

AN ACT

To amend sections 4713.01, 4713.08, and 4713.64 and to enact sections 4713.50 and 4713.51 of the Revised Code regarding the use and regulation of tanning facilities.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4713.01, 4713.08, and 4713.64 be amended and sections 4713.50 and 4713.51 of the Revised Code be enacted to read as follows:

Sec. 4713.01. As used in this chapter:

"Apprentice instructor" means a person holding a practicing license issued by the state board of cosmetology who is engaged in learning or acquiring knowledge of the occupation of an instructor of a branch of cosmetology at a school of cosmetology.

"Beauty salon" means any premises, building, or part of a building in which a person is authorized to engage in all branches of cosmetology. "Beauty salon" does not include a barber shop licensed under Chapter 4709. of the Revised Code in which a person engages in the practice of manicuring.

"Biennial licensing period" means the two-year period beginning on the first day of February of an odd-numbered year and ending on the last day of January of the next odd-numbered year.

"Braiding" means intertwining the hair in a systematic motion to create patterns in a three-dimensional form, inverting the hair against the scalp along part of a straight or curved row of intertwined hair, or twisting the hair in a systematic motion, and includes extending the hair with natural or synthetic hair fibers.

"Branch of cosmetology" means the practice of cosmetology, practice of esthetics, practice of hair design, practice of manicuring, or practice of natural hair styling.

"Cosmetic therapy" has the same meaning as in section 4731.15 of the Revised Code.

"Cosmetologist" means a person authorized to engage in all branches of cosmetology.

"Cosmetology instructor" means a person authorized to teach the theory and practice of all branches of cosmetology at a school of cosmetology.

"Esthetician" means a person who engages in the practice of esthetics but no other branch of cosmetology.

"Esthetics instructor" means a person who teaches the theory and practice of esthetics, but no other branch of cosmetology, at a school of cosmetology.

"Esthetics salon" means any premises, building, or part of a building in which a person engages in the practice of esthetics but no other branch of cosmetology.

"Hair designer" means a person who engages in the practice of hair design but no other branch of cosmetology.

"Hair design instructor" means a person who teaches the theory and practice of hair design, but no other branch of cosmetology, at a school of cosmetology.

"Hair design salon" means any premises, building, or part of a building in which a person engages in the practice of hair design but no other branch of cosmetology.

"Independent contractor license" means a license to practice a branch of cosmetology at a salon in which the license holder rents booth space.

"Instructor license" means a license to teach the theory and practice of a branch of cosmetology at a school of cosmetology.

"Managing cosmetologist" means a person authorized to manage a beauty salon and engage in all branches of cosmetology.

"Managing esthetician" means a person authorized to manage an esthetics salon, but no other type of salon, and engage in the practice of esthetics, but no other branch of cosmetology.

"Managing hair designer" means a person authorized to manage a hair design salon, but no other type of salon, and engage in the practice of hair design, but no other branch of cosmetology.

"Managing license" means a license to manage a salon and practice the branch of cosmetology practiced at the salon.

"Managing manicurist" means a person authorized to manage a nail salon, but no other type of salon, and engage in the practice of manicuring, but no other branch of cosmetology.

"Managing natural hair stylist" means a person authorized to manage a natural hair style salon, but no other type of salon, and engage in the practice of natural hair styling, but no other branch of cosmetology.

"Manicurist" means a person who engages in the practice of manicuring but no other branch of cosmetology.

"Manicurist instructor" means a person who teaches the theory and practice of manicuring, but no other branch of cosmetology, at a school of cosmetology.

"Nail salon" means any premises, building, or part of a building in which a person engages in the practice of manicuring but no other branch of cosmetology. "Nail salon" does not include a barber shop licensed under Chapter 4709. of the Revised Code in which a person engages in the practice of manicuring.

"Natural hair stylist" means a person who engages in the practice of natural hair styling but no other branch of cosmetology.

"Natural hair style instructor" means a person who teaches the theory and practice of natural hair styling, but no other branch of cosmetology, at a school of cosmetology.

"Natural hair style salon" means any premises, building, or part of a building in which a person engages in the practice of natural hair styling but no other branch of cosmetology.

"Practice of cosmetology" means the practice of all branches of cosmetology.

"Practice of esthetics" means the application of cosmetics, tonics, antiseptics, creams, lotions, or other preparations for the purpose of skin beautification and includes preparation of the skin by manual massage techniques or by use of electrical, mechanical, or other apparatus.

"Practice of hair design" means embellishing or beautifying hair, wigs, or hairpieces by arranging, dressing, pressing, curling, waving, permanent waving, cleansing, cutting, singeing, bleaching, coloring, braiding, weaving, or similar work. "Practice of hair design" includes utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, locking, or braiding of the hair.

"Practice of manicuring" means manicuring the nails of any person, applying artificial or sculptured nails to any person, massaging the hands and lower arms up to the elbow of any person, massaging the feet and lower legs up to the knee of any person, or any combination of these four types of services.

"Practice of natural hair styling" means utilizing techniques performed by hand that result in tension on hair roots such as twisting, wrapping, weaving, extending, locking, or braiding of the hair. "Practice of natural hair styling" does not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair. "Practice of natural hair styling" also does not include embellishing or beautifying hair by cutting or singeing, except as needed to

finish off the end of a braid, or by dressing, pressing, curling, waving, permanent waving, or similar work.

"Practicing license" means a license to practice a branch of cosmetology.

"Salon" means a beauty salon, esthetics salon, hair design salon, nail salon, or natural hair style salon.

"School of cosmetology" means any premises, building, or part of a building in which students are instructed in the theories and practices of one or more branches of cosmetology.

"Student" means a person, other than an apprentice instructor, who is engaged in learning or acquiring knowledge of the practice of a branch of cosmetology at a school of cosmetology.

"Tanning facility" means ~~a room or booth that houses equipment~~ any premises, building, or part of a building that contains one or more rooms or booths with any of the following:

(A) Equipment or beds used for tanning human skin by the use of fluorescent sun lamps using ultraviolet or other artificial radiation;

(B) Equipment that applies chemicals to human skin to create the appearance of being suntanned, including chemical applications commonly referred to as spray-on, mist-on, or sunless tans;

(C) Equipment or beds that use visible light for cosmetic purposes.

Sec. 4713.08. (A) The state board of cosmetology shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this chapter. The rules shall do all of the following:

(1) Govern the practice of the branches of cosmetology and management of salons;

(2) Specify conditions a person must satisfy to qualify for a temporary pre-examination work permit under section 4713.22 of the Revised Code and the conditions and method of renewing a temporary pre-examination work permit under that section;

(3) Provide for the conduct of examinations under section 4713.24 of the Revised Code;

(4) Specify conditions under which the board will take into account, under section 4713.32 of the Revised Code, instruction an applicant for a license under section 4713.28, 4713.30, or 4713.31 of the Revised Code received more than five years before the date of application for the license;

(5) Provide for the granting of waivers under section 4713.29 of the Revised Code;

(6) Specify conditions an applicant must satisfy for the board to issue the applicant a license under section 4713.34 of the Revised Code without

the applicant taking an examination conducted under section 4713.24 of the Revised Code;

(7) Specify locations in which glamour photography services in which a branch of cosmetology is practiced may be provided;

(8) Establish conditions and the fee for a temporary special occasion work permit under section 4713.37 of the Revised Code and specify the amount of time such a permit is valid;

(9) Specify conditions an applicant must satisfy for the board to issue the applicant an independent contractor license under section 4713.39 of the Revised Code and the fee for issuance and renewal of the license;

(10) Establish conditions under which food may be sold at a salon;

(11) Specify which professions regulated by a professional regulatory board of this state may be practiced in a salon under section 4713.42 of the Revised Code;

(12) Establish standards for the provision of cosmetic therapy, massage therapy, or other professional service in a salon pursuant to section 4713.42 of the Revised Code;

(13) Establish standards for board approval of, and the granting of credits for, training in branches of cosmetology at schools of cosmetology licensed in this state;

(14) Establish the manner in which a school of cosmetology licensed under section 4713.44 of the Revised Code may offer post-secondary and advanced practice programs;

(15) Establish sanitary standards for the practice of the branches of cosmetology, salons, and schools of cosmetology;

(16) Establish the application process for obtaining a tanning facility permit under section 4713.48 of the Revised Code, including the amount of the fee for an initial or renewed permit;

(17) Establish standards for installing and operating a tanning facility in a manner that ensures the health and safety of consumers, including standards that do all of the following:

(a) Establish a maximum safe time of exposure to radiation and a maximum safe temperature at which sun lamps may be operated;

(b) Require consumers to wear protective eyeglasses ~~and~~;

~~(c) Require consumers to be supervised as to the length of time consumers use the facility's sun lamps;~~

~~(c)~~(d) Require the operator to prohibit consumers from standing too close to sun lamps and to post signs warning consumers of the potential effects of radiation on persons taking certain medications and of the possible relationship of the radiation to skin cancer;

~~(d)~~(e) Require the installation of protective shielding for sun lamps and handrails for consumers;

~~(e)~~(f) Require floors to be dry during operation of lamps;

~~(f) Require a consumer who is under the age of eighteen to obtain written consent from the consumer's parent or legal guardian prior to receiving tanning services~~ (g) Establish procedures an operator must follow in making reasonable efforts in compliance with section 4713.50 of the Revised Code to determine the age of an individual seeking to use sun lamp tanning services.

(18)(a) If the board, under section 4713.61 of the Revised Code, develops a procedure for classifying licenses inactive, do both of the following:

(i) Establish a fee for having a license classified inactive that reflects the cost to the board of providing the inactive license service;

(ii) Specify the continuing education that a person whose license has been classified inactive must complete to have the license restored. The continuing education shall be sufficient to ensure the minimum competency in the use or administration of a new procedure or product required by a licensee necessary to protect public health and safety. The requirement shall not exceed the cumulative number of hours of continuing education that the person would have been required to complete had the person retained an active license.

(b) In addition, the board may specify the conditions and method for granting a temporary work permit to practice a branch of cosmetology to a person whose license has been classified inactive.

(19) Establish a fee for approval of a continuing education program under section 4713.62 of the Revised Code that is adequate to cover any expense the board incurs in the approval process;

(20) Anything else necessary to implement this chapter.

(B)(1) The rules adopted under division (A)(2) of this section may establish additional conditions for a temporary pre-examination work permit under section 4713.22 of the Revised Code that are applicable to persons who practice a branch of cosmetology in another state or country.

(2) The rules adopted under division (A)(18)(b) of this section may establish additional conditions for a temporary work permit that are applicable to persons who practice a branch of cosmetology in another state.

(C) The conditions specified in rules adopted under division (A)(6) of this section may include that an applicant is applying for a license to practice a branch of cosmetology for which the board determines an examination is unnecessary.

(D) The rules adopted under division (A)(11) of this section shall not include a profession if practice of the profession in a salon is a violation of a statute or rule governing the profession.

(E) The sanitary standards established under division (A)(15) of this section shall focus in particular on precautions to be employed to prevent infectious or contagious diseases being created or spread. The board shall consult with the Ohio department of health when establishing the sanitary standards.

(F) The fee established by rules adopted under division (A)(16) of this section shall cover the cost the board incurs in inspecting tanning facilities and enforcing the board's rules but may not exceed one hundred dollars per location of such facilities.

Sec. 4713.50. (A) A tanning facility operator or employee shall make reasonable efforts, in accordance with procedures established under section 4713.08 of the Revised Code, to determine whether an individual seeking to use the facility's sun lamp tanning services is less than sixteen years of age, at least sixteen but less than eighteen years of age, or eighteen years of age or older.

(B)(1) A tanning facility operator or employee shall not allow an individual who is eighteen years of age or older to use the facility's sun lamp tanning services without first obtaining the consent of the individual. The consent shall be evidenced by the individual's signature on the form developed by the state board of cosmetology under section 4713.51 of the Revised Code. The consent is valid indefinitely.

(2) A tanning facility operator or employee shall not allow an individual who is at least sixteen but less than eighteen years of age to use the facility's sun lamp tanning services without first obtaining the consent of a parent or legal guardian of the individual. The consent shall be evidenced by the signature of the parent or legal guardian on the form developed by the board under section 4713.51 of the Revised Code. The form must be signed in the presence of the operator or an employee of the tanning facility. The consent is valid for ninety days from the date the form is signed. A tanning facility operator or employee shall not allow an individual who is at least sixteen but less than eighteen years of age to use the facility's sun lamp tanning services for more than forty-five sessions during the ninety-day period covered by the consent. No such session may be longer than the maximum safe time of exposure specified in rules adopted under division (A)(17) of section 4713.08 of the Revised Code.

(3) A tanning facility operator or employee shall not allow an individual who is less than sixteen years of age to use the facility's sun lamp tanning

services unless both of the following apply:

(a) The tanning facility operator or employee obtains the consent of a parent or legal guardian of the individual prior to each session of the use of the facility's sun lamp tanning services. The consent shall be evidenced by the signature of the parent or legal guardian on the form developed by the board under section 4713.51 of the Revised Code. The form must be signed in the presence of the operator or an employee of the tanning facility.

(b) A parent or legal guardian of the individual is present at the tanning facility for the duration of each session of the use of the facility's sun lamp tanning services.

(C) For purposes of division (B) of this section, an electronic signature may be used to provide and may be accepted as a signature evidencing consent.

Sec. 4713.51. The state board of cosmetology shall develop a form for use by tanning facility operators and employees in complying with the consent requirements of division (B) of section 4713.50 of the Revised Code. The form must describe the potential health effects of radiation from sun lamps, including a description of the possible relationship of the radiation to skin cancer. In developing the form, the board shall consult with the department of health, dermatologists, and tanning facility operators. The board shall make the form available on the internet web site maintained by the board.

Sec. 4713.64. (A) The state board of cosmetology may take disciplinary action for any of the following:

(1) Failure to comply with the requirements of this chapter or rules adopted under it;

(2) Continued practice by a person knowingly having an infectious or contagious disease;

(3) Habitual drunkenness or addiction to any habit-forming drug;

(4) Willful false and fraudulent or deceptive advertising;

(5) Falsification of any record or application required to be filed with the board;

(6) Failure to pay a fine or abide by a suspension order issued by the board.

(B) On determining that there is cause for disciplinary action, the board may do one or more of the following:

(1) Deny, revoke, or suspend a license or permit issued by the board;

(2) Impose a fine;

(3) Require the holder of a license or permit to take corrective action courses.

(C) The amount and content of corrective action courses and other relevant criteria shall be established by the board in rules adopted under section 4713.08 of the Revised Code.

(D) The board may impose a separate fine for each offense listed in division (A) of this section. The amount of a fine shall be not more than five hundred dollars if the violator has not previously been fined for that offense. The fine shall be not more than one thousand dollars if the violator has been fined for the same offense once before. The fine shall be not more than one thousand five hundred dollars if the violator has been fined for the same offense two or more times before.

In the case of an offense of failure to comply with division (A) or (B)(2) or (3) of section 4713.50 of the Revised Code, the board shall impose a fine of five hundred dollars if the violator has not previously been fined for that offense. If the violator has previously been fined for the offense, the board may impose a fine in accordance with this division or take another action in accordance with division (B) of this section.

(E) If a person fails to request a hearing within thirty days of the date the board, in accordance with section 119.07 of the Revised Code, notifies the person of the board's intent to act against the person under division (A) of this section, the board by a majority vote of a quorum of the board members may take the action against the person without holding an adjudication hearing.

(F) The board, after a hearing in accordance with Chapter 119. of the Revised Code, may suspend a tanning facility permit if the owner or operator fails to correct an unsafe condition that exists in violation of the board's rules or fails to cooperate in an inspection of the tanning facility. If a violation has resulted in a condition reasonably believed by an inspector to create an immediate danger to the health and safety of any person using the tanning facility, the inspector may suspend the permit without a prior hearing until the condition is corrected or until a hearing in accordance with Chapter 119. of the Revised Code is held and the board either upholds the suspension or reinstates the permit.

SECTION 2. That existing sections 4713.01, 4713.08, and 4713.64 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act take effect three months after the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 131

130th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____