]

2 [328.050. 1. Each member of the board shall receive as compensation
3 an amount set by the board not to exceed fifty dollars for each day devoted to the
4 affairs of the board, and shall be entitled to reimbursement of his expenses
5 necessarily incurred in the discharge of his official duties. All money payable
6 under this chapter shall be collected by the division of professional registration
7 in the department of economic development which shall transmit them to the
8 department of revenue for deposit in the state treasury to the credit of a "Board
9 of Barbers Fund". Warrants shall be drawn upon the treasurer out of this fund
10 only for the payment of the salaries, office and other necessary expenses of the
11 board. A detailed statement of the expenses incurred by the board, approved by
12 the secretary-treasurer of the board, shall be filed with the commissioner of
13 administration before warrants are drawn for their payment.

14 2. The provisions of section 33.080, RSMo, to the contrary
15 notwithstanding, money in this fund shall not be transferred and placed to the
16 credit of general revenue until the amount in the fund at the end of the biennium
17 exceeds two times the amount of the appropriation from the board's funds for the
18 preceding fiscal year or, if the board requires by rule permit renewal less
19 frequently than yearly, then three times the appropriation from the board's funds
20 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
21 is that amount in the fund which exceeds the appropriate multiple of the
22 appropriations from the board's funds for the preceding fiscal year.]

2 [328.140. There shall be kept a register, in which shall be entered the
3 names of all persons to whom certificates are issued, and to whom permits for
4 serving apprenticeship, or as students, under this chapter, and said register shall,
5 at all reasonable times, be open to the public inspection.]

2 [329.180. There is hereby created and established a "State Board of
3 Cosmetology" for the purpose of licensing all persons engaged in the practice of
4 hair dressing, cosmetology and manicuring in this state. The board shall have
5 control and supervision of the licensed occupations, and enforcement of the terms
6 and provisions of this chapter.]

2 [329.190. 1. The state board of cosmetology shall be composed of seven
3 members, including one voting public member and one member who is a licensed
4 school owner pursuant to subsection 1 of section 329.040, appointed by the
5 governor with the advice and consent of the senate. The term of office of each
6 member shall be four years.

7 2. The members of the board shall receive as compensation for their
8 services the sum set by the board not to exceed fifty dollars for each day actually
9 spent in attendance at meetings of the board, within the state, not to exceed
forty-eight days in any calendar year, and in addition thereto they shall be

10 reimbursed for all necessary expenses incurred in the performance of their duties
11 as members of the board.

12 3. All members, except the public member, shall be cosmetologists and
13 manicurists duly registered as such and licensed pursuant to the laws of this state,
14 and shall be United States citizens and shall have been residents of this state for
15 at least one year next preceding their appointments and shall have been actively
16 engaged in the lawful practice of cosmetology for a period of at least five years.
17 The public member shall be at the time of the person's appointment a citizen of
18 the United States; a resident of this state for a period of one year and a registered
19 voter; a person who is not and never was a member of any profession licensed or
20 regulated pursuant to this chapter or the spouse of such person; and a person who
21 does not have and never has had a material, financial interest in either the
22 providing of the professional services regulated by this chapter, or an activity or
23 organization directly related to any profession licensed or regulated pursuant to
24 this chapter. All members, including public members, shall be chosen from lists
25 submitted by the director of the division of professional registration. The duties
26 of the public member shall not include the determination of the technical
27 requirements to be met for licensure or whether any person meets such technical
28 requirements or of the technical competence or technical judgment of a licensee
29 or a candidate for licensure. Any member who is a school owner shall not be
30 allowed access to the testing and examination materials nor to attend the
31 administration of the examinations, except when such member is being examined
32 for licensure.]

33
2 [329.191. Notwithstanding the provisions of section 329.190, to the
3 contrary, compensation of the state board of cosmetology shall not exceed
4 seventy dollars for each day actually spent in attendance at meetings plus actual
5 and necessary expenses.]

2 [329.200. The governor shall, by and with the advice and consent of the
3 senate, fill any vacancies caused by the expiration of the term of office of any
4 member of the board, and the governor shall also fill any vacancy caused by
5 death, resignation or removal which may occur when the general assembly is not
6 in session, but all such appointees shall continue in office only until the meeting
7 of the general assembly next following such appointment and until their
8 successors shall be appointed and qualified. All vacancies which may exist at or
9 during the meeting of the general assembly caused by death, resignation or
10 removal shall be filled in like manner as those created by the expiration of
11 official terms and shall be only for the unexpired term of the person whose
12 vacancy is to be filled.]

[329.210. 1. The board shall have power to:

2 (1) Prescribe by rule for the examinations of applicants for licensure to
3 practice the classified occupation of cosmetology and issue licenses;

4 (2) Prescribe by rule for the inspection of cosmetology establishments
5 and schools and appoint the necessary inspectors and examining assistants;

6 (3) Prescribe by rule for the inspection of establishments and schools of
7 cosmetology as to their sanitary conditions and to appoint the necessary
8 inspectors and, if necessary, examining assistants; and set the amount of the fees
9 which this chapter authorizes and requires, by rules and regulations promulgated
10 pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to
11 produce revenue which shall not substantially exceed the cost and expense of
12 administering this chapter;

13 (4) Employ and remove board personnel, as defined in subdivision (4)
14 of subsection 15 of section 620.010, RSMo, as may be necessary for the efficient
15 operation of the board, within the limitations of its appropriation;

16 (5) Elect one of its members president, one vice president and one
17 secretary;

18 (6) Determine the sufficiency of the qualifications of applicants; and

19 (7) Prescribe by rule the minimum standards and methods of
20 accountability for the schools of cosmetology licensed pursuant to this chapter.

21 2. The board shall create no expense exceeding the sum received from
22 time to time from fees imposed pursuant to this chapter.

23 3. Any rule or portion of a rule, as that term is defined in section 536.010,
24 RSMo, that is created under the authority delegated in this chapter shall become
25 effective only if it complies with and is subject to all of the provisions of chapter
26 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
27 536, RSMo, are nonseverable and if any of the powers vested with the general
28 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
29 or to disapprove and annul a rule are subsequently held unconstitutional, then the
30 grant of rulemaking authority and any rule proposed or adopted after August 28,
31 2001, shall be invalid and void.]

32 [329.220. At all meetings of the board two members shall be necessary
2 to constitute a quorum for the transaction of business but no official action may
3 be taken unless a majority of the whole board may vote therefor.]
4

[329.230. The board shall elect one of its members president, one vice
2 president and one secretary, and shall have power to employ and remove such
3 board personnel, as defined in subdivision (4) of subsection 16 of section
4 620.010, RSMo, as may be necessary for the efficient operation of the board,
5 within the limitations of its appropriation, and to formulate rules and regulations
6 governing its actions; provided, however, the board shall create no expense
7 exceeding the sum received from time to time as fees as provided by law.]
8

2 [329.240. 1. All fees provided for in this chapter shall be payable to the
3 director of the division of professional registration in the department of economic
4 development who shall keep a record of the account showing the total payments
5 received and shall immediately thereafter transmit them to the department of
6 revenue for deposit in the state treasury to the credit of a fund to be known as the
7 "State Board of Cosmetology Fund". All the salaries and expenses for the
8 operation of the board shall be appropriated and paid from such fund.

9 2. The provisions of section 33.080, RSMo, to the contrary
10 notwithstanding, money in this fund shall not be transferred and placed to the
11 credit of general revenue until the amount in the fund at the end of the biennium
12 exceeds two times the amount of the appropriation from the board's funds for the
13 preceding fiscal year or, if the board requires by rule permit renewal less
14 frequently than yearly, then three times the appropriation from the board's funds
15 for the preceding fiscal year. The amount, if any, in the fund which shall lapse
16 is that amount in the fund which exceeds the appropriate multiple of the
17 appropriations from the board's funds for the preceding fiscal year.]

2 [329.265. After July 1, 1999, any licensed cosmetologist shall be required
3 to complete the required training of seven hundred fifty hours and pass the
4 required examination to be licensed as an esthetician.]

✓