



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 333**

130th General Assembly  
(As Introduced)

**Sens.** Jordan and Smith, Tavares, Beagle, Brown, Kearney

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## **BILL SUMMARY**

### **Boutique services**

- Establishes "boutique services" as a separate branch of cosmetology and requires each individual wishing to practice that branch to register with the State Board of Cosmetology.

### **Prohibited activity**

- Prohibits an individual from misclassifying as an independent contractor under the Cosmetology Law a person the individual hired, sets the schedule for, or compensates.
- Prohibits an individual from practicing a branch of cosmetology in a location other than a licensed facility unless the individual is exempt from the Cosmetology Law.
- Prohibits an individual from using cosmetology to treat or attempt to cure a physical or mental disease or ailment.
- Creates additional penalties for an individual who uses or possesses a prohibited substance at a school of cosmetology or salon.

### **Cosmetology licensing**

- Requires newly licensed individuals with no cosmetology work history to complete a six-month apprenticeship before working in a salon without supervision.
- Requires an applicant for a salon operator's license to affirm that the applicant will post a toll-free number and online process for customers to report violations of the

Cosmetology Law and ensure compliance with the bill's apprenticeship requirement.

- Eliminates "managing" cosmetology licenses and eliminates the requirement that every salon have a managing cosmetologist present to supervise at the salon when the salon is open for business.
- Creates "advanced" cosmetology licenses, which are largely similar to the eliminated managing cosmetology licenses.
- Modifies application and licensing procedures for licenses issued by the Board.
- For each branch of cosmetology, permits the Board to develop and administer its own examinations or to contract with a national testing service to develop the examinations.

### **Disciplinary actions**

- Makes the following grounds for licensee discipline: a conviction of or plea of guilty to a human trafficking violation, failure to cooperate with an investigation or inspection, or failure to respond to a subpoena.
- In certain circumstances, allows the Board to take disciplinary action against a licensee without conducting an adjudication hearing.
- Modifies the fines that may be issued for violations of the Cosmetology Law.
- Requires continuing education for licensees to include training on identifying and addressing human trafficking, safety and sanitation, and law and rule updates.

### **State Board of Cosmetology**

- Allows the Board to investigate and inspect individuals and premises of a person who is alleged to have violated the Cosmetology Law, regardless of whether that person is licensed by the Board.
- Requires the Board to provide a toll-free number and online service to receive complaints of violations of the Cosmetology Law.
- Expands the Board's hiring authority by allowing the Board to hire other individuals necessary for the administration of the Cosmetology Law.
- Adds one tanning facility owner to the Board's membership.

## General

- Creates the Efficient Regulation of Beauty Services Commission.
- Makes other changes to the Cosmetology Law.

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## CONTENT AND OPERATION

### Apprenticeships

The bill requires a newly licensed individual who has no related work history under the Cosmetology Law to complete a six-month apprenticeship in a salon prior to practicing without supervision in a salon. This requirement does not apply to newly licensed independent contractors or instructors.<sup>1</sup>

### Boutique services

The bill establishes boutique services as a separate branch of cosmetology.<sup>2</sup> "Boutique services" under the bill include braiding, threading, eye lash extension services, and any other beauty service considered by the Board to be a boutique service. Continuing law defines "braiding" as intertwinning 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. Under the bill, the "practice of braiding" means utilizing the technique of intertwinning hair in a systematic motion to create patterns in a three-dimensional form, including patterns that are inverted, upright, or singled against the scalp that follow along straight or curved partings. It may include twisting or locking the hair while adding bulk or length with human hair, synthetic hair, or both and using simple devices such as clips, combs, and hairpins. The "practice of braiding" does not include any of the following:

- Application of weaving, bonding, and fusion of individual strands or wefts of hair;
- Application of dyes, reactive chemicals, or other preparations to color, straighten, curl, or alter the structure of hair;
- Embellishing or beautifying hair by cutting or singeing it (except as needed to finish the ends of synthetic fibers used to add bulk or lengthen hair).

The phrase "practice of braiding" does not appear to be used in the Cosmetology Law or the bill and it is unclear whether the practice of braiding is meant to differ from braiding.

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<sup>1</sup> R.C. 4713.35(B) and 4713.41(G).

<sup>2</sup> R.C. 4713.69.



"Eye lash extensions" include temporary and semi-permanent enhancements designed to add length, thickness, and fullness to natural eye lashes. "Threading" includes a service that results in the removal of hair from its follicle from around the eyebrows and other parts of the face with the use of a single strand of thread and an over-the-counter astringent. A service is not threading if chemicals, wax, or any implements, instruments, or tools are used to remove the hair.<sup>3</sup>

### **Boutique services registration**

The bill establishes a registration requirement for an individual practicing boutique services. To be issued a boutique services registration from the Board, an applicant must be at least 16, be of good moral character, and must have at least a tenth grade or equivalent education. Additionally, the applicant must pay the application fee specified by the Board and submit a written application on a form prescribed by the Board that contains all of the following:

- The applicant's name and home address;
- The applicant's home telephone number and cellular telephone number (if the applicant has a cellular telephone number);
- The applicant's email address, if the applicant has one;
- The applicant's date of birth;
- The address and telephone number where boutique services will be performed under the registration (the address may not be a P.O. box);
- If the applicant has an occupational license, certification, or registration to provide beauty services in another state, the type of license and the state of licensure;
- Whether the applicant has ever had an occupational license, certification, or registration suspended, revoked, or denied in any state;
- An affidavit providing proof of formal training or apprenticeship under an individual providing boutique services.

An individual who holds a current, valid boutique registration with the Board may engage in the practice of boutique services, but no other branch of cosmetology. The place of business where boutique services are performed must comply with the safety and sanitation requirements for licensed salon facilities under continuing law.

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<sup>3</sup> R.C. 4713.01.



Within six months after the bill's effective date, the Board must specify the manner by which boutique services registrants must meet continuing education requirements that may be adopted by the Board.<sup>4</sup>

## **Inspections**

The bill permits the Board, on its own motion or on receipt of a written complaint, to investigate or inspect the activities or premises of any individual or entity that is alleged to have violated the Cosmetology Law, regardless of whether that individual or entity is licensed by the Board. If it determines based on its investigation that there is reasonable cause to believe an individual or entity is in violation, the Board is required to give the person notice and a hearing in accordance with the Administrative Procedure Act.<sup>5</sup> The Board must keep a transcript of the hearing and issue a written opinion to all parties of its findings and ground for any disciplinary actions it takes.<sup>6</sup>

Consequently, the bill also eliminates the requirement that each tanning facility be inspected as a condition of licensure.<sup>7</sup>

## **Prohibited activity**

Under the bill, no individual may treat a person as an independent contractor for purposes of federal or state taxes or workers' compensation if the individual hires the person, sets the schedule of the person, or compensates the person. An independent contractor for purposes of the Cosmetology Law is an individual who is not an employee of a salon but practices a branch of cosmetology within a salon in a licensed facility subject to an agreement with the salon or the salon owner. An independent contractor must be separately licensed as such.

The bill also prohibits an individual from practicing a branch of cosmetology in a location other than a licensed facility unless the individual or practice is exempt from the Cosmetology Law. The bill defines "licensed facility" as any premises, building, or part of a building licensed to operate a salon.

The bill prohibits an individual from using cosmetology to treat or attempt to cure a physical or mental disease or ailment.

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<sup>4</sup> R.C. 4713.14(C)(5) and (D)(5), 4713.35, and 4713.69.

<sup>5</sup> R.C. Chapter 119.

<sup>6</sup> R.C. 4713.66.

<sup>7</sup> R.C. 4713.48.



Whoever violates one of these prohibitions is guilty of a fourth degree misdemeanor for a first offense. For each subsequent offense, a violator is guilty of a third degree misdemeanor.<sup>8</sup>

## **Penalties for prohibited substances**

The bill also creates additional penalties for an individual who uses or possesses a prohibited substance at a school of cosmetology or salon. Under the bill, if a Board inspector samples a product used or sold in a salon or school and determines that an individual has used or possessed a prohibited substance in violation of the Cosmetology Law, the Board may take disciplinary action against the individual. Under continuing law, the following substances are prohibited: (1) any cosmetic product containing an ingredient that the U.S. Food and Drug Administration (FDA) has prohibited by regulation, (2) any cosmetic product used in a manner inconsistent with a restriction established by the FDA regulation, and (3) any liquid nail monomer containing any trace of methyl methacrylate (MMA). Any fine assessed against the individual for a prohibited substance violation must include the cost of the inspector's test.

Additionally, under continuing law an individual who violates the prohibited substance prohibition is guilty of a fourth degree misdemeanor for a first offense and a third degree misdemeanor for a subsequent offense.<sup>9</sup>

## **Types of licensing and registration**

### **Managing licensee becomes advanced licensee**

The bill eliminates the managing cosmetologist, managing esthetician, managing hair designer, managing manicurist, and managing natural hair stylist licenses that are currently issued by the Board. The bill replaces these licenses with "advanced" licenses of the same type and requires the Board to replace all existing managing licenses with "advanced" licenses of the same type not more than 90 days after the bill's effective date. For example, the Board must issue an "advanced esthetician" license to an individual who holds a managing esthetician license prior to the bill's effective date.

Requirements for "advanced" licensure are largely the same as the requirements for obtaining a managing license under current law. However, the bill lowers the number of "advanced" training hours needed for advanced licensure to 100 hours, regardless of the branch of cosmetology licensed (an applicant must either have a

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<sup>8</sup> R.C. 4713.14, 4713.01, 4713.35, and 4713.99.

<sup>9</sup> R.C. 4713.141, 4713.14(M), and 4713.99.



specified amount of experience or the required amount of training to obtain an advanced license). The table below outlines the current law requirements to obtain a managing license.

Type of license	Number of hours of Board-approved training
Managing cosmetologist	300 hours of managing cosmetology training
Managing esthetician	150 hours of managing esthetician training
Managing hair designer	240 hours of managing hair designer training
Managing manicurist	100 hours of managing manicurist training
Managing natural hair stylist	150 hours of managing natural hair stylist training

An advanced licensee generally has the same privileges and responsibilities of managing licensee under current law, but as outlined in "**Salon management**," below, an advanced licensee is not specifically licensed to manage salons. An advanced licensee is specifically permitted to work in a beauty salon, as opposed to managing it as under current law. Because the duty to manage a salon is removed, it is unclear how, in practice, an advanced licensee differs from a practicing licensee (although, as discussed above, an individual wishing to obtain advanced status must satisfy additional requirements).<sup>10</sup>

### **License to operate a salon**

#### **Salon management**

The bill eliminates the requirements that the Board adopt rules governing the management of salons. Also, the bill eliminates the management requirement for salons operating under the Cosmetology Law. Thus, under the bill, a salon need only affirm that an individual holding a current, valid, cosmetologist license pertaining to the branch of cosmetology services performed at the salon will be present during the salon's operating hours or posted salon hours. Under current law, to be licensed to operate a salon, an individual applying for the license must affirm that a managing cosmetologist or individual with the appropriate type of managing license will have charge of and immediate supervision over the salon at all times when the salon is open for business. If the salon is engaged primarily in retail sales, current law requires a managing cosmetologist or managing licensee to have charge of and immediate supervision over

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<sup>10</sup> R.C. 4713.14(E), 4713.01, 4713.25, 4713.30, 4713.35, and 4713.55 and Section 4, with conforming changes in R.C. 2925.01, 4713.081, 4713.09, 4713.31, 4713.34, 4713.36, 4713.39, 4713.56, 4713.58, 4713.59, 4713.60, 4713.61, 4713.62, and 4713.63.





the salon only during advertised service hours if the practice of cosmetology is restricted to those posted hours.<sup>11</sup>

### **License to operate a salon – generally**

In addition to continuing law requirements for a salon operating license, the bill requires an applicant for a license to also affirm both of the following:

- That a notice containing a toll-free number and online process for reporting alleged violations of the Cosmetology Law as prescribed by the Board is posted at the salon in a common area for all customers of the salon;
- That all newly licensed individuals required to complete the bill's apprenticeship requirements (see "**Apprenticeships**," above) are required by the operator to do so.<sup>12</sup>

### **Instructor's license**

In addition to current law requirements for obtaining a cosmetology instructor's license, the bill requires that an applicant have an Ohio school of cosmetology certify to the Board that the applicant has successfully completed courses in educating students using standards established by the Department of Education and approved by the Board.<sup>13</sup>

### **Regulation of other tanning facilities**

The bill provides for the regulation of additional tanning facilities. Under current law, a tanning facility is defined as a room or booth that houses equipment or beds used for tanning human skin by the use of fluorescent sun lamps using ultraviolet or other artificial radiation. The bill expands this definition to also include premises that contain a room or booth with:

- (1) Equipment or beds that use chemicals applied to human skin, including chemical applications commonly referred to as spray-on, mist-on, or sunless tans; or
- (2) Equipment or beds that use visible light for cosmetic purposes.<sup>14</sup>

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<sup>11</sup> R.C. 4713.41 and 4713.08.

<sup>12</sup> R.C. 4713.35 and 4713.41.

<sup>13</sup> R.C. 4713.31.

<sup>14</sup> R.C. 4713.01.



Under the bill, the Board is to regulate these tanning facilities in much the same manner as it regulates fluorescent sun lamp tanning facilities. For example, the operator of one of these tanning facilities also must obtain a permit from the Board, renew the permit biennially, and pay the required fees established by Board rule (\$65 for an initial permit; \$50 for biennial renewal).<sup>15</sup> Failure to do so is a fourth degree misdemeanor on a first offense and a third degree misdemeanor on subsequent offenses.<sup>16</sup> Such a tanning facility also becomes subject to standards, adopted by the Board in rules, for installing and operating a tanning facility in a manner that ensures the health and safety of consumers.<sup>17</sup> Finally, the Board is authorized to inspect facilities and to discipline operators for failing to comply with any requirement found in statute or rule.<sup>18</sup>

## **Discipline against licensees**

### **Additional grounds for discipline**

The bill expands the grounds for which the Board may take disciplinary action against a licensee, registrant, or permit holder to include the following reasons:

- Failure to cooperate with an investigation or inspection;
- Failure to respond to a subpoena;
- Conviction of or plea of guilty to a violation of the criminal offense of trafficking in persons;
- In the case of a salon, any person's conviction of or plea of guilty to a violation of the criminal offense of trafficking in persons for an activity that took place on the premises of the salon.

Additionally, the bill limits the Board's ability to take disciplinary action for failing to comply with the Cosmetology Law's requirements to only those requirements dealing with safety and sanitation.<sup>19</sup>

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<sup>15</sup> R.C. 4713.08(A)(16) and 4713.48; Ohio Administrative Code 4713-19-03.

<sup>16</sup> R.C. 4713.14 and 4713.99.

<sup>17</sup> R.C. 4713.08(A)(17).

<sup>18</sup> R.C. 4713.06, 4713.48, and 4713.64.

<sup>19</sup> R.C. 4713.64(A).



## **Discipline without adjudication**

Continuing law requires the Board to generally take disciplinary action pursuant to the Administrative Procedure Act – the Board must provide a notice and hearing before taking the action. Continuing law allows the Board to impose discipline without a notice and hearing under certain conditions. The bill allows the Board to take disciplinary action without conducting an adjudication against an individual or salon that violates the human trafficking prohibitions added by the bill (see "**Additional grounds for discipline**," above). After the Board takes the disciplinary action without adjudication, it must give to the subject of the discipline written notice of the right to request a hearing under the Administrative Procedure Act. However, the bill prohibits the Board from taking disciplinary action against an individual licensed to operate a salon or cosmetology school for a violation of the Cosmetology Law that was committed by an individual licensed to practice a branch of cosmetology while practicing within the salon or school, when the individual's actions were beyond the control of the salon owner or the school.

The bill also expands the Board's current law authority to take disciplinary action without adjudication for health and safety violations. Under current law, the Board may take this emergency action if an inspector believes that a condition in a tanning facility creates an immediate danger to the health and safety of a person using a tanning facility. The bill expands that authority to allow the Board to take emergency action for an immediate danger to the health or safety to any person using any facility licensed under the Cosmetology Law.

The bill also allows the Board, in lieu of adjudication, to enter into a consent agreement with the licensee, permit holder, or registrant. If the agreement is ratified by a majority vote of a quorum of the Board, it is considered to constitute the Board's findings and orders with respect to the matter addressed in the agreement. If the Board does not ratify the agreement, the case must be scheduled for adjudication under the Administrative Procedure Act.<sup>20</sup>

## **Notice of discipline or adjudication**

The bill also provides alternative methods by which the Board may provide notice of an adjudication or disciplinary action to be taken by the Board. Under the bill, in addition to the methods of notification prescribed by the Administrative Procedure Act, the Board may send these required notices by any delivery method that is traceable and requires that the delivery person obtain a signature to verify that the notice has

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<sup>20</sup> R.C. 4713.64(C), (G), and (H).

been delivered. The Board may also send these notices by email, so long as the email delivery system certifies that the notice has been received.<sup>21</sup>

## Fines

The bill also modifies the limits on fines that may be issued for violations of the Cosmetology Law. Under the bill, those limits apply only to violations of the Cosmetology Law that are discovered as the result of an inspection. The following table illustrates the changes made by the bill to the fine limits in current law:

Offense	Current law limits for fines imposed against licensees	Limits for fines imposed against licensees under the bill
First time a violator commits an offense	\$500	\$250 plus \$100 for each additional violation discovered during that inspection
Second time a violator commits an offense	\$1,000, if the violator has previously been fined for the offense	\$500 plus \$200 for each additional violation discovered during the inspection
Third and subsequent time a violator commits an offense	\$1,500, if the violator has been fined for the same offense two or more times	\$1,000 plus \$300 for each additional violation discovered during the inspection

Under the bill, the Board is required to issue an order notifying a violator of a fine imposed. The notice must specify the date by which the fine must be paid, which must be less than 45 days after the Board issues the order. The Board may extend the time for payment to up to 90 days after the Board issues the order upon the request of a violator or on the Board's own motion.

If a violator does not pay the fine by the date specified in the order or by any extended time frame granted by the Board, the Board must add an additional penalty equal to 10% of the fine. If the fine is not paid within 90 days after the Board's order, the Board must add interest to the fine at a rate specified in rules adopted by the Board.

If a penalty remains unpaid on the 91st day after the Board issues an order, the Board must certify the amount of the fine and any interest or additional penalty to the Attorney General for collection. The Attorney General may assess the collection cost to the amount certified.<sup>22</sup>

<sup>21</sup> R.C. 4713.64(I).

<sup>22</sup> R.C. 4713.64(E).



## Application for licensure

The bill combines the current law process by which an individual applies to take an examination under the Cosmetology Law with the process by which an applicant applies to receive a practicing license. In addition, the bill requires an individual, as part of the license application, to submit a set of the individual's fingerprint impressions and include on the written application form furnished by the Board all of the following:

(1) The individual's name and any identifying information required by the Board;

(2) A recent photograph of the individual that meets the specifications established by the Board;

(3) A photocopy of the individual's current driver's license or other proof of legal residence in Ohio or a contiguous state.<sup>23</sup>

## Examinations

Continuing law requires an applicant for a practicing license to take an examination. The bill requires examinations for licensure for any branch of cosmetology to assess the ability of an applicant to maintain a safe and sanitary place of service delivery. The bill allows the Board to develop and administer the appropriate examination or to contract with a national testing service to develop or administer the examination.

The bill requires the Board to create an examination for licensure as a cosmetology instructor and to conduct an examination for each individual who meets the requirements for admission to the examination. These examinations must assess an applicant's ability to educate students using standards established by the Department of Education and approved by the Board.

The bill also requires the Board to adopt rules regarding the equipment or supplies an individual must bring to a licensing examination.

With respect to examination questions, the bill prohibits the Board from releasing the questions developed for an examination and the practical demonstrations used in the testing process, except for either of the following purposes: (1) review or rewriting of any part of the examination on a periodic basis as prescribed in rules adopted by the Board or (2) testing of individuals in another state for admission to the profession of cosmetology or any of its branches as required under a contract or by means of a license

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<sup>23</sup> R.C. 4713.20 and 4713.28.



with that state. In addition, examination papers and scored results of the practical demonstrations of an individual examined by the Board must be open for inspection by the individual or the individual's attorney for at least 90 days following the announcement of the individual's grade, except for papers that under the terms of a contract with a testing service are not available for inspection. On written request made by the individual or the individual's attorney no later than 90 days after announcement of the individual's grade, the Board must have the individual's examination papers re-graded manually.<sup>24</sup>

## **Licensing fees**

The bill retains current law registration and renewal fees, but changes the fees charged for the restoration of an expired license. Under continuing law, in order for a license to be restored, the individual who held the license must pay the "restoration fee," current renewal fee, any applicable late fees, and a lapsed renewal fee for \$45 per license renewal period that has elapsed since the license was last issued or renewed. Under current law, it appears that the additional "restoration fee" that an applicant must pay is \$30. Under the bill, it appears that the additional "restoration fee" that an applicant must pay is an amount equal to the sum of the current renewal fee, any applicable late fees, and the lapsed renewal fees for up to three renewal periods. It is unclear to what extent the bill's changes to the restoration fee reflects other charges already collected as part of the continuing law expired license restoration procedure.

The bill also allows for the Board to establish an installment plan for the payment of fines and fees, to extend the date payment is due by up to 90 days, and to reduce fees as considered appropriate by the Board. If the licensee has not paid the fee by the due date, the Board must certify the amount of the fee to the Attorney General for collection. The Attorney General may assess the collection cost to the amount certified.<sup>25</sup>

## **Additional continuing education requirements**

Current law allows the Board of Cosmetology to adopt rules to establish a continuing education requirement for licensees of up to eight hours in a biennial licensing period. The bill applies that requirement to boutique services registrants. The bill also requires any continuing education requirements adopted by the Board to include training in identifying and addressing the crime of trafficking in persons. Additionally, at least two of the eight hours of continuing education must be earned in

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<sup>24</sup> R.C. 4713.24.

<sup>25</sup> R.C. 4713.10(A)(11) and (C) and 4713.63.



courses concerning safety and sanitation, and at least two of the eight hours must be earned in courses concerning law and rule updates.<sup>26</sup>

### **License renewal**

The bill shifts the license renewal process from a biennial licensure cycle ending on the last day of January of each odd-numbered year to a set licensure period of two years after the date the license or registration is issued or renewed. Beginning on January 1, 2015, renewal must be completed on the licensee's first birthday occurring on or after two years from the issuance or prior renewal. The biennial licensing period may be more than two years during the transition from renewal on the last day of January to renewal on the licensee's birthdate. Under continuing law, a license issued under the Cosmetology Law that has not been renewed in any odd-numbered year by January 31 must generally be considered expired (see **COMMENT**). A boutique registration also is valid for two years, though it is unclear under the bill when that two-year period begins and ends.<sup>27</sup>

### **Licenses in escrow**

Under current law, a licensee who is not practicing a branch of cosmetology but who wishes to do so in the future, may apply and pay a fee to the Board to have the individual's license placed in "inactive" status. The bill instead allows a licensee to apply to have the license placed "in escrow." Inactive status and escrow are substantively the same.<sup>28</sup>

### **Designations on licenses**

The bill requires each salon license and independent contractor license issued by the Board to specify the branch of cosmetology that the license entitles the holder to offer.<sup>29</sup>

### **Display of license**

The bill eliminates the requirement that every holder of a practicing license, instructor license, or independent contractor license display the license in a public and conspicuous place in the place of the holder's employment. Instead, a licensee or a boutique services registrant need only maintain the license and an Ohio issued photo

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<sup>26</sup> R.C. 4713.09.

<sup>27</sup> R.C. 4713.01, 4713.57, and 4713.60.

<sup>28</sup> R.C. 4713.08, 4713.61, and 4713.63.

<sup>29</sup> R.C. 4713.55.

identification that can be produced upon inspection or request. The bill similarly modifies the display requirement for cosmetic therapists and massage therapists who offer professional services in a salon.<sup>30</sup>

## **Schools of cosmetology**

The bill allows a school of cosmetology operated by a private person to offer competency-based credit for the purpose of satisfying minimum hours of training and instruction. Under current law, although any school may offer clock hours or credit hours for purposes of satisfying instruction requirements, only a school operated by a public entity may offer competency-based credit.

The bill also requires every school of cosmetology to annually review the subjects and coursework required to receive an initial cosmetology license and an advanced license and to incorporate training standards adopted by the Board.<sup>31</sup>

## **Activities exempt from the Cosmetology Law**

Under the bill a current public school student who has earned licensure in a branch of cosmetology may work in connection with that branch of cosmetology if the individual's services are provided in the licensed school clinic and are free. This authority terminates when the student graduates.<sup>32</sup>

## **State Board of Cosmetology**

### **Board duties**

In addition to the Board's current law duties, the bill requires the Board to do all of the following:

- Regulate the practice of cosmetology and all of its branches within Ohio;
- Investigate the activities or premises of an individual if it appears that the individual has violated the Cosmetology Law;
- Provide a toll-free number and an online service to receive complaints of violations of the Cosmetology Law;

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<sup>30</sup> R.C. 4713.56.

<sup>31</sup> R.C. 4713.45.

<sup>32</sup> R.C. 4713.16(F).





- Include the email address and telephone number of each individual issued a license or registration under the Cosmetology Law in the annual report submitted by the Board to the Governor under continuing law.
- Have Board-appointed inspectors conduct inspections of licensed facilities, within 90 days of the opening of those facilities for business, upon a complaint reported to the Board, within 90 days of a documented violation, and at least once every two years (independent contractors are treated as individual salons for purposes of these inspections);
- Provide to each individual authorized to operate a facility under the Cosmetology Law a copy of the poster created by the Ohio Department of Public Safety that provides information regarding the national human trafficking resource center hotline.

The bill allows the Board to delegate any of the above duties, as well as any of the Board's continuing law duties, to the Executive Director of the Board or to a person designated by the Executive Director.<sup>33</sup>

### **Board employees**

The bill expands the Board's continuing law hiring authority by allowing the Board to hire individuals as necessary for the administration of the Cosmetology Law. Currently the Board may hire inspectors, examiners, consultants on examination contents, and clerks. The bill also expands the role of inspectors hired by the Board to include inspection and investigation of all facilities regulated by the Cosmetology Law. Under current law, these inspectors inspect only tanning facilities.<sup>34</sup>

### **Board membership**

The bill adds to the Board one member who holds a current, valid tanning license and who has owned or managed a tanning facility for at least five years immediately prior to being appointed to the Board. The first tanning facility member must be appointed by the Governor on or before December 31, 2014, and will serve from the date of appointment until October 31, 2019. Under continuing law, subsequent terms of office are for five years.

With the bill's elimination of the managing cosmetologist license, the current law requirement for two of the Board's members to hold valid managing cosmetologist licenses and be actively engaged in managing a beauty salon is modified. Instead those

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<sup>33</sup> R.C. 4713.07.

<sup>34</sup> R.C. 4713.06.



two Board members must hold current cosmetologist licenses and must be actively engaged in managing beauty salons for at least five years, but need not be licensed as a managing cosmetologist.

Under the bill, the Board's independent contractor member must hold a valid independent contractor license at the time of appointment. Under current law, the appointee must be either an independent contractor, or an owner or manager of a salon where an independent contractor practices cosmetology.

The bill also specifies that not more than one member of the Board may be financially interested in, or have any financial connection with, any school of cosmetology.<sup>35</sup>

### **Board officers**

The bill requires the Board to elect from among themselves a vice-chairperson, in addition to the chairperson they are required to elect under current law. The bill also requires the Board's Executive Director to serve as the Board's Secretary.<sup>36</sup>

### **Board records**

Continuing law requires the Board to keep public records open for inspection, and the bill requires the Board to do so in accordance with Ohio's Public Records Law and in accordance with any rule adopted by the Board in compliance with Ohio's records retention policy.<sup>37</sup>

### **Immunity**

The bill also provides civil immunity for an individual for reporting information to the Board that appears to show a violation of the Cosmetology Law or for testifying before the Board in an administrative hearing. The civil immunity does not apply if the individual reports or testifies in bad faith.<sup>38</sup>

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<sup>35</sup> R.C. 4713.02 and Section 5.

<sup>36</sup> R.C. 4713.02 and 4713.06.

<sup>37</sup> R.C. 4713.02.

<sup>38</sup> R.C. 4713.07.



## **Efficient Regulation of Beauty Services Commission**

### **Duties of the Commission**

The bill creates the Efficient Regulation of Beauty Services Commission (Commission). The Commission must conduct meetings at the call of the chairperson, engage in research and other activities that the Commission considers necessary or appropriate, and study the viability of consolidating tasks and duties currently undertaken by the State Board of Cosmetology and the Barber Board, including registration and licensing of regulated facilities and individuals. The Commission also is required to propose, as it considers necessary, legislation or changes in rules for the efficient conduct of cosmetologists and barbers. In undertaking the Commission's duties, the Commission must solicit input from all interested parties who may be adversely impacted by current law as well as those who may be adversely impacted by proposed changes to the law.

### **Membership**

The Commission has six members, three of whom must be appointed by the Governor. The Governor must appoint one member from the membership of the State Barber Board and two members from the membership of the State Board of Cosmetology. The Executive Director of the State Board of Cosmetology, the Executive Director of the Barber Board, and a representative from the Governor's office are also members of the Commission. The Governor's designee is the Commission chairperson. Commission members serve without compensation but are reimbursed for their actual and necessary expenses incurred in the performance of their duties.

### **Report**

The Commission must prepare a report of its findings and must deliver the report to the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate by December 31, 2014, at which point the Commission ceases to exist. The State Board of Cosmetology must provide clerical services for the preparation of the report.<sup>39</sup>

### **Annual report to the Governor**

The bill also requires the Board to annually submit to the Governor, President of the Senate, and Speaker of the House of Representatives a written report that lists all of the following activity for the preceding 12-month period, as well as any recommendations the Board has for changes to the Cosmetology Law:

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<sup>39</sup> Section 3.

- The number of students enrolled in courses at licensed public and private cosmetology schools;
- The number of students graduating from licensed public and private cosmetology schools;
- The annual cost of attendance at each licensed public or private cosmetology school;
- The loan default rates for licensed public and private cosmetology schools;
- The first-time licensure exam passage rate for graduates of all public and private cosmetology schools;
- The total number of new and renewal licenses in each cosmetology profession;
- The total number of complaint-driven inspections conducted by the Board;
- The total number and type of violations, including a list of the top ten violations (to aid in the identification of focus areas for continuing education purposes);
- The top 20 salons and individuals cited for unlicensed workers;
- The number of adjudications or disciplinary actions taken by the Board.<sup>40</sup>

### **Cosmetology definitions**

The bill makes the following changes to terms defined in the Cosmetology Law:

The bill defines **cosmetology** as the art or practice of embellishment, cleaning, beautification, and styling of hair, wigs, postiches, face, body, or nails and tanning of human skin.

The bill expands the list of activities covered by the current law definition of the **practice of esthetics** to include enhancement of the skin by skin care, facials, body treatments, hair removal, and other treatments; the application of permanent cosmetics to the eyes, eyebrows, and lips; and the application of eyelash extensions.

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<sup>40</sup> R.C. 4713.071.

The bill expands the list of activities covered by the current law definition of the **practice of manicuring** to include cleaning, trimming, shaping the free edge of, or applying polish to any individual's nails and using lotions or softeners on an individual's hands or feet.

The bill specifies that a **salon** does not mean a tanning facility, although a tanning facility may be located in a salon.

## Technical changes

The bill changes "person" to "individual" throughout the cosmetology law when "person" is used more narrowly than as it is defined for the Revised Code.<sup>41</sup> For purposes of the Revised Code as a whole, "person" is defined to include an individual, corporation, business trust, estate, trust, partnership, and association.<sup>42</sup>

## Additional changes

The bill makes additional nonsubstantive and conforming changes to the Cosmetology Law that are not covered in this analysis.<sup>43</sup>

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## COMMENT

In an apparent drafting error, the bill changes the timing of biennial registration in one section of the law,<sup>44</sup> but does not change the expiration of the biennial registration in another section.<sup>45</sup> Thus, it is unclear by when a license must be renewed under the bill.

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## HISTORY

### ACTION

### DATE

Introduced

04-30-14

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<sup>41</sup> R.C. 4713.01, 4713.02, 4713.07, 4713.08, 4713.081, 4713.082, 4713.13, 4713.14, 4713.16, 4713.17, 4713.20, 4713.21, 4713.22, 4713.24, 4713.25, 4713.26, 4713.28, 4713.34, 4713.35, 4713.37, 4713.41, 4713.42, 4713.44, 4713.45, 4713.48, 4713.56, 4713.57, 4713.58, 4713.60, 4713.61, 4713.62, 4713.63, 4713.64, 4713.641, and 4713.99.

<sup>42</sup> R.C. 1.59(C), not in the bill.

<sup>43</sup> R.C. 4713.01, 4713.02, 4713.03, 4713.44, and 4713.48.

<sup>44</sup> R.C. 4713.57.

<sup>45</sup> R.C. 4713.60.

