

H. B. 3134

(By Delegates Poore, Moore, Guthrie, Marshall, Skinner,
Pasdon, Raines, Caputo, Eldridge, Stephens and Swartzmiller)

[Introduced March 25, 2013; referred to the
Committee on Government Organization.]

A BILL to amend and reenact §30-27-1, §30-27-3, §30-27-8 and
§30-27-18 of the Code of West Virginia, 1931, as amended; and
to amend said code by adding thereto a new section, designated
§30-27-11b, all relating to the Board of Barbers and
Cosmetologists; defining "hair braiding"; legislative
findings; authorizing the board to issue hair braiding
permits; and authorizing hair braiding permit holders to
practice individually.

Be it enacted by the Legislature of West Virginia:

That §30-27-1, §30-27-3, §30-27-8 and §30-27-18 of the Code of
West Virginia, 1931, as amended, be amended and reenacted; and that
said code be amended by adding thereto a new section, designated
§30-27-11b, all to read as follows:

ARTICLE 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-1. Unlawful acts.

(a) It is unlawful for any person to practice or offer to

1 practice barbering, barber permanent waving, cosmetology,
2 aesthetics, hair braiding or nail care in this state without a
3 license or permit issued under the provisions of this article, or
4 advertise or use any title or description tending to convey the
5 impression that the person is a licensed aesthetician, barber,
6 barber crossover, barber permanent waviest, cosmetologist,
7 cosmetologist crossover or nail technician, or permitted hair
8 braider, unless the person has been licensed or permitted under the
9 provisions of this article, and the license or permit has not
10 expired, been suspended or revoked.

11 (b) No salon, except through a licensee or permittee, may
12 render any service or engage in any activity which if rendered or
13 engaged in by an individual, would constitute the practices
14 ~~licensed~~ regulated under the provisions of this article.

15 (c) No school, except through a licensee, may instruct, render
16 any service or engage in any activity which if taught, rendered or
17 engaged in by an individual, would constitute the practices
18 licensed under the provisions of this article.

19 **§30-27-3. Definitions.**

20 As used in this article, the following words and terms have
21 the following meanings, unless the context clearly indicates
22 otherwise:

23 (a) "Aesthetics" or "esthetics" means any one or any
24 combination of the following acts when done on the human body for

1 compensation and not for the treatment of disease:

2 (1) Administering cosmetic treatments to enhance or improve
3 the appearance of the skin, including cleansing, toning, performing
4 effleurage or other related movements, stimulating, exfoliating or
5 performing any other similar procedure on the skin of the human
6 body or scalp;

7 (2) Applying, by hand or with a mechanical or electrical
8 apparatus, any cosmetics, makeups, oils, powders, clays,
9 antiseptics, tonics, lotions, creams or chemical preparations
10 necessary for the practice of aesthetics to another person's face,
11 neck, back, shoulders, hands, elbows and feet up to and including
12 the knee;

13 (3) The rubbing, cleansing, exercising, beautifying or
14 grooming of another person's face, neck, back, shoulders, hands,
15 elbows and feet up to and including the knee;

16 (4) The waxing, tweezing and threading of hair on another
17 person's body;

18 (5) The wrapping of another person's body in a body wrap;

19 (6) Applying artificial eyelashes and eyebrows; and

20 (7) The lightening of hair on the body except the scalp.

21 (b) "Aesthetician" or "esthetician" means a person licensed
22 under the provisions of this article who engages in the practice of
23 aesthetics.

24 (c) "Applicant" means a person making application for a

1 professional license, license, certificate, registration, permit or
2 renewal under the provisions of this article.

3 (d) "Barber" means a person licensed under the provisions of
4 this article who engages in the practice of barbering.

5 (e) "Barbering" means any one or any combination of the
6 following acts when done on the human body for compensation and not
7 for the treatment of disease:

8 (1) Shaving, shaping and trimming the beard, or both;

9 (2) Cutting, singeing, shampooing, arranging, dressing,
10 tinting, bleaching, or applying lotions or tonics on human hair, or
11 a wig or hairpiece; and

12 (3) Applications, treatments or rubs of the scalp, face, or
13 neck with oils, creams, lotions, cosmetics, antiseptics, powders,
14 or other preparations in connection with the shaving, cutting or
15 trimming of the hair or beard.

16 (f) "Barber crossover" or "cosmetologist crossover" is a
17 person who is licensed to perform barbering and cosmetology.

18 (g) "Barber permanent waving" means the following acts done on
19 the human body for compensation and not for the treatment of
20 disease:

21 (1) The bleaching or tinting of hair; and

22 (2) The permanent waving of hair.

23 (h) "Barber permanent wavist" means a person licensed to
24 perform barbering and barber permanent waving.

1 (i) "Board" means the West Virginia Board of Barbers and
2 Cosmetologists.

3 (j) "Certificate" means an instructor certificate to teach in
4 a school under the provisions of this article.

5 (k) "Certificate holder" means a person certified as an
6 instructor to teach in a school under the provisions of this
7 article.

8 (l) "Cosmetologist" means a person licensed under the
9 provisions of this article who engages in the practice of
10 cosmetology.

11 (m) "Cosmetology" means any one or any combination of the
12 following acts when done on the human body for compensation and not
13 for the treatment of disease:

14 (1) Cutting, styling, shaping, arranging, ~~braiding~~, weaving,
15 dressing, adding extensions, curling, waving, permanent waving,
16 relaxing, straightening, shampooing, cleansing, singeing,
17 bleaching, tinting, coloring, waxing, tweezing, or similarly work
18 on human hair, or a wig or hairpiece, by any means, including
19 hands, mechanical or electrical devices or appliances;

20 (2) Nail care;

21 (3) Applying by hand or with a mechanical or electrical device
22 or appliance, any cosmetics, makeups, oils, powders, clays,
23 antiseptics, tonics, lotions, creams or chemical preparations
24 necessary for the practice of aesthetics to another person's face,

1 neck, shoulders, hands, elbows and feet up to and including the
2 knee;

3 (4) The rubbing, cleansing, exercising, beautifying or
4 grooming of another person's face, neck, shoulders, hands, elbows
5 and feet up to and including the knee;

6 (5) The wrapping of another person's body in a body wrap; and

7 (6) Performing aesthetics.

8 (n) "General supervision" means:

9 (1) For schools, a master or certified instructor is on the
10 premises and is quickly and easily available; or

11 (2) For salons, a professional licensee is on the premises and
12 is quickly and easily available.

13 (o) "Hair braiding" means ~~any one or any combination of the~~
14 ~~following acts when done on the human body for compensation and not~~
15 ~~for the treatment of disease: Braiding, plaiting, twisting,~~
16 ~~wrapping, threading, weaving, extending or locking of natural human~~
17 ~~hair by hand or mechanical device~~ a natural form of hair
18 manipulation that results in tension on hair strands by beading,
19 braiding, cornrowing, extending, lacing, locking, sewing, twisting,
20 weaving or wrapping human hair, natural fibers, synthetic fibers
21 and hair extensions into a variety of shapes, patterns and textures
22 predominantly by hand and by only using simple braiding devices,
23 and maintenance thereof.

24 (p) "Hair Styling" means any one or any combination of the

1 following acts when done on the human body for compensation and not
2 for the treatment of disease:

3 (1) Cutting, styling, shaping, arranging, ~~braiding~~, weaving,
4 dressing, adding extensions, curling, waving, permanent waving,
5 relaxing, straightening, shampooing, cleansing, singeing,
6 bleaching, tinting, coloring, waxing, tweezing, threading or
7 similarly work on human hair, or a wig or hairpiece, by any means,
8 including hands, mechanical or electrical devices or appliances;

9 (2) The rubbing, cleansing, exercising, beautifying or
10 grooming of another person's face, neck, shoulders, hands, elbows
11 and feet up to and including the knee.

12 (q) "Hair Stylist" means a person licensed under the
13 provisions of this article who engages in the practice of hair
14 styling.

15 (r) "License" means a professional license, a salon license or
16 a school license.

17 (s) "Licensee" means a person, corporation or firm holding a
18 license issued under the provisions of this article.

19 (t) "Nail care" means any one or any combination of the
20 following acts when done on the human body for compensation and not
21 for the treatment of disease:

22 (1) The cleansing, dressing, or polishing of nails of a
23 person;

24 (2) Performing artificial nail service; and

1 (3) The cosmetic treatment of the feet up to the knee and the
2 hands up to the elbow.

3 (u) "Nail technician" or "manicurist" means a person licensed
4 under the provisions of this article who engages in the practice of
5 nail care.

6 (v) "Permit" means a work permit.

7 (w) "Permitee" means a person holding a work permit.

8 (x) "Professional license" means a license to practice as a
9 aesthetician, barber, barber crossover, barber permanent wivist,
10 cosmetologist, cosmetologist crossover or nail technician.

11 (y) "Registration" means a registration issued by the board to
12 a person who rents or leases a booth or chair from a licensed salon
13 owner and operator, or both, or a registration issued by the board
14 to a person who is a student in a school.

15 (z) "Registrant" means a person who holds a registration under
16 the provisions of this article.

17 (aa) "Salon" means a shop or other facility where a person
18 practices under a professional license.

19 (bb) "Salon license" means a license to own and operate a
20 salon.

21 (cc) "School" means a facility to educate persons to be
22 licensed with professional licenses under the provisions of this
23 article.

24 (dd) "School license" means a license to own and operate a

1 school.

2 (ee) "Student registration" means a registration issued by the
3 board to a student to study at a school licensed under the
4 provisions of this article.

5 **§30-27-8. Professional license requirements.**

6 (a) An applicant for a professional license to practice as a
7 aesthetician, barber, barber crossover, barber permanent waviest,
8 cosmetologist, hair stylist, cosmetologist crossover or nail
9 technician shall present satisfactory evidence that he or she:

10 (1) Is at least eighteen years of age;

11 (2) Is of good moral character;

12 (3) Has a high school diploma, a GED, or has passed the
13 "ability to benefit test" approved by the United States Department
14 of Education;

15 (4) Has graduated from a school which has been approved by the
16 board;

17 (5) Has passed an examination that tests the applicant's
18 knowledge of subjects specified by the board: *Provided*, That the
19 board may recognize a certificate or similar license in lieu of the
20 examination or part of the examination that the board requires;

21 (6) Has paid the applicable fee;

22 (7) Presents a certificate of health from a licensed
23 physician;

24 (8) Is a citizen of the United States or is eligible for

1 employment in the United States; and

2 (9) Has fulfilled any other requirement specified by the
3 board.

4 (b) A license to practice issued by the board prior to July 1,
5 2009, shall for all purposes be considered a professional license
6 issued under this article: *Provided*, That a person holding a
7 license issued prior to July 1, 2009, must renew the license
8 pursuant to the provisions of this article.

9 (c) The provisions of this section do not apply to hair
10 braiders.

11 **§30-27-11b. Legislative findings; hair braiding permit.**

12 (a) The Legislature finds that hair braiding is a culturally
13 based skill passed down through generations that does not provide
14 a threat to public health or safety and does not require formal
15 school instruction.

16 (b) The board may establish a hair braiding permit. A hair
17 braiding permit shall allow a hair braider to work individually,
18 without supervision by a professional licensee.

19 (c) A hair braider is only authorized to bead, braid, cornrow,
20 extend, lace, lock, sew, twist, weave or wrap the hair.

21 (d) An applicant for a hair braiding permit shall present
22 satisfactory evidence that he or she:

23 (1) Is at least sixteen years of age;

24 (2) Is of good moral character;

1 (3) Is in high school or has a high school diploma, a GED, or
2 has passed the "ability to benefit test" approved by the United
3 States Department of Education;

4 (4) Has paid the applicable fee;

5 (5) Has a certificate of health from a licensed physician;

6 (6) Is a citizen of the United States or is eligible for
7 employment in the United States; and

8 (7) Has fulfilled any other requirement specified by the
9 board: *Provided*, That The board may not require an applicant for
10 a hair braider permit to attend school to learn the art of hair
11 braiding.

12 (e) The board shall propose an emergency rule to implement the
13 provisions of this section in accordance with the provisions of
14 section six of this article and article three, chapter
15 twenty-nine-a of this code by July 1, 2013, including:

16 (1) The requirements and procedures for a hair braiding
17 permit: *Provided*, That institutional training shall not be
18 required;

19 (2) A fee schedule; and

20 (3) Any other rules necessary to effectuate the provisions of
21 this section.

22 **§30-27-18. Salon management requirements.**

23 (a) Every salon in this state offering the services set forth
24 in this article shall be operated under the supervision and

1 management of a professional licensee or permittee ~~licensed~~
2 regulated under this article.

3 (b) Any services set forth in this article may be conducted
4 within the same salon. A suitable sign shall be displayed at the
5 main entrance of all salons plainly indicating the business
6 conducted therein.

NOTE: The purpose of this bill is to authorize the board to issue hair braiding permits to allow hair braiders to practice in a licensed salon individually, define hair braiding and clarify that hair braiding need not be taught in school.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§30-27-11b is new; therefore, it has been completely underscoring.