

Legislative Analysis



SHAMPOO SERVICES

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House Bill 5007 (Substitute H-1)

Sponsor: Rep. Mark Meadows

Committee: Regulatory Reform

Revised First Analysis (10-3-07)

BRIEF SUMMARY: The bill would allow a cosmetology student who had completed 350 hours of coursework in a cosmetology program to be employed by a cosmetology establishment to perform shampoo services only.

FISCAL IMPACT: The bill will have no significant fiscal impact on the State of Michigan or its local units of government.

THE APPARENT PROBLEM:

In general, only a licensed cosmetologist may legally render, whether compensated or not, any form of cosmetology services (defined as hair care services, skin care services, manicuring services, or electrology). An exception is provided for services rendered to immediate family members and to licensed barbers. A person can be licensed as only a manicurist, esthetician (skin care), or electrologist but is restricted to render only the licensed service. In addition, a cosmetology student or apprentice is allowed to practice on the public as part of their cosmetology program, but only after completing at least 350 hours of instruction in the general cosmetology curriculum, including both theory and practical hours.

At the request of an owner of a day spa salon and school of cosmetology, legislation has been offered to amend the law so that a cosmetology establishment could hire a senior cosmetology student (one who has completed the 350 hours needed before practicing on the public) solely for the purpose of rendering shampoo services. It is believed that the change in the law would benefit students by giving them employment and salon experience at the same time, and would benefit salons by allowing them to operate more profitably.

THE CONTENT OF THE BILL:

House Bill 5007 would amend the Occupational Code (MCL 339.1203a) to specify that the general prohibition on rendering cosmetology services without a license would not apply to a currently registered senior cosmetology student performing shampoo services on members of the public in a cosmetology establishment if the student had completed the 350 hours of instruction that is required before a student may practice on a member of the public and had met the academic requirements regarding those courses in client safety, sanitation, bacteriology, hair and scalp disorders, scalp manipulations, and proper shampooing procedure. ("Cosmetology establishment" is defined in the act to mean the premises on which cosmetology or one or more of its services are rendered or are offered to be rendered. Cosmetology establishment does not include a school of cosmetology.)

A cosmetology establishment could also employ a cosmetology senior student to render shampoo services. The establishment would have to apply to the cosmetology school the student attended, on forms provided by the Department of Labor and Economic Growth, for verification of the student's current registration and that he or she had completed the 350 hours of instruction required prior to practicing on the public.

The cosmetology school would have to verify the student's registration status and the hours completed and then sign the application. The application would expire on the student's expected graduation date.

The cosmetology establishment would also have to keep the files available for at least three years after the end of the employment relationship, allow the department to access the records, and post the approved application with the cosmetology licenses in the salon. The cosmetology establishment could not allow the student to perform cosmetology services other than shampooing while employed by the establishment.

BACKGROUND INFORMATION:

For a full cosmetology license, which allows a licensed person to provide hair care services, skin care services, manicuring services, or electrology, a person must complete a 1,500 hour course of study in a licensed school of cosmetology or served two years as an apprentice in a cosmetology establishment that performs hair care services, manicure services, and skin care services (along with practical applications as required by departmental rules). A person must also successfully pass an examination approved by the Board of Cosmetology and the Department of Labor and Economic Growth. A limited license is also available that restricts the licensee to perform only manicures, skin care, or electrology.

“Hair care services” means arranging, cutting, dressing, curling, waving, cleansing, singeing, bleaching, coloring, tinting, trimming, styling, relaxing, perming, straightening, or similar work upon the hair of the head or a wig that an individual is wearing.

ARGUMENTS:

For:

The bill would benefit both cosmetology students and salon owners. Currently, only fully licensed cosmetologists can be hired to perform hair care services on a member of the public. Under the bill, a senior student could be employed by a salon to perform shampoo services (which fall within the definition of "hair care services") after he or she completed 350 hours of a cosmetology program at a licensed school. This would open up new employment opportunities for students while enhancing their salon experience and knowledge. However, no course credit or practice hours would be earned. It would simply be a job that a student could do while completing his or her cosmetology program. At the same time, the bill would help owners. Hiring cosmetology students to perform shampoo services would allow the licensed cosmetologists to focus on providing the services that only they can do.

Since the bill also requires that students have completed coursework in proper shampooing procedure, as well as courses relating to health and safety, there would be no public safety concerns. After all, senior cosmetology students already perform shampoo services, in

addition to hair cuts and other services, on members of the public as part of their practical experience in school-operated salons.

Against:

In essence, the bill would be authorizing an unlicensed activity. A better approach would be to create a limited license for shampooing, similar to that available to people who only want to work as a manicurist, esthetician (skin care), or electrologist (removing hair with electricity). Such an approach would then empower the Department of Labor and Economic Growth and the Board of Cosmetology to impose administrative sanction, including license revocation, if the person violated provisions of the Cosmetology Act. Such authority is important to protect the public as improper techniques can spread scalp and skin diseases from one client to another or result in serious injury to the client.

Against:

Because the term "shampoo services" is not defined in law, and because the bill would be difficult, if not impossible, to enforce, a concern must be raised regarding the potential for cosmetology students working as shampooers to be taken advantage of by their employers and required to perform activities for which they are not licensed. Even though a salon is currently prohibited from allowing an unlicensed person to perform services that require licensure, there is no way for DLEG to control how a salon used a shampooer.

Response:

Under current law, a licensed cosmetology establishment bears the consequences of employing an unlicensed person and allowing him or her to perform services that require a license. So, a salon that used a cosmetology student to do more than just shampoo services would be subject to administrative sanctions and could be liable in a lawsuit if a client were harmed. A student shampooer could also face criminal charges for engaging in an unlicensed activity (a misdemeanor), but such charges are difficult to enforce due to lack of resources on the part of DLEG and many county prosecutors' offices.

POSITIONS:

The Department of Labor and Economic Growth supports the concept of the bill. (9-11-07)

Douglas J (day spa salon and a school of cosmetology) supports the bill. (9-11-07)

The Michigan Cosmetologist Association is opposed to the bill. (10-3-07)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.