CALIFORNIA
BOARD OF BARBERING AND COSMETOLOGY

APRIL 11, 2016
Board Meeting
(Teleconference)
Board of Barbering and Cosmetology
2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834

California State Board of Barbering and Cosmetology

Board Meeting Agenda

Monday, April 11, 2016
10:00 A.M.
Until completion of business

California Board of Barbering and Cosmetology
2420 Del Paso Road
Sequoia Room, 1st Floor
Sacramento, CA 95834

Additional teleconference locations have been established at:

5450 W. Pico Blvd # 203
Los Angeles, CA. 90019

1038 West 80th Street
Los Angeles, CA. 90044

2112 Ashlan Avenue
Clovis, CA. 93611

ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

OPEN SESSION:

1. Call to Order/Roll Call/Establishment of a Quorum **(Joseph Federico)**

2. Proposed Legislation - Discussion and Possible Vote on Board Position:

   - AB 2025 (Gonzalez) - Labor Law Education Requirements
   - AB 2125 (Chiu) - Healthy Nail Salon Recognition Program
   - SB 896 (Nguyen) - Credit / Debit cards for Tips
   - SB 1044 (Nguyen) – Assessment of Fines to Individuals and Establishment Owners and Citation Fine Payment Plans

3. Public Comment on Items not on the Agenda
   Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]

4. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board President and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at a physical location.

**Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Board prior to the Board taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Board, but the Board President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Board to discuss items not on the agenda; however, the Board can neither discuss nor take official action on these items at the time of the same meeting (Government Code sections 11125, 11125.7(a)).*

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting may make a request by contacting: Marcene Melliza at (916) 575-7121, email: marcene.melliza@dca.ca.gov, or send a written request to the Board of Barbering and Cosmetology, PO Box 944226, Sacramento, CA 94244. Providing your request is a least five (5) business days before the meeting will help to ensure availability of the requested accommodations. TDD Line: (916) 322-1700.

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Board of Barbering & Cosmetology

Joseph Federico, Industry Member, President

Dr. Kari Williams, Industry Member, Vice President

Mary Lou Amaro, Industry Member

Bobbie Anderson, Public Member

Polly Codorniz, Industry Member

Andrew Drabkin, Public Member

Richard Hedges, Public Member

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Kristy Underwood
Executive Officer

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Board of Barbering and Cosmetology

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MEMORANDUM

TO: Members, Board of Barbering and Cosmetology Date: April 11, 2016

FROM: Kristy Underwood, Executive Officer
Board of Barbering and Cosmetology

SUBJECT: Proposed Legislation

The Board is meeting today to take positions on the noted legislative bills. Positions that the Board may take on each bill are as follows:

- Support
- Support if Amended
- Watch
- Oppose if Amended
- Oppose

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Gonzalez

Subject: Labor Law
Education Requirements

Bill Number: AB 2025

Version: Amended March 18, 2016

Existing Law:

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology. (Board)(BP&C* 7312)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to apply for an establishment license. Existing law prohibits the Board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure. (BP&C 7347)

Requires the Board keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure. (BP&C 7314)

Requires the Board to admit to a licensing examination an applicant who meets certain qualifications, including course training as specified by the Board in a Board approved school. (BP&C Sections 7321, 7321.5, 7324, 7326, 7330, 7362)

This Bill:

This bill would require:

1) All written materials given to licensees and applicants be made available in English, Spanish and Vietnamese;

2) The Board to collect (through optional questions on the application) demographic information (written and spoken language preference) beginning January 1, 2018.

3) That knowledge of labor laws pertaining to the barbering and cosmetology industry be included in curriculum established by the Board;

4) That an applicant for an establishment license has knowledge of basic labor laws that pertain to the license types of the Board. The Board shall do this in consultation with the DIR and by adding questions and information to the establishment application.

5) The Board select or create informational materials on basic labor laws.

Fiscal Impact:

The fiscal impact of this bill is still being assessed. The bill will require the Board to revise application forms and curriculums, and possibly develop informational materials relating to labor laws in California as they relate to the barbering and cosmetology industry. Many of the Board's written materials are already translated or set to be translated soon. Work has already been started on a webinar based training and informational fact sheets for applicants, students and current licensees regarding workers' rights.

Analysis:

This bill is designed to prevent abuse of Asian workers – many of whom are recent immigrants working as manicurists. The news media recently publicized the abuse, after which New York City Governor, Andrew N. Cuomo ordered an emergency investigation into nail salons following the revelation that most workers are underpaid or not paid at all. The Board would need to consult with the Department of Industrial Relations regarding implementing the provisions of this bill.

The Board is currently updating its Health and Safety Curriculum and is including a section on workers' rights. Once this curriculum is completed it will ensure that students will be trained in basic labor laws prior to entering into the industry. This bill does not address the education of current licensees so that they are updated on current laws pertaining to workers' rights.

The Board currently translates most of its written materials into English, Spanish, Vietnamese, and Korean. The translation of training materials to Korean is not addressed in this bill.

*BP&C refers to the California Business and Professions Code.

California LEGISLATIVE INFORMATION

AB-2025 Barbering and cosmetology: labor law education requirements. (2015-2016)

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 2025**

Introduced by Assembly Member Gonzalez
(Coauthors: Assembly Members Chiu and Ting)
(Coauthor: Senator Nguyen)

February 16, 2016

An act to amend *Sections 7312, 7314, 7362, and 7401 of, to add Section 7396.1 to, and to repeal* Section 7347~~of~~ *of,* the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2025, as amended, Gonzalez. Barbering and~~cosmetology.~~ *cosmetology: labor law education requirements.*

Existing law, the Barbering and Cosmetology Act, establishes the State Board of Barbering and Cosmetology for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices. Existing law requires the board to carry out a list of duties including making rules and regulations, conducting and administering license examinations, issuing licenses to qualified applicants, and disciplining persons who violate the act.

This bill would require that the board offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

Existing law requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board. Existing law requires a separate license for each location where the establishment operates. Existing law requires applicants to submit an

application, accompanied by a prescribed fee. Existing law prohibits the board from issuing a license to any applicant who has committed specified acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted.

This bill would require the board to require as a condition of licensure to operate an establishment that the applicant has the knowledge of basic labor laws, as defined, that pertain to the types of licensees who may work in the establishment. The bill would require the board, in consultation with the Department of Industrial Relations, to develop and add questions on basic labor law to the application for a license to operate an establishment. The bill would require the board, in consultation with the Department of Industrial Relations and stakeholders, to select or create informational materials on basic labor law that the board determines to be practical and accessible to applicants. The bill would require the board to require, as part of a complete application, a signed acknowledgment that the applicant understands the informational materials on basic labor laws and that establishments are responsible for obeying the labor laws of the State of California.

Existing law requires the board to keep a registration record of each licensee containing the name, address, license number, date issued, and any facts that the applicant may have stated in the application for examination for licensure.

This bill would require the board, beginning January 1, 2018, to collect, through optional questions on the application to operate an establishment, demographic information of each applicant, including her or his preferred language preference.

Existing law requires the board to admit to a licensing examination an applicant who meets certain qualifications, including having completed one or more courses, as specified, offered by a school approved by the board. Existing law requires the board to determine by regulation the required subjects of instruction to be completed in all approved courses.

This bill would require the labor laws that pertain to the types of licensees who may work in establishments to be among these required subjects.

~~The Barbering and Cosmetology Act establishes the State Board of Barbering and Cosmetology and requires, among other duties, that the board issue licenses to qualified applicants, as specified, who submit an application, accompanied by a prescribed fee, to operate an establishment engaged in the practice of barbering, cosmetology, natural hairstyling for compensation, or electrolysis, as those terms are defined. The act authorizes the board to reduce the amount of the fee for an applicant obtaining ownership of an existing establishment. The act requires a separate license for each location where the establishment operates.~~

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~*yes* Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 7312 of the Business and Professions Code is amended to read:*

7312. The board shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled thereto.

(d) Discipline persons who have been determined to be in violation of this chapter or the

regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the board, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

(f) Offer and make available all written materials provided to licensees and applicants in English, Spanish, and Vietnamese.

SEC. 2. *Section 7314 of the Business and Professions Code is amended to read:*

7314. The board shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension and revocation of licenses.

The board shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure. *Beginning January 1, 2018, the board shall collect, through optional questions on the applications for a license issued pursuant to Section 7396.1, the demographic information of each applicant including, but not limited to, her or his spoken and written language preference.*

SEC. 3. *Section 7347 of the Business and Professions Code is repealed.*

~~7347.Any person, firm, or corporation desiring to operate an establishment shall make an application to the bureau for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the bureau may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.~~

SEC. 4. *Section 7362 of the Business and Professions Code is amended to read:*

7362. (a) A school approved by the board is one that is first approved by the board and subsequently approved by the Bureau for Private Postsecondary Education or is a public school in this state, and provides a course of instruction approved by the board. However, notwithstanding any other law, both the board and the Bureau for Private Postsecondary Education may simultaneously process a school's application for approval.

(b) The board shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons. *The labor laws that pertain to the types of licensees who may work in establishments shall be among the required subjects to be completed.*

(c) Notwithstanding any other law, the board may revoke, suspend, or deny approval of a school, in a proceeding that shall be conducted in accordance with Chapter 5 (commencing with Section

11500) of Part 1 of Division 3 of Title 2 of the Government Code, when an owner or employee of the school has engaged in any of the acts specified in paragraphs (1) to (8), inclusive.

(1) Unprofessional conduct which includes, but is not limited to, any of the following:

(A) Incompetence or gross negligence, including repeated failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology, or disregard for the health and safety of patrons.

(B) Repeated similar negligent acts.

(C) Conviction of any crime substantially related to the qualifications, functions, or duties of the owner of an approved school, in which case, the records of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

(2) Repeated failure to comply with the rules governing health and safety adopted by the board and approved by the State Department of Public Health, for the regulation of board-approved schools.

(3) Repeated failure to comply with the rules adopted by the board for the regulation of board-approved schools.

(4) Continued practice by a person knowingly having an infectious or contagious disease.

(5) Habitual drunkenness, or habitual use of, or addiction to the use of, any controlled substance.

(6) Obtaining or attempting to obtain practice in any occupation licensed and regulated under this chapter, or money, or compensation in any form, by fraudulent misrepresentation.

(7) Refusal to permit or interference with an inspection authorized under this chapter.

(8) Any action or conduct that would have warranted the denial of a school approval.

SEC. 5. *Section 7396.1 is added to the Business and Professions Code, to read:*

7396.1. *(a) Any person, firm, or corporation desiring to operate an establishment shall make an application to the board for an establishment license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the board may establish the fee in an amount less than the fee prescribed by this chapter. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.*

(b) The board shall require as a condition of licensure pursuant to subdivision (a) that the applicant meets the following requirements:

(1) The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes that are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480.

(2) The applicant has knowledge of basic labor laws that pertain to the types of licensees who may work in the establishment. For purposes of this section, the definition of the term "basic labor laws" shall include, but not be limited to:

(A) Key differences between the legal rights, benefits, and obligations of an employee and an independent contractor.

(B) Wage and hour rights for hourly employees.

(C) Antidiscrimination laws relating to the use of a particular language in the workplace.

(D) Antiretaliation laws relating to a worker's right to file complaints with the Department of Industrial Relations.

(E) How to obtain more information about labor law from the Department of Industrial Relations.

(c) To ensure that applicants for an establishment license have the knowledge of basic labor laws pursuant to paragraph (2) of subdivision (b) the board shall do all of the following:

(1) In consultation with the Department of Industrial Relations, the board shall develop and add questions on basic labor laws to the application.

(2) In consultation with the Department of Industrial Relations and stakeholders, the board shall select or create informational materials on basic labor laws that the board determines to be practical and accessible to applicants.

(3) As part of a complete application, the board shall require a signed acknowledgment that the applicant understands both of the following:

(A) Establishments are responsible for obeying the labor laws of the State of California.

(B) The informational materials on basic labor laws selected or created by the board pursuant to paragraph (2) of subdivision (c).

SEC. 6. *Section 7401 of the Business and Professions Code is amended to read:*

7401. (a) An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal, his or her practice status, designated as one of the following:

(1) Full-time practice in California.

(2) Full-time practice outside of California.

(3) Part-time practice in California.

(4) Not working in the industry.

(5) Retired.

(6) Other practice status, as may be further defined by the board.

(b) An individual licensed pursuant to Section 7396 shall, at the time of license renewal, identify himself or herself on the application as one of the following:

(1) Employee.

(2) Independent contractor or booth renter.

(3) Salon owner.

(c) An individual licensed pursuant to Section ~~7347~~ *7396.1* shall report to the board at the time of license renewal, whether either of the following is applicable to him or her:

(1) He or she has a booth renter operating in the establishment.

(2) He or she has an independent contractor operating in the establishment.

~~SECTION 1.Section 7347 of the Business and Professions Code is amended to read:~~

~~7347.Any person, firm, or corporation desiring to operate an establishment shall make an application to the board for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the board may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes that are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.~~

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Assembly Member Chiu
Co Author: Assembly Member Hernandez

Subject: Healthy Nail Salon Recognition Program

Bill Number: AB 2125

Version: Amended April 5, 2016

Existing Law:

Provides for the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology (Board). (BP&C* 7312)

Established the California Safe Cosmetics act of 2005 which requires manufacturers to provide the "Department of Public Health with a list of ingredients used in their products that are known or suspected to cause cancer, developmental or reproductive harm."**

Established the Department of Public Health (DPH), Occupational Safety and Health Administration (OSHA), Department of Industrial Relations (DIR) and Cal/OSHA.

This Bill:

Requires Department of Public Health (Department) to:

- Publish guidelines and one or more model ordinances for implementing the voluntary Healthy Nail Salon Recognition (HNSR) program.

The model ordinance shall require the DPH to:

1. Encourage businesses to reduce toxic chemical exposure in nail salon products, improve ventilation in the salon, learn about the effects chemicals have on a person's health;
2. Coordinate with other local HNSR programs to assist businesses in achieving regulatory compliance;
3. Promote improved community health outcomes, economic vitality, and sustainable business approaches;
4. Require training for the nail establishment owners and staff to ensure knowledge of safe and environmentally friendly procedures;

5. Provide an approved seal or certificate to a salon that meets the programs requirements;

6. Establish a process by which a nail establishment can enroll in an HNSR program and be verified by the local entity;

7. Establish the frequency at which the local entity shall verify continued compliance by a nail establishment that has met all the programs requirements;

8. Throughout the process of developing the model ordinance the Department shall consult with Division of Occupational Safety and Health, representatives of local agencies with existing HNSR programs, private sector, non-profit entities that have experience in implementing the program and members of the affected communities.

- Establishes the program's criteria:

(1) The nail establishment may not use any cosmetic product that contains:

(A) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a chemical classified by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.
(B) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a reproductive toxicant that causes birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency, or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.
(C) Dibutyl phthalate (DBP), formaldehyde, toluene, or methyl ethyl ketone.

(2) The nail establishment shall ensure that all nail salon staff wear nitrile or other gloves determined to be sufficiently protective when using nail products.

(3) The nail establishment shall be ventilated to improve air quality. A specific area shall be designated for artificial nail services and that area shall be properly ventilated with mechanical ventilation units.

(4) All nail establishment staff, whether on payroll or on contract, and owners shall be trained on safer practices delineated in the HNSR program guidelines.

(5) The nail establishment shall not allow clients to bring in outside products for use, unless those products meet the program criteria, as determined by salon staff.

(6) The nail establishment shall be in compliance with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code.

(7) Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

- Promote the HNRS program with:

    1. An awareness campaign for local governments on the benefits of implementing the Healthy Nail Salon Recognition Program (HNSR) in their locale;

    2. A campaign directed at nail salon establishment owners and local governments;

    3. A consumer education program designed to promote awareness about the HNSR program;

    4. The development and distribution or posting on the Department's website information for local entities including suggestions for successful implementation of HNSR programs and a resource list with includes vendor contact information;

    5. Development of a web site or section of the DPH's website that links to county HNSR Internet web sites.

Analysis:

The city and county of San Francisco, Alameda, San Mateo and Santa Clara counties, and the city of Santa Monica have adopted a voluntary recognition program that encourages salons to use products with less toxic chemicals within the salon. The current program encourages nail establishment owners to assess the ventilation found in the salon and make improvements. Training is provided by the establishment owner to the staff on best practices for health and safety. Salons that meet the program's criteria are given an acknowledgement certificate, window sticker or poster and are listed as a healthier nail salon on a government website.

If this bill is adopted the Board may be called on to offer technical expertise to the Department of Health.

This bill allows another state agency to establish standards for Board licensed establishments.

This bill does not include the process if the establishment has a change of ownership.

Fiscal Impact:

Unknown.

*BP&C refers to the California Business and Professions Code.
** Information taken from the California Safe Cosmetics website.
https://www.cdph.ca.gov/programs/cosmetics/Pages/default.aspx

California LEGISLATIVE INFORMATION

AB-2125 Healthy Nail Salon Recognition Program. (2015-2016)

AMENDED IN ASSEMBLY APRIL 05, 2016

AMENDED IN ASSEMBLY MARCH 31, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL **No. 2125**

Introduced by Assembly Member Chiu
(Coauthor: Assembly Member Roger Hernández)

February 17, 2016

An act to add Chapter 14 (commencing with Section 108960) to Part 3 of Division 104 of the Health and Safety Code, relating to nail salons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Chiu. Healthy Nail Salon Recognition Program.

Existing law regulates the existence and disclosure of specified chemicals and components in consumer products, including phthalates and bisphenol A. Existing law also provides for the licensing and regulation of nail salons and manicurists by the *State Board of Barbering and Cosmetology within the* Department of Consumer Affairs.

This bill would require the State Department of Public Health to publish ~~guidelines~~ *guidelines, including one or more model ordinances,* for cities, counties, and city and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs with specified criteria for nail salons, including the use of less toxic nail polishes and polish removers and improved ventilation. The bill would also require the department to develop awareness campaigns, model ordinances for local governments, and post specified information on its Internet Web site.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) According to the State Board of Barbering and Cosmetology, there are 98,613 licensed manicurists, and 41,830 licensed business establishments providing manicure services. There are 253,571 licensed cosmetologists, many of whom work as nail salon technicians.

(b) Beauty care workers, including cosmetologists and manicurists, are highly exposed to the potential harm of carcinogens and reproductive toxins in cosmetics. Cosmetologists and manicurists are predominantly women and minorities. In California, an estimated 80 percent of nail salons are operated by Vietnamese women.

(c) Nail services are increasing in popularity among consumers. The money consumers spent in nail salons increased from $7.3 billion in 2012 to $8.54 billion in 2014.

(d) Chemicals in professional cosmetics can be harmful to salon customers, who increasingly include prepubescent girls and young women.

(e) Endocrine-disrupting chemicals can cause harm at very low levels. Some may enter the body through the skin or cuticle.

(f) Dibutyl phthalate (DBP), included in nail polish to reduce brittleness and cracking, is a reproductive and developmental toxicant that is especially harmful to pregnant women.

(g) Developmental toxicants interfere with proper growth or health of a child, acting at any point from conception to puberty.

(h) Toluene, a solvent found in nail polish, is a developmental and neurological toxicant that causes headaches, dizziness, and nausea, among other symptoms.

(i) Formaldehyde, a chemical that acts as a disinfectant and as a preservative in nail polishes, is a known carcinogen. Exposure to formaldehyde in the short term can irritate the eyes, nose, throat, and skin, and in the long term exposure can cause asthma.

(j) Alternatives to substances that cause serious harm, including cancer or reproductive toxicity, are readily available for use in cosmetic products. A number of manufacturers, including both small domestic producers and large multinational corporations, have eliminated certain substances that cause cancer or reproductive harm from their products.

(k) Some local governments have already adopted successful Healthy Nail Salon Recognition Programs (HNSR programs), including the City and County of San Francisco, the Counties of Alameda, San Mateo, and Santa Clara, and the City of Santa Monica.

(l) These local HNSR programs support nail salons that use less toxic products and practices that are safer for workers and their customers.

(m) Given the presence of substances in cosmetic products that cause cancer and reproductive toxicity and other serious adverse impacts, the heavy use of these products by women of childbearing age, the increasing use of manicure services among consumers including prepubescent girls and young women, the significant exposure to these products in occupational settings such as nail and beauty salons, the recently enacted successful local HNSR programs, and the availability of safer alternative products, it is in the interest of the people of the State of California to take steps to ensure that nail salons are given guidelines to operate safely for workers and consumers, support local solutions to reduce potentially harmful chemical exposures among customers and workers, determine the success of the HNSR programs in reducing harmful exposures experienced by nail salon customers and workers, and make recommendations for program improvements, as appropriate.

SEC. 2. Chapter 14 (commencing with Section 108960) is added to Part 3 of Division 104 of the Health and Safety Code, to read:

CHAPTER 14. Healthy Nail Salon Recognition Program

108960. (a) The State Department of Public Health shall, by January 1, 2018, publish ~~guidelines and best practices~~ *guidelines, including one or more model ordinances,* for cities, counties, and cities and counties to voluntarily implement local healthy nail salon recognition (HNSR) programs.

(b) ~~Qualifications~~ *The guidelines, including the model ordinance or ordinances,* for an HNSR program may include, but are not limited to, all of the ~~following:~~ *following qualifications:*

(1) The salon shall not use any cosmetic product that contains any of the following:

(A) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a chemical classified by the United States Environmental Protection Agency as carcinogenic to humans, likely to be carcinogenic to

humans, or for which there is suggestive evidence of carcinogenic potential, or identified by the state to cause cancer as listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(B) Any ingredient, as defined in subdivision (d) of Section 111791.5, that is a reproductive toxicant that causes birth defects, reproductive harm, or developmental harm as identified by the United States Environmental Protection Agency, or listed in the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20) list of chemicals known to cause cancer or reproductive toxicity.

(C) Dibutyl phthalate (DBP), formaldehyde, toluene, or methyl ethyl ketone.

(2) The salon shall ensure that all nail salon staff wear nitrile or other gloves determined to be sufficiently protective when using nail products.

(3) The salon shall be ventilated to improve air quality. A specific area shall be designated for artificial nail services and that area shall be properly ventilated with mechanical ventilation units.

(4) All salon staff, whether on payroll or on contract, and owners shall be trained on safer practices delineated in the HNSR program guidelines.

(5) The salon shall not allow clients to bring in outside products for use, unless those products meet the program criteria, as determined by salon staff.

(6) The salon shall be in compliance with Chapter 10 (commencing with Section 7301) of Division 3 of the Business and Professions Code.

(7) Any other guidelines or best practices determined by the department to further the goals of an HNSR program.

(c) The model ordinance required pursuant to subdivision (a) shall impose, but not be limited to, all of the following requirements on a local entity that adopts a HNSR program:

(1) Coordinate with other local HNSR programs to assist businesses in achieving and moving beyond regulatory compliance.

(2) Encourage businesses to implement strategies to reduce toxic exposures to chemicals in nail salon products, improve ventilation strategies, and achieve greater understanding of products and their impacts on health.

(3) Promote improved community health outcomes, economic vitality, and sustainable business approaches.

(4) Require training for the salon owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.

(5) Provide an approved seal or certificate to a salon that has met all specified requirements, required to be displayed in full public view in the salon location.

(6) Establish a process by which a salon can enroll in an HNSR program and be verified by the local entity.

(7) Establish the frequency at which the local entity shall verify continued compliance by a salon that has previously met all specified requirements.

(d) The State Department of Public Health shall, throughout the process of developing guidelines pursuant to subdivision (a), consult with the Division of Occupational Safety and Health, representatives of local agencies with existing HNSR programs, personnel of private nonprofit entities who have experience and skills in implementing HNSR programs, and members of affected communities, among others.

~~(c)~~

(e) The department shall promote the HNSR program established pursuant to this chapter by doing all of the following:

(1) Solicit and support voluntary implementation of HNSR programs through awareness campaigns directed at nail salon business owners and local governments.

(2) Develop and implement a consumer education program to promote awareness about HNSR programs.

~~(3)Develop and adopt one or more model ordinances that local entities may adopt to implement an HNSR program. The model ordinance shall direct local entities to, at a minimum, do all of the following:~~

~~(A)Coordinate with other local HNSR programs to assist businesses in achieving and moving beyond regulatory compliance.~~

~~(B)Encourage businesses to implement strategies to reduce toxic exposures to chemicals in nail salon products, improve ventilation strategies, and achieve greater understanding of products and their impacts on health.~~

~~(C)Promote improved community health outcomes, economic vitality, and sustainable business approaches.~~

~~(D)Require a training element for owners and staff to ensure thorough knowledge of safe and environmentally friendly procedures.~~

~~(E)Provide an approved seal or certificate upon meeting all requirements to be hung in full public view in the business.~~

~~(F)Establish a process by which a salon can enroll in an HNSR program and be verified by the local entity.~~

~~(G)Establish the frequency at which salon compliance will be reverified by the local entity.~~

~~(4)Consult with the Division of Occupational Safety and Health, representatives of local agencies with existing HNSR programs, personnel of private nonprofit entities who have experience and skills in implementing HNSR programs, and members of affected communities, among others, throughout the development of the model program or ordinance.~~

~~(5)~~

(3) Develop and either distribute or post on its Internet Web site information for local entities, including, but not limited to, suggestions for successful implementation of HNSR programs and resource lists that include names and contact information of vendors, consultants, or providers of financial assistance or loans for purchases of ventilation equipment.

~~(6)~~

(4) Develop an Internet Web site or a section on the department's Internet Web site that links to county HNSR Internet Web sites.

~~(d)~~

(f) The department may prioritize its outreach to those counties that have the greatest number of nail salons and that have the highest pollution burdens and vulnerabilities as determined by CalEnviroScreen.

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Senator Nguyen **Subject: Credit/Debit Card for Tips**

Bill Number: SB 896 **Version: Amended March 17, 2016**

Existing Law:

Provides the licensure and regulation of the practices of Barbering, Cosmetology and Electrology by the California Board of Barbering and Cosmetology (Board). (BP&C* 7312)

Requires any person, firm or corporation operating an establishment where activity regulated under the Board is practiced, to comply with the Board's rules and regulations. (BP&C 7402)

Authorizes the Board to assess administrative fines for the violation of the Act or regulations adopted by the Board. (BP&C 7406)

This Bill:

- Requires an establishment offering nail care services that accepts a debit/credit card for payment of services to also accept a debit/credit card payment for tips
- Provides that no reimbursement to the State is required by this act because it does not:
  - ✓ Create a new crime or infraction
  - ✓ Eliminate a crime or infraction
  - ✓ Change the penalty for a crime or infraction within the meaning of the Government Code Section 17556
  - ✓ Change the definition of a crime within the California Constitution, Section 6, Article XIII B.

Analysis:

This bill addresses the issue of use of credit/debit card payments for tips to establishments that offer nail care services. It does not include barber shops, beauty salons or electrology establishments that do not offer nail care services. No enforcement provisions are included with in the bill.

Fiscal Impact to the Board:

None

*BP&C refers to the California Business and Professions Code.

California LEGISLATIVE INFORMATION

SB-896 Barbering and cosmetology: nail care establishments: credit and debit cards.
(2015-2016)

AMENDED IN SENATE MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL **No. 896**

Introduced by Senator ~~Bates~~ *Nguyen*

January 21, 2016

An act to ~~amend Section 921 of~~ *add Section 7353.5 to* the Business and Professions Code, relating to ~~healing arts.~~ *professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 896, as amended, ~~Bates~~ *Nguyen.* ~~Health care professionals.~~ *Barbering and cosmetology: nail care establishments: credit and debit cards.*

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. The act requires the licensure of any person, firm, or corporation operating an establishment engaged in a practice regulated by the board, as specified, and requires a licensed establishment to comply with various requirements. A violation of the Barbering and Cosmetology Act is generally a misdemeanor.

This bill would require an establishment offering nail care services, if it accepts a debit or credit as payment for nail care services, to also accept a debit or credit card for payment of a tip.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Health Care Professional Disaster Response Act, states findings of the Legislature regarding the shortage of qualified health care practitioners during times of national or state disasters, and authorizes a physician and surgeon, whose license has been expired for less than 5 years and who meets specified criteria, to obtain a license without paying fees.~~

~~This bill would make a nonsubstantive change to those findings.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~*yes* Local Program: ~~no~~*yes*

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 7353.5 is added to the Business and Professions Code, to read:*

7353.5. *If an establishment offering nail care services accepts a debit or credit card as payment for nail care services, the establishment shall also accept a debit or credit card for payment of a tip.*

SEC. 2. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

~~SECTION 1.Section 921 of the Business and Professions Code is amended to read:~~

~~921.(a)The Legislature finds and declares both of the following:~~

~~(1)In times of national or state disasters, a shortage of qualified health care practitioners may exist in areas throughout the state where they are desperately required to respond to public health emergencies.~~

~~(2)Health care practitioners with lapsed or inactive licenses could potentially serve in those areas where a shortage of qualified health care practitioners exists, if licensing requirements were streamlined and fees curtailed.~~

~~(b)Therefore, it is the intent of the Legislature to address these matters through the Health Care Professional Disaster Response Act.~~

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BOARD OF BARBERING & COSMETOLOGY
BILL ANALYSIS

Author: Senator Nguyen **Subject: Double Fines; Payment Plans**

Bill Number: SB 1044 **Version: Amended March 17, 2016**

Existing Law:

Requires the Board to issue a citation for violations for which an administrative fine is authorized to be assessed. The citation must be in writing, the nature of the violation alleged must be printed on the citation and the fine must be attached at the time the citation is written. The citation shall include an order to correct any violations, as determined by the Board. (BP&C 7408)

Requires the establishment owner and individual licensee to be jointly responsible for implementing and maintaining the Health and Safety rules. (CCR** 904(b))

Requires that all citations be paid within 30 days of issuance of a citation (BP&C 125.9 (b)(5))

This Bill:

- Requires the Board to determine by regulation when a fine should be assessed to the establishment holder and the individual licensee for the same health and safety violation;
- Requires the Board to use the following specifications when making the determination on who should be fined:
    1. Consider the egregiousness of the health and safety violation
    2. Consider whether the violation is a repeated violation by an individual licensee within the same establishment
- Authorizes the Board to enter into a payment plan for citations with administrative fines exceeding $500.00;
- Requires the Board to define by regulation the parameters of the payment plan (including the terms of the plan and the grounds for the cancellation of the plan).

Background:

It is the Board's practice to cite the establishment owner(s) for ALL violations found within the establishment regardless of whether the establishment owner precipitated the violation.

Currently, the Board offers an informal payment plan in which the account terms are noted on the BreEZe database (work notes) but the responsibility to keep track of payments, how much is due, and final balance falls to the licensee. The Board has provided this informal service in an attempt to not have fines impact the livelihood of licensees.

Analysis:

The evaluation of who receives the fine (establishment owner or individual licensee) or the institution of a payment plan for a licensee would mean minimal process changes for Board staff. Initially, it is felt that the workload could be absorbed within the Boards current work load capabilities.

There may be equipment interfacing costs to update the BreEZe database.

This bill does favor economic interests within the State as an individual can continue to provide services in a licensed establishment while paying off fines that may have otherwise gone unpaid without a payment plan. In addition, discontinuing the practice of double fining the establishment owner and personal licensee will result in fewer fines to parties that are not directly responsible for the violation while still addressing disciplinary actions (fines) to the proper offender.

Fiscal Impact:

The Board is currently using the BreEZE database. The BreEZe database does not have the capability to schedule, track or report a payment plan. Additional interfacing would need to be implemented to the database. It is estimated that the interfaces required for BreEZe could be up to $20,000 per change incident. At this time, it is unknown how many system changes would be incurred or the exact cost of any system change.

*BP&C refers to the California Business and Professions Code.
**CCR refers to the California Code of Regulations

California LEGISLATIVE INFORMATION

SB-1044 Barbering and cosmetology. (2015-2016)

AMENDED IN SENATE MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL **No. 1044**

Introduced by Senator Nguyen

February 12, 2016

~~An act to amend Section 7401 of the Business and Professions Code, relating to professions and vocations.~~ *An act to add Sections 7407.1 and 7408.1 to the Business and Professions Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1044, as amended, Nguyen. Barbering and cosmetology.

Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of the practices of barbering, cosmetology, and electrolysis by the State Board of Barbering and Cosmetology. Existing law also requires any person, firm, or corporation operating an establishment where any activity licensed under the act is practiced to apply to the board for a license. Existing law requires protection of the public to be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Under existing law, whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public is required to be paramount.

Under existing law, the board is authorized to assess administrative fines for the violation of the act or the violation of any rules and regulations adopted by the board pursuant to the act. Existing law requires the board to establish by regulation a schedule of administrative fines for violations of the act.

This bill would require the board to determine by regulation when a fine is required to be assessed

against both the holder of the establishment license and the individual licensee for the same violation. The bill would also require the board to determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation. In making these determinations, the bill would require the board to consider specified factors.

Existing law requires the board to issue a citation with respect to any violation for which an administrative fine is authorized to be assessed. Existing law requires these citations to be in writing and to describe with particularity the nature of the violation alleged to have been violated. Under existing law, the administrative fine, if any, is required to be attached at the time the citation is written.

The bill would authorize the board to enter into a payment plan for citations with administrative fines exceeding $500. The bill would require the board to define by regulation the parameters of the payment plans, as specified.

~~Existing law, the Barbering and Cosmetology Act, provides for the licensure and regulation of barbers, cosmetologists, estheticians, manicurists, electrologists, and apprentices by the State Board of Barbering and Cosmetology. Existing law requires an individual licensed to practice in one of these vocations to report to the board at the time of license renewal his or her practice status and relationship with his or her place of operation. Existing law requires an individual licensed to operate an establishment to report to the board at the time of license renewal whether any booth renters or independent contractors operate in the establishment.~~

~~This bill would make nonsubstantive changes to this provision.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~*yes* Local Program: no

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 7407.1 is added to the Business and Professions Code, to read:*

7407.1. *The board shall determine by regulation when a fine shall be assessed to both the holder of the establishment license and the individual licensee for the same violation. The board shall also determine by regulation when a fine shall be assessed to only the holder of the establishment license or to only an individual licensee for the same violation. In making these determinations, the board shall consider the egregiousness of the violation of the health and safety regulations and whether the violation is a repeated violation by an individual licensee within the same establishment.*

SEC. 2. *Section 7408.1 is added to the Business and Professions Code, to read:*

7408.1. *The board may enter into a payment plan for citations with administrative fines that exceed five hundred dollars ($500). The board shall define by regulation the parameters of the payment plan, which shall include, but shall not be not limited to, the terms of the plan and grounds for cancellation of the plan.*

~~SECTION 1.Section 7401 of the Business and Professions Code is amended to read:~~

~~7401.(a)An individual licensed pursuant to Section 7396 shall report to the board at the time of license renewal her or his practice status, designated as one of the following:~~

~~(1)Full-time practice in California.~~

~~(2)Full-time practice outside of California.~~

~~(3)Part-time practice in California.~~

~~(4)Not working in the industry.~~

~~(5)Retired.~~

~~(6)Other practice status, as may be further defined by the board.~~

~~(b)An individual licensed pursuant to Section 7396 shall, at the time of license renewal, identify herself or himself on the application as one of the following:~~

~~(1)Employee.~~

~~(2)Independent contractor or booth renter.~~

~~(3)Salon owner.~~

~~(c)An individual licensed pursuant to Section 7347 shall report to the board at the time of license renewal, whether either of the following is applicable to her or him:~~

~~(1)She or he has a booth renter operating in the establishment.~~

~~(2)She or he has an independent contractor operating in the establishment.~~