



**House  
Legislative  
Analysis  
Section**

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**LICENSING LAWS: COSMETOLOGISTS**

House Bill 4799 with committee amendments  
House Bill 5162 as introduced  
First Analysis (10-16-89)

Sponsor: Rep. Joseph Young, Jr.  
Committee: State Affairs

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H.B. 4799 & 5162 (10-16-89)

**THE APPARENT PROBLEM:**

Public Acts 461, 462, and 463 of 1988 attempted to streamline licensing laws for occupations and professions by standardizing terminology, updating language, and consolidating various fee payment, examination, and renewal provisions into a set of provisions that applied to all occupations under the Occupational Code. It has become apparent, however, that the Occupational Code still requires some "clean up" amendments. Public Act 463, for example, amended that section of the Occupational Code that pertained to cosmetologists. These provisions need to be reorganized and clarified to conform to the rest of the code. In addition, training for the cosmetology profession has become increasingly technical over the last several years:

- Many of the products used by cometologists contain chemicals, and growing public awareness of the dangers of toxic chemicals has resulted in corresponding legislation concerning their handling.
- The possibility of an AIDS epidemic has prompted concern among those whose work brings them in close personal contact with clients.
- Federal and state occupational safety laws have to be adhered to.
- Some universities, recognizing the fact that cosmetologists's work involves a unique customer-client relationship, offer special classes in psychology.

Education in these areas has been incorporated into the traditional training in the study of the hair, skin, and nails; in addition, cosmetologists may receive training and be certified to help chemotherapy patients experiencing hair and skin loss. An increased awareness of the relationship between their work and the health and safety of their customers has prompted many established cosmetologists to work to upgrade the profession, and they feel that corresponding legislation should be enacted to support them in their efforts to protect the health and safety of the public.

**THE CONTENT OF THE BILL:**

House Bill 4799. The bill would amend that section of the Occupational Code that deals with the licensing of cosmetologists, and would add a new section to the code to provide for the licensing of electrologists. Under the bill, "cosmetology" would include the practices of hair care, skin care and manicuring, but while a licensed cosmetologist could render manicuring or skin care services, as part of the practice of cosmetology, persons licensed only in the practice of skin care or manicuring would be limited, under the bill, to those specific services.

The bill would prohibit the practice of cosmetology, without a license, on any person other than a member of the cosmetologist's immediate family, and unless the services were rendered in premises licensed by the Department of Licensing and Regulation. The bill would also prohibit the

practice of cosmetology in a hospital, nursing home, convalescent home, or similar facility without an establishment license unless practiced on a patient requiring home care. The practice of manicuring or skin care by a cosmetologist working in a manicuring or skin care establishment would be limited to those specific services for which the premises were licensed. The practice of manicuring by a licensed manicurist, however, could also be performed in a licensed barbershop. The exceptions to the above requirements would be: 1) A nurse or nurse's aide, who was not licensed under the code, would be exempt from licensure if cleaning or arranging the hair of a patient was part of the patient's hygiene or medical requirements; and 2) A manicurist, who was requested by a customer to render services in the customer's home or office, could do so if sent to perform those services by an establishment licensed under the code. The manicurist would be required to maintained at the licensed establishment complete books and references of all services performed, the date, time, and place performed, together with a reference to the charge made, which records would be considered the property of the licensed establishment; and would be required to make all records available to the department.

Definitions. The bill would amend the code to provide updated definitions for the fields of cosmetology, skin care, manicuring, and electrology. Under the bill, the definition of "manicuring" would include "pedicuring," exclusive of the practice of podiatric medicine and surgery. (At present, pedicuring is not licensed under the code).

Cosmetology, Skin Care Specialist, and Manicuring Licenses. Currently, under the code, applicants for cosmetology licenses must first complete an apprenticeship program. The bill would delete this provision, and instead would require the department to issue cosmetology, skin care, and manicuring licenses to those who met certain qualifications: applicants would be required to be at least 17 years of age; of good moral character; possess a ninth grade education, or its equivalent; and would be required to complete a prescribed course of study and to pass an examination prescribed by the department and the Board of Cosmetology. The course of study for a cosmetology license would be at least 1,500 hours, for a skin care specialist license at least 600 hours, and for a manicurist license at least 400 hours. Under the bill, those who had already received training in skin care could be issued a license without repeating the course of study, if they applied for the license within one year after the examination was prescribed and passed the examination.

Instructors. The bill would require similar qualifications for those who applied for cosmetology, skin care, and manicuring instructor licenses: applicants would be required to be licensed as a cosmetologist or in their specific field; high school graduates; of good moral character, have completed a prescribed course of study;

and have passed the appropriate examination. The courses of study would be 500 hours, 400 hours, and 300 hours in the fields of cosmetology, skin care, and manicuring instruction, respectively. In addition to the previous qualifications, those applying for master instructor licenses would be required to possess cosmetology instructor licenses and to have had not less than three years of practical experience in cosmetology, including one year in a licensed cosmetology establishment. Skin care specialist instructor licenses would also be issued to those who, applied before January 1, 1991, were licensed as a cosmetologist or skin care specialist, were of good moral character, and had taught skin care in any other state for at least one year.

Under the bill, cosmetology, manicuring, skin care, or master instructors could be required by the Board of Cosmetology to complete a program of continuing education in order to renew their licenses.

Out of State Licensees. The bill would restate that provision of the code which regulates the licensing of persons from another state or country in cosmetology, skin care specialist, and manicuring, and as cosmetology, skin care and manicuring instructor or master instructor. Under the bill, licenses could be issued if the applicant were at least 17 years of age, of good moral character, provided certification that his or her license was either in good standing in the other state or country or had lapsed without disciplinary action, and had received equivalent training and licensure requirements, as determined by the department.

Establishments and Cosmetology Schools. The bill would restate current provisions in the code. The department would be required to issue a license to a person for the operation of a cosmetology, manicuring, or skin care establishment if the following requirements were met:

- The application was made by the owners or managers of the establishment.
- The application included a drawing or diagram of the premises, including the location of required equipment and facilities.
- The premises satisfactorily passed a department inspection.
- Provision had been made for operations to be under the supervision of a licensed individual who had at least one year of practical experience in the services to be rendered.

In addition to the above requirements, the department would issue a license for the operation of a school of cosmetology if a cash or surety bond of \$10,000 had been furnished, and provision had been made for the daily attendance of at least one master instructor.

Under the bill, a cosmetology school or a cosmetology, manicuring, or skin care establishment would be required to be completely partitioned from a dwelling, and could not be occupied for lodging or residential purposes. The department could grant a temporary establishment or school license if all the above requirements, except inspection, had been fulfilled.

The bill would also provide certain requirements for the transfer of ownership or location of establishments and schools, and for their display of licenses, and would restate current provisions governing cosmetology schools and student training. Until January 1, 1993, students currently enrolled in a program of training would be permitted to

finish the program and to become licensed under the previous requirements of the code.

Violations. The bill would restate that provision of the code which prescribes violations. Under the bill, one or more of the following would be a violation of the code and subject to penalty:

- Continuing to practice or allowing another to continue to practice while knowingly having a communicable disease as defined in the Public Health Code.
- Providing a service on unlicensed premises.
- Rendering a service or operating an establishment or school without proper license.
- Employing or using an unlicensed person to practice or teach cosmetology.
- Using another person's license, or allowing it to be used by another.
- Negligence or incompetence in providing services.
- Failing or refusing to permit inspection of an establishment or school.
- Receiving compensation while a student.
- As an instructor, rendering services to the public other than to instruct or to correct a student's work.
- Failing to abide by Board of Cosmetology sanitation standards.
- Misrepresenting a material fact to the department.
- Failing to notify the department of a change of address within 30 days.

License Renewals. The bill would repeal those provisions of the act concerning licensing requirements that are now required under Public Act 463 of 1988, which amended the code to, among other things, replace occupation-specific requirements to pay fees, pass examinations, and renew licenses with generalized provisions that apply to all occupations.

Inspections. The bill would restate that provision of the code which requires department inspection of cosmetology establishments and schools. Currently, the code requires that each cosmetology, skin care, manicuring establishment be inspected at least twice per year. Under the bill, this inspection would be made not less than once every two years. The bill would also amend the code to permit department representatives to require that an individual claiming to be a licensee present identification to substantiate his or her identity as the holder of a posted license.

Electrology. The bill would delete current provisions which provide for the licensing of electrologists under the general category of "cosmetology," and would require that electrology be considered a separate practice. The bill would also provide for the creation of a Board of Electrology. Under the bill, the same types of requirements provided for cosmetology licensure would be provided for the licensure of electrologists, electrology instructors, out of state electrologists, establishments, and schools of electrology, and for regulations governing electrology students, violations, and inspections.

MCL 339.1201 et al. and 339.3001 et al.

House Bill 5162. The bill would amend the State License Fee Act to reflect proposed changes in the cosmetology and electrology professions which would be made by House Bill 4799's amendments to the Occupational Code. The bill would update the fee schedule for the cosmetology profession, and provide a separate fee structure for persons licensed or seeking licensure in the electrology profession. House Bill 5162 is tie-barred to House Bill 4799.

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Under the bill, the following fee schedule would apply to the electrology professions:

Application processing fees:	
Electrologist or electrology instructor	\$ 10.00
Electrology establishment	25.00
School of electrology	100.00
Examination fees:	
Complete examination for electrologist or electrology instructor	25.00
Written portion only	15.00
Practical portion only	15.00
Examination review	20.00
License fees, per year:	
Electrologist or electrology instructor	12.00
Electrology establishment	25.00
School of electrology	100.00
Student license or transfer fee	5.00

### **FISCAL IMPLICATIONS:**

According to the Department of Licensing and Regulation, the bills would have a small fiscal impact. The Board of Electrology that would be created in House Bill 4799 would meet six times per year. No additional staff would be required, but the board would incur some per diem and associated travel costs. (10-16-89)

### **ARGUMENTS:**

#### **For:**

The bills would continue the process of streamlining and updating the licensing laws for occupations and professions, enabling the Department of Licensing and Regulation to make more efficient use of new, programmable, high-speed computer processing equipment, as well making the laws more comprehensive. The bills would also make several practical changes in cosmetology licensing: the inclusion of skin care as a subfield within cosmetology would allow those with specialized training in skin care to be licensed without having to undergo a full cosmetology training course; the separation of electrology from the practice of cosmetology makes sense since the field of electrology is not connected with cosmetology, and follows standards set by the Center for Disease Control rather than the Food and Drug Administration; the inclusion of care of the nails of the feet in the definition of manicuring to bring pedicuring — which is presently unregulated — into the practice of cosmetology will ensure that the practice is not performed by untrained individuals; and the elimination of the old apprenticeship training alternative, which will ensure that all students receive the full scope of training.

#### **Against:**

By allowing manicurists to render services in customers' homes and offices, and therefore bypassing the code's basic premise that all cosmetology services be rendered in licensed establishments, the bill would set a dangerous precedent whereby others in the profession — hair and skin care specialists — would demand the same option, and would render meaningless the concerns of those who work to ensure that the cosmetology profession maintain high standards regarding the health and safety of their customers. Maintaining these standards could be crucial in the future, since the bill would include care of the nails of the feet in the practice of manicuring, a matter of primary health importance in diabetes and circulatory disease, where care of the feet is essential, but must be done by

those with sufficient training in anatomy to identify problems which would preclude pedicures. Without the requirement that ALL cosmetology services be performed in licensed establishments, the bill would essentially render licensing of the profession meaningless, since the department could not possibly perform inspections.

### **POSITIONS:**

The Michigan Cosmetologists Association and the Michigan Beauty School Owners Association both support the bills as introduced, but are opposed to the House State Affairs Committee amendment to House Bill 4799 which would allow manicurists to make "house calls," since they feel this would be a step in the direction of deregulation of cosmetology and could have adverse health effects on the public. (10-12-89)

The Department of Licensing and Regulation supports the bills as introduced, and has no position on the committee amendments. (10-12-89)

The State Board of Cosmetology supports the bills as introduced, but does not support House Bill 4799's amendment permitting house calls by manicurists unless the clients in question are elderly. (10-12-89)

The Electrolysis Association of Michigan supports the bills. (10-12-89)

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