~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 17, 2022

**H. 4082**

Introduced by Reps. Felder, Brawley, Robinson, Henegan and Oremus

S. Printed 2/17/22--H.

Read the first time March 17, 2021.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4082) to amend Section 40‑13‑20, Code of Laws of South Carolina, 1976, relating to definitions concerning the State Board of Cosmetology, so as to define the, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, Section 40-13-20(6), by striking the item and inserting:

/ (6) ‘Hair design’ means arranging, styling, thermal curling, chemical waving, pressing, shampooing, cutting, shaping, chemical bleaching, chemical coloring, chemical relaxing, or similar work on the hair, wig, or hairpiece of a person, by any means, with hands and mechanical or electrical apparatus or appliance. /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

LEON HOWARD JONATHON HILL

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill creates a new license for hair designers, which will be regulated by the Board of Cosmetology (board), LLR’s regulatory body for cosmetologists and beauty salons. The board is responsible for conducting examinations for applicants for licensure as hair designers, renewing hair design licensees, and taking disciplinary action against hair design licensees. This bill also allows the board to grant reciprocity in South Carolina to a hair designer properly licensed in another state.

LLR indicates that the creation of this new license will require additional panel meetings regarding licensure and regulatory hearings for the promulgation of new regulations. However, the number of additional meetings that will be required is unknown. Therefore, the expenditure impact to additional board meetings is undetermined.

Additionally, the board is unable to determine how many applicants will seek licensure as a hair designer as a result of this bill. LLR indicates that existing staff cannot absorb any additional duties created by this bill. Depending on the number of individuals applying for a hair design license, the number licensed, and the number eligible for renewal, the board may require an additional administrative assistant to assist with the duties of this bill. Salary, fringe benefits, and annual operating expenses for this position would total $50,228, and non-recurring infrastructure costs would total $1,000. Therefore, this bill may increase other funds expenditures of LLR by $51,228 in FY 2021-22 and by $50,228 each year thereafter. *This portion of the fiscal impact statement has been updated for an additional response from LLR.*

**State Revenue**

Revenue will be generated from hair design licensing fees established by LLR. LLR is required, pursuant to Section 40-1-50(D), to adjust fees biennially to ensure that fee revenue is sufficient, but not excessive, to cover expenses of each respective board. However, because this is a new license, its demand is unknown and the necessary fee has not yet been established. Therefore, the revenue impact to other funds is undetermined.

In addition, the licensure board for hair designers falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2021-22 Appropriations Act, LLR is required to remit annually to the general fund an amount equal to 10 percent of expenditures. Consequently, this bill may increase general fund revenue by approximately $5,000 at minimum in FY 2021-22 and each year thereafter due to the hiring of an additional FTE. *This portion of the fiscal impact statement has been updated for an additional response from LLR.*

**Introduced on March 17, 2021**

**State Expenditure**

This bill provides for the licensure of hair designers under the regulation of the Board of Cosmetology (board), LLR’s regulatory body for cosmetologists and beauty salons. This bill also allows the board to grant reciprocity in South Carolina to a hair designer properly licensed in another state.

The expenditure impact of this bill on LLR is pending, contingent upon a response from the agency.

**State Revenue**

Revenue will be generated from hair designer licensing fees established by LLR. LLR is required, pursuant to Section 40-1-50(D), to adjust fees biennially to ensure that fee revenue is sufficient, but not excessive, to cover expenses of each respective board.

In addition, the licensure board for hair designers falls under the Division of Professional and Occupational Licensing. Pursuant to Proviso 81.3 of the FY 2019-20 Appropriations Act, LLR is required to remit annually to the general fund an amount equal to 10 percent of expenditures.

The revenue impact of this bill on the other funds of LLR and the general fund is pending, contingent upon a response from LLR.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 40‑13‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS CONCERNING THE STATE BOARD OF COSMETOLOGY, SO AS TO DEFINE THE TERM “HAIR DESIGNER”; TO AMEND SECTION 40‑13‑230, RELATING TO LICENSES ISSUED BY THE BOARD, SO AS TO PROVIDE FOR THE LICENSURE OF HAIR DESIGNERS; AND TO AMEND SECTION 40‑13‑5, RELATING TO OCCUPATIONS REGULATED BY THE PRACTICE ACT FOR COSMETOLOGISTS AND COSMETOLOGY, SECTION 40‑13‑110, RELATING TO DISCIPLINARY ACTIONS, SECTION 40‑13‑240, RELATING TO EXAMINATIONS AND FEES, AND SECTION 40‑13‑270, ALL RELATING TO RECIPROCITY WITH OTHER LICENSING JURISDICTIONS, ALL SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑13‑20 of the 1976 Code is amended to read:

“Section 40‑13‑20. As used in this chapter:

(1) ‘Beauty salon’ or ‘salon’ means a building or any place, or part of a place or building including, but not limited to, a rental booth, in which cosmetology is performed on the general public for compensation.

(2) ‘Cosmetology’ means engaging in any of these practices or a combination of these practices when done for compensation either directly or indirectly:

(a) arranging, styling, thermal curling, chemical waving, pressing, shampooing, cutting, shaping, chemical bleaching, chemical coloring, chemical relaxing, or similar work, upon the hair, wig, or hairpiece of any person, by any means, with hands or mechanical or electrical apparatus or appliances;

(b) using cosmetic preparations, make‑up, antiseptics, lotions, creams, chemical preparations on, or otherwise, or waxing, tweezing, cleansing, stimulating, manipulating, beautifying, or similar work on the scalp, legs, feet, face, neck, arms, or hands; or

(c) manicuring or pedicuring the nails of a person or similar work.

(3) ‘Cosmetologist’ means a person including, but not limited to, an independent contractor, not a student, who is licensed to practice cosmetology.

(4) ‘Cosmetology school’, ‘beauty school’, or ‘school’ means a place or part of a place in which cosmetology or any of its practices are taught.

(5) ‘Esthetician’ means a person including, but not limited to, an independent contractor, who is licensed to practice skin care, make‑up, or similar work. Skin care is for the sole purpose of beautifying the skin.

(6) ‘Hair design’ means arranging, styling, thermal curling, chemical waxing, pressing, shampooing, cutting, shaping, chemical bleaching, chemical coloring, chemical relaxing, or similar work on the hair, wig, or hairpiece of a person, by any means, with hands and mechanical or electrical apparatus or appliance.

(7) ‘Independent contractor’ means a licensed practitioner who rents or leases a place or part of a place in a beauty salon.

(~~7~~8) ‘Instructor’ means a person who is licensed to teach cosmetology or any practices of cosmetology in accordance with this chapter.

(~~8~~9) ‘Nail technician’ means a person including, but not limited to, an independent contractor, who is licensed to practice manicuring or pedicuring the nails or similar work.

(~~9~~10) ‘Student’ means a person who is engaged in learning or acquiring the practices of cosmetology and, while learning, performs or assists in any of the practices of cosmetology in a school licensed under this chapter and under the instruction or immediate supervision of an instructor licensed under this chapter.

(~~10~~11) ‘Approved school’ means a cosmetology, esthetician, or nail technician school licensed by the Board of Cosmetology or the board’s equivalent in the jurisdiction in which it is physically located. In states where licensure of a school is not required, a license may be issued, upon application and approval by the board.”

SECTION 2. Section 40‑13‑230 of the 1976 Code is amended to read:

“Section 40‑13‑230. (A) A license as a cosmetologist must be issued by the board to a person who:

(1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

(2) has completed at least one thousand five hundred hours in classes in cosmetology in a reliable school approved by the board or is a registered master hair care specialist pursuant to Chapter 7 who has satisfied educational requirements established by the board in regulation; and

(3) has passed the examination prescribed by the board and pays the required fee.

(B) A license as a hair designer must be issued by the board to a person who:

(1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

(2) has completed at least one thousand two hundred hours in classes in hair design in a reliable school approved by the board or is a registered master hair care specialist pursuant to Chapter 7 who has satisfied educational requirements established by the board in regulation; and

(3) has passed the examination prescribed by the board and pays the required fee.

(C) A license as an esthetician must be issued by the board to a person who:

(1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

(2) has completed at least four hundred fifty hours in classes in skin care in a reliable school approved by the board or comparable training approved by the board; and

(3) has passed the examination prescribed by the board and pays the required fee.

(~~C~~D) A license as a nail technician must be issued by the board to a person who:

(1) is at least sixteen years of age and possesses at least a tenth grade education or the equivalent as established by tests used in the public schools or tests approved by the board;

(2) has completed at least three hundred hours in classes in a reliable nail technician school approved by the board or comparable training approved by the board; and

(3) has passed the examination prescribed by the board and pays the required fee.

(~~D~~E) Temporary permits to practice as a cosmetologist, esthetician, or nail technician may be issued in accordance with regulations promulgated by the board.”

SECTION 3. Section 40‑13‑5 of the 1976 Code is amended to read:

“Section 40‑13‑5. Unless otherwise provided for in this chapter, Article 1, Chapter 1 applies to cosmetologists, hair designers, nail technicians, and estheticians regulated or administered, or both, by the Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Article 1, Chapter 1, the provisions of this chapter control.”

SECTION 4. Section 40‑13‑110(A)(2) of the 1976 Code is amended to read:

“(2) permitted a person in one’s employ or under one’s supervision or control to practice as a cosmetologist, hair designer, esthetician, or nail technician without that person being licensed as a cosmetologist, hair designer, esthetician, or nail technician;”

SECTION 5. Section 40‑13‑240(B) of the 1976 Code is amended to read:

“(B) The board shall conduct examinations of applicants for licenses to practice as cosmetologists, hair designers, estheticians, or nail technicians not less than three times each year, at times and places as the board may determine. The examination of applicants for any license under this chapter must be conducted pursuant to regulations promulgated by the board and shall include both practical demonstrations and written tests on subjects the board determines to be necessary. Examinations must be consistent with the prescribed curriculum and the practical and theoretical requirements of the profession of cosmetology as prescribed in this chapter.”

SECTION 6. Section 40‑13‑270 of the 1976 Code is amended to read:

“Section 40‑13‑270. The board may grant to a resident of another state, the District of Columbia, or any other U.S. territory or commonwealth state full reciprocity with respect to practicing cosmetology, hair design, esthetics, or manicuring in this State when the person is properly licensed and registered under the laws of the other state, the District of Columbia, or the U.S. territory or commonwealth state and is otherwise qualified.”

SECTION 7. This act takes effect upon approval by the Governor.

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