

SENATE BILL NO. 452

INTRODUCED BY HIMSL, S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE SENATE

February 12, 1981	Introduced and referred to Committee on Public Health, Welfare, and Safety.
February 20, 1981	Committee recommend bill do pass as amended. Report adopted.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass.
February 25, 1981	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading, passed. Ayes, 46; Noes, 1. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on Human Services.
March 4, 1981	Rereferred to Committee on Business and Industry.
March 25, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1981	Second reading, concurred in.

March 30, 1981

On motion rules suspended and bill allowed to be transmitted on 71st legislative day. Motion adopted.

March 31, 1981

Third reading, concurred in as amended. Ayes, 89; Noes, 9.

#### IN THE SENATE

April 1, 1981

Returned from House with amendments.

April 10, 1981

Second reading, amendments not concurred in.

April 11, 1981

On motion Conference Committee requested and appointed.

April 15, 1981

Conference Committee dissolved.

On motion new Free Conference Committee requested and appointed.

April 17, 1981

Free Conference Committee reported.

April 20, 1981

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted. Ayes, 43; Noes, 5. Transmitted to House.

#### IN THE HOUSE

April 21, 1981

Free Conference Committee report adopted.

#### IN THE SENATE

April 22, 1981

Returned from House. Sent to enrolling.

Reported correctly enrolled.

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SENATE BILL NO. 452  
INTRODUCED BY STEVE BROWN  
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE BOARD OF BARBERS UNDER EXISTING STATUTORY AUTHORITY AND RULES; REVISING BOARD MAKEUP; EXEMPTING COSMETOLOGISTS FROM PROHIBITIONS UNDER BARBERING LAWS; GIVING THE BOARD AUTHORITY TO GRANT TEMPORARY LICENSES TO BARBERSHOPS; REQUIRING ANNUAL INSPECTIONS OF BARBERSHOPS; ELIMINATING BARBER APPRENTICESHIP REQUIREMENTS; AUTHORIZING RECIPROCAL LICENSING; DELETING PRICE-SETTING PROVISIONS; DELETING CRIMINAL CONVICTION AS GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE; AMENDING SECTIONS 2-8-103, 2-15-1625, 37-30-101, 37-30-203, 37-30-301 THROUGH 37-30-303, 37-30-306, 37-30-307, 37-30-403, 37-30-404, 37-30-422, AND 37-30-425, MCA; REPEALING SECTIONS 37-30-304 AND 37-30-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Barbers and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation, the Legislative Audit Committee recommends that the board of

1 Barbers be reestablished under existing statutory authority.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 Section 1. Reestablishment. The board of barbers is  
5 reestablished for 6 years pursuant to 2-18-122 with its  
6 existing statutory authority and rules.

7 Section 2. Section 2-8-103, MCA, is amended to read:  
8 "2-8-103. Agencies to terminate. (1) The following  
9 agencies shall terminate on July 1, 1979:

10 (a) board of abstracters, department of professional  
11 and occupational licensing, created by 2-15-1643;

12 (b) board of real estate, department of professional  
13 and occupational licensing, created by 2-15-1642;

14 (c) state board of warm air heating, ventilation, and  
15 air conditioning, department of professional and  
16 occupational licensing, created by 2-15-1656;

17 (d) board of institutions, department of institutions,  
18 created by 2-15-2303.

19 (2) The following agencies shall terminate on July 1,  
20 1981:

21 (a) commission for human rights, department of labor  
22 and industry, created by 2-15-1706;

23 (b) board of athletics, department of professional and  
24 occupational licensing, created by 2-15-1661;

25 ~~(c) board of barbers, department of professional and~~

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SB 452

1 ~~occupational licensing, created by 2-15-1625;~~  
 2 (d)(c) board of chiropractors, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1613;  
 5 (e)(d) board of cosmetologists, department of  
 6 professional and occupational licensing, created by  
 7 2-15-1626;  
 8 (f)(e) board of dentists, department of professional  
 9 and occupational licensing, created by 2-15-1606;  
 10 (g)(f) board of hearing aid dispensers, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1616;  
 13 (h)(g) board of massage therapists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1627;  
 16 (i)(h) Montana state board of medical examiners,  
 17 department of professional and occupational licensing,  
 18 created by 2-15-1605;  
 19 (j)(i) board of morticians, department of professional  
 20 and occupational licensing, created by 2-15-1619;  
 21 (k)(j) board of nursing, department of professional  
 22 and occupational licensing, created by 2-15-1610;  
 23 (l)(k) board of nursing home administrators,  
 24 department of professional and occupational licensing,  
 25 created by 2-15-1611;

1 (m)(l) board of optometrists, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1612;  
 4 (n)(m) board of osteopathic physicians, department of  
 5 professional and occupational licensing, created by  
 6 2-15-1607;  
 7 (o)(n) board of pharmacists, department of  
 8 professional and occupational licensing, created by  
 9 2-15-1609;  
 10 (p)(o) board of podiatry examiners, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1608;  
 13 (q)(p) board of psychologists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1617;  
 16 (r)(q) board of radiologic technologists, department  
 17 of professional and occupational licensing, created by  
 18 2-15-1614;  
 19 (s)(r) board of speech pathologists and audiologists,  
 20 department of professional and occupational licensing,  
 21 created by 2-15-1615;  
 22 (t)(s) board of veterinarians, department of  
 23 professional and occupational licensing, created by  
 24 2-15-1618;  
 25 (u)(t) board of veterans' affairs, department of

1 social and rehabilitation services, created by 2-15-2202;  
 2 ~~(v)~~(u) board of sanitarians, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1631.

5 (3) The following units of state government shall  
 6 terminate on July 1, 1983:

7 (a) board of aeronautics, department of community  
 8 affairs, created by 2-15-1103;

9 (b) state board of hall insurance, department of  
 10 agriculture, created by 2-15-3003;

11 (c) board of horse racing, department of professional  
 12 and occupational licensing, created by 2-15-1662;

13 (d) board of livestock, department of livestock,  
 14 created by 2-15-3102;

15 (e) board of milk control, department of business  
 16 regulation, created by 2-15-1802;

17 (f) board of oil and gas conservation, department of  
 18 natural resources and conservation, created by 2-15-3303;

19 (g) Montana outfitters council, department of fish,  
 20 wildlife, and parks, created by 2-15-3403;

21 (h) public service commission, department of public  
 22 service regulation, created by 69-1-102;

23 (i) board of water and wastewater operators,  
 24 department of health and environmental sciences, created by  
 25 2-15-2105;

1 (j) board of water well contractors, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1632.

4 (4) The following agencies terminate on July 1, 1985:

5 (a) the board of public accountants, created by  
 6 2-15-1641;

7 (b) the board of architects, created by 2-15-1651;

8 (c) state banking board, department of business  
 9 regulation, created by 2-15-1803;

10 (d) the state electrical board, created by 2-15-1654;

11 (e) the board of professional engineers and land  
 12 surveyors, created by 2-15-1653;

13 (f) office of commissioner of insurance and the  
 14 insurance department, state auditor's office, created by  
 15 2-15-1902 and 2-15-1903;

16 (g) office of the securities commissioner, state  
 17 auditor's office, created by 2-15-1901;

18 (h) the board of landscape architects, created by  
 19 2-15-1652;

20 (i) the board of county printing, created by  
 21 2-15-1102;

22 (j) the board of plumbers, created by 2-15-1655;

23 (k) board of physical therapy examiners, created by  
 24 2-15-1628.

25 ~~(5) The following agency terminates on July 1, 1987:~~

1 ~~the board of barbers, department of professional and~~  
2 ~~occupational licensing, created by 2-15-1625."~~

3 Section 3. Section 2-15-1625, MCA, is amended to read:  
4 "2-15-1625. Board of barbers. (1) There is a board of  
5 barbers.

6 (2) The board consists of ~~three members~~ two barbers  
7 and one public member who is not a barber appointed by the  
8 governor. Each barber member shall be a practicing barber  
9 who has been a barber in this state for at least 5 years  
10 immediately before his appointment.

11 (3) Each member shall serve for a term of 3 years. The  
12 governor may remove a member for cause.

13 (4) The board is allocated to the department for  
14 administrative purposes only as prescribed in 2-15-121."

15 Section 4. Section 37-30-101, MCA, is amended to read:  
16 "37-30-101. Definitions -- practice of barbering. (1)  
17 Unless the context requires otherwise, as used in this  
18 chapter the following definitions apply:

19 (a) "Barbershop" means a place where a person carries  
20 on, engages in, practices, or causes to be carried on,  
21 engaged in, or practiced the business of barbering.

22 (b) "Board" means the board of barbers provided for in  
23 2-15-1625.

24 (c) "Department" means the department of professional  
25 and occupational licensing provided for in Title 2, chapter

1 15, part 16.

2 ~~(2) An "apprentice" under this chapter is a person~~  
3 ~~who receives instruction in an approved barber school or~~  
4 ~~college and from a barber authorized to practice barbering~~  
5 ~~in this state.~~

6 ~~(3)~~ (2) Any one or any combination of the following  
7 practices, when done upon the human body for tonsorial  
8 purposes and not for the treatment of disease or physical or  
9 mental ailments and when done for payment, either directly  
10 or indirectly, constitutes the practice of barbering:

- 11 (a) shaving or trimming the beard;
- 12 (b) cutting the hair;
- 13 (c) giving facial or scalp massage or treatment with  
14 oils, creams, lotions, or other preparations, either by hand  
15 or mechanical appliances;
- 16 (d) singeing or shampooing the hair or applying hair  
17 tonic, or dyeing the hair of male persons;
- 18 (e) applying cosmetic preparations, antiseptics,  
19 powders, oils, lotions to scalp, face, or neck.

20 ~~(3) The practice of cosmetology by a licensed~~  
21 ~~cosmetologist, including cutting the hair of any person,~~  
22 ~~does not constitute the practice of barbering."~~

23 Section 5. Section 37-30-203, MCA, is amended to read:  
24 "37-30-203. Powers and duties of board and department  
25 -- conducting examinations -- rulemaking -- hiring of

1 inspectors ~~price agreements.~~ (1) The department shall,  
 2 subject to 37-1-101, conduct practical examinations of  
 3 applicants ~~for apprentice cards and~~ for certificates of  
 4 registration to practice as registered barbers not less than  
 5 four times a year at times and places the board determines.  
 6 The examinations shall cover the fundamentals of barbering,  
 7 dermatology, and sanitation. The department shall issue  
 8 ~~apprentice cards and~~ certificates of registration.

9 (2) The board may adopt rules for the administration  
 10 of this chapter.

11 (3) A person hired by the department to make an  
 12 inspection of a barbershop, school, or college shall be  
 13 recommended by the board. He shall receive \$30 ~~per day~~ a  
 14 salary plus travel expenses as provided for in 2-18-501  
 15 through 2-18-503, as amended.

16 ~~(4) The board may approve price agreements~~  
 17 ~~establishing minimum prices for barber work which are signed~~  
 18 ~~and submitted to the board by an organized group or groups~~  
 19 ~~of at least 75% of the barbers in a city or town if the~~  
 20 ~~board, after ascertaining by investigations and proofs as~~  
 21 ~~the situation permits and requires, finds that the price~~  
 22 ~~agreement is just and will best protect the public health~~  
 23 ~~and safety by affording a sufficient minimum price for~~  
 24 ~~barber work to enable the barbers to furnish modern and~~  
 25 ~~healthful services and appliances to minimize the danger to~~

1 ~~the public health incident to this work. Under this chapter~~  
 2 ~~a city or town includes the territory within its legal~~  
 3 ~~limits and the territory adjacent to it and lying within 3~~  
 4 ~~miles of its legal limits in determining whether a price~~  
 5 ~~agreement is just and will best protect the public health~~  
 6 ~~and safety. The board shall consider all conditions~~  
 7 ~~affecting the barber business in its relation to the public~~  
 8 ~~health and safety.~~

9 ~~(5) In determining reasonable minimum prices, the~~  
 10 ~~board shall consider the necessary cost incurred in the city~~  
 11 ~~or town to maintain a barbershop in a clean, healthful, and~~  
 12 ~~sanitary condition.~~

13 ~~(6) After making an investigation, the board shall by~~  
 14 ~~order fix the minimum price for work usually performed in a~~  
 15 ~~barbershop in the city or town in which the price agreement~~  
 16 ~~has been signed. The board may, on the petition of 50% of~~  
 17 ~~the barbers of the city or town, readjust the minimum~~  
 18 ~~prices, and the new prices must be approved by 75% of the~~  
 19 ~~barbers in the city or town.~~

20 ~~(7) This section does not apply to students who have~~  
 21 ~~been enrolled less than 9 months in a barber college in this~~  
 22 ~~state or who are not apprentice barbers.~~

23 Section 6. Section 37-30-301, MCA, is amended to read:  
 24 "37-30-301. Certificate required. A person may not  
 25 practice or attempt to practice barbering or serve or

1 ~~attempt to serve as a barber apprentice~~ unless he first  
2 receives from the department a certificate of registration."

3 Section 7. Section 37-30-302, MCA, is amended to read:

4 "37-30-302. Barber school curriculum approval --  
5 application for apprenticeship certificate of registration.

6 (1) A school or college of barbering may not be approved by  
7 the board unless it teaches the curriculum of the  
8 standardized schools approved by the national education  
9 council of barber examiners.

10 (2) Students of schools or colleges may, after  
11 attending the schools for a period of 9 months, make  
12 application to the department for ~~an apprenticeship card to~~  
13 ~~practice barbering under the immediate personal supervision~~  
14 ~~of a licensed barber for the period of 1 year~~ a certificate  
15 of registration."

16 Section 8. Section 37-30-303, MCA, is amended to read:

17 "37-30-303. ~~Apprenticeship required~~ ~~application~~  
18 Application -- examination. (1) A person is qualified to  
19 receive a certificate of registration to practice barbering  
20 ~~only by serving as an apprentice barber and~~ successfully  
21 passing an examination conducted by the department, subject  
22 to 37-1-101, to determine his fitness to practice barbering.

23 (2) An apprentice applicant must file with the  
24 department an application setting forth the following  
25 information:

1 (a) full name and age ~~of apprentice~~;

2 (b) name and place of approved barber school;

3 (c) dates of attendance at approved barber school;

4 (d) whether the applicant received a certificate of  
5 graduation from an approved barber school; and

6 (e) other information the board considers necessary.

7 (3) An ~~apprentice~~ applicant must successfully pass an  
8 ~~apprentice~~ examination conducted by the department, subject  
9 to 37-1-101, and pay to the department the required fee. The  
10 department shall then issue ~~an apprentice barbering card~~  
11 ~~which expires 2 years from the date of examination~~ a  
12 certificate of registration."

13 Section 9. Section 37-30-306, MCA, is amended to read:

14 "37-30-306. Communicable disease -- physician's  
15 certificate required. (1) A barber ~~or barber apprentice~~ may  
16 not receive a certificate of registration or renewal until  
17 he has presented to the board of barbers a physician's  
18 certificate showing him to be free of physical ailments that  
19 would tend to endanger the health of the public. A person  
20 practicing barbering without a certificate of registration  
21 is guilty of a violation of this chapter.

22 (2) It is unlawful for a barber, ~~barber apprentice~~ or  
23 student of barbering to practice the occupation of a barber  
24 or do barber work while he has an infectious, contagious, or  
25 communicable disease that would endanger the health of the



1 public.

2 (3) If a barber ~~or barber-apprentice~~, after securing  
3 his certificate, contracts a communicable, infectious, or  
4 contagious disease endangering the public health, the board  
5 of barbers shall revoke or suspend his certificate of  
6 registration until the board has satisfactory proof that the  
7 barber ~~or barber-apprentice~~ is no longer afflicted with the  
8 communicable, infectious, or contagious disease."

9 Section 10. Section 37-30-307, MCA, is amended to  
10 read:

11 "37-30-307. Fees -- handicapped persons exempted --  
12 other fees prohibited. ~~(1) The fee to be paid by an~~  
13 ~~apprentice for an apprentice examination and an apprentice~~  
14 ~~card is \$25.~~

15 ~~(2)(1)~~ The fee to be paid by an applicant for an  
16 examination to determine his fitness to receive a  
17 certificate of registration to practice barbering is \$20 and  
18 for the issuance of the certificate an additional \$10.

19 ~~(3)(2)~~ A person registered as a barber ~~or barber~~  
20 ~~apprentice~~ shall, before July 1 of each year, pay a license  
21 fee, set by the board in an amount not to exceed \$15 and  
22 based on clerical and administrative costs, for the renewal  
23 of his certificate of registration. If a barber fails to  
24 have the certificate renewed before July 1 of each year, the  
25 barber shall on renewal of the certificate of registration

1 pay a penalty of \$10 in addition to the regular renewal fee.  
2 If a certificate of registration is not renewed within 1  
3 year after the date of expiration, the barber is not  
4 entitled to have the certificate of registration renewed or  
5 a new certificate of registration issued without first  
6 applying for and taking the examination and paying the fees  
7 provided for in this section.

8 ~~(4)(3)~~ However, physically handicapped persons trained  
9 for the barber profession by the department of social and  
10 rehabilitation services and certified by that department as  
11 having successfully completed a 9-month course in a  
12 reputable barber college are not required to pay fees and  
13 are for a period of 1 year immediately following their  
14 training exempt from all except the sanitary provisions of  
15 this chapter.

16 ~~(5)(4)~~ No other or additional license or fee may be  
17 imposed on barbers ~~or barber-apprentices~~ by a municipality  
18 or other subdivision of this state."

19 Section 11. Section 37-30-403, MCA, is amended to  
20 read:

21 "37-30-403. Facilities required for licensure --  
22 inspection. (1) Before a license is issued to conduct a  
23 barbershop, school, or college in this state, the  
24 barbershop, school, or college must be inspected by the  
25 department and approved by the board and shall meet the

1 following requirements:

2 (a) It must have both hot and cold running water  
3 connected with the city water supply. In villages or towns  
4 where running water is not available, hot-water tanks shall  
5 have not less than a 2-gallon capacity with gravity  
6 pressure. Wastewater shall be disposed of through some  
7 system carrying it away from the building. This shall be  
8 done by sewer connections or in a manner meeting the  
9 requirements of the department of health and environmental  
10 sciences rules, city ordinances, and having the approval of  
11 the city or village board of health, as required by law.

12 (b) The headrest of a barber chair must be equipped so  
13 that each customer will be supplied with a clean, fresh  
14 paper or towel.

15 (c) It must have a closed cabinet for each chair, to  
16 keep instruments in when not in use, and must have proper  
17 sterilization equipment for immersing instruments before use  
18 on each customer.

19 (d) It must have a sufficient number of towels so that  
20 each customer will be served with a clean, laundered towel.

21 (e) It must be well-lighted, well-ventilated, and kept  
22 in a clean, orderly, and sanitary condition at all times.

23 (f) It must pay to the department the required fee.

24 (2) Barbershops, barber schools, or colleges shall be  
25 open for inspection during business hours, to members of the

1 department.

2 ~~(3) The board shall inspect annually each barbershop,~~  
3 ~~school, or college to determine compliance with statutory~~  
4 ~~requirements and board rules. The board may suspend or~~  
5 ~~revoke the license of any barbershop, school, or college~~  
6 ~~that violates statutory requirements or board rules.~~

7 ~~(4) The board may grant a temporary license to a~~  
8 ~~barbershop, school, or college until such time as the~~  
9 ~~initial inspection is completed."~~

10 Section 12. Section 37-30-404, MCA, is amended to  
11 read:

12 "37-30-404. Barber schools -- operator -- license fee  
13 ---patrons. (1) A barber school or college operating in this  
14 state must have in charge a person who has had 10 years'  
15 continuous experience as a barber.

16 (2) The owner of the school or college shall first  
17 secure a permit to operate granted by the board and issued  
18 by the department, on payment of an annual license fee of  
19 \$50, and shall keep the permit prominently displayed.

20 (3) The owner shall, before commencing business, file  
21 with the secretary of state a bond to this state, which  
22 shall be approved by the attorney general, in the sum of  
23 \$2,000, conditioned on the faithful compliance of the barber  
24 school or college with this chapter and the payment of  
25 judgments that may be obtained against the school, college,

1 or owner on account of fraud, misrepresentation, or deceit  
2 practiced by them or by their agents.

3 ~~(4)--Barber-schools-or-barber-colleges-may-not-charge~~  
4 ~~patrons-for-barbering-services-and-materials-rendered.~~

5 ~~(5)(4)~~ All barber schools or colleges shall keep  
6 prominently displayed a substantial sign as a barber school  
7 or barber college.

8 ~~(6)(5)~~ On receiving students, all barber schools or  
9 colleges shall immediately apply to the department for  
10 student permits on blank forms prescribed by the board."

11 Section 13. Section 37-30-422, MCA, is amended to  
12 read:

13 "37-30-422. Maintenance of sanitary conditions.  
14 Barbershops, barber schools, and barber colleges shall be  
15 operated and maintained in a sanitary condition in order to  
16 preserve the public health and prevent the spread of  
17 disease. The board of barbers ~~and in consultation with~~ the  
18 department of health and environmental sciences may adopt  
19 rules to preserve the public health and prevent the spread  
20 of disease."

21 Section 14. Section 37-30-425, MCA, is amended to  
22 read:

23 "37-30-425. Refusal, suspension, or revocation of  
24 license. The board may, after notice and opportunity for a  
25 hearing, either refuse to issue or renew or may suspend or

1 revoke a barbershop or barber school or college license for  
2 any one or combination of the following causes:

3 (1) the violation of any of the provisions of  
4 37-30-308; 37-30-403, except subsection (1)(f); 37-30-412;  
5 37-30-413; and 37-30-421;

6 ~~(2)--conviction-of-a-felony-shown-by-a-certified-copy~~  
7 ~~of-the-record-of-the-court-of-conviction;~~

8 ~~(3)(2)~~ gross malpractice or gross incompetency;

9 ~~(4)(3)~~ continued practice by a person knowingly having  
10 an infectious or contagious disease;

11 ~~(5)(4)~~ advertising by means of knowingly false or  
12 deceptive statements;

13 ~~(6)(5)~~ advertising, practicing, or attempting to  
14 practice under a trade name other than one's own;

15 ~~(7)(6)~~ habitual drunkenness or addiction to the use of  
16 morphine, cocaine, or other habit-forming drugs;

17 ~~(8)(7)~~ the commission of any of the offenses described  
18 in 37-30-203."

19 NEW SECTION. Section 15. Admission of licensee from  
20 other state. The department may issue, at the board's  
21 discretion, a barber's license without examination to a  
22 person who holds a current license as a barber from another  
23 jurisdiction if the board finds that the standards for  
24 licensure in the other jurisdiction are at least  
25 substantially equivalent to those prevailing in this state

1 and that the applicant is otherwise qualified.

2 Section 16. Repealer. Sections 37-30-304 and  
3 37-30-305, MCA, are repealed.

4 Section 17. Codification instruction. Section 15 is  
5 intended to be codified as an integral part of Title 37,  
6 chapter 6, and the provisions of Title 37, chapter 6, apply  
7 to section 15.

8 Section 18. Effective date. This act is effective on  
9 passage and approval.

-End-

Approved by the committee on  
Public Health, Welfare & Safety

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2 INTRODUCED BY HIMSL, S. BROWN

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

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9 AUTHORITY TO GRANT TEMPORARY LICENSES TO BARBERSHOPS;  
10 REQUIRING ANNUAL INSPECTIONS OF BARBERSHOPS; ELIMINATING  
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23 Committee; and

24 WHEREAS, as a result of the performance evaluation, the  
25 Legislative Audit Committee recommends that the Board of

1 Barbers be reestablished under existing statutory authority.

2  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 Section 1. Reestablishment. The board of barbers is  
5 reestablished for 6 years pursuant to 2-18-122 with its  
6 existing statutory authority and rules.

7 Section 2. Section 2-8-103, MCA, is amended to read:  
8 "2-8-103. Agencies to terminate. (1) The following  
9 agencies shall terminate on July 1, 1979:

10 (a) board of abstracters, department of professional  
11 and occupational licensing, created by 2-15-1643;

12 (b) board of real estate, department of professional  
13 and occupational licensing, created by 2-15-1642;

14 (c) state board of warm air heating, ventilation, and  
15 air conditioning, department of professional and  
16 occupational licensing, created by 2-15-1656;

17 (d) board of institutions, department of institutions,  
18 created by 2-15-2303.

19 (2) The following agencies shall terminate on July 1,  
20 1981:

21 (a) commission for human rights, department of labor  
22 and industry, created by 2-15-1706;

23 (b) board of athletics, department of professional and  
24 occupational licensing, created by 2-15-1661;

25 ~~(c) board of barbers, department of professional and~~

1 ~~occupational licensing, created by 2-15-1625;~~  
 2        ~~(c)~~ board of chiropractors, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1613;  
 5        ~~(d)~~ board of cosmetologists, department of  
 6 professional and occupational licensing, created by  
 7 2-15-1626;  
 8        ~~(e)~~ board of dentists, department of professional  
 9 and occupational licensing, created by 2-15-1606;  
 10       ~~(f)~~ board of hearing aid dispensers, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1616;  
 13       ~~(g)~~ board of massage therapists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1627;  
 16       ~~(h)~~ Montana state board of medical examiners,  
 17 department of professional and occupational licensing,  
 18 created by 2-15-1605;  
 19       ~~(i)~~ board of morticians, department of professional  
 20 and occupational licensing, created by 2-15-1619;  
 21       ~~(j)~~ board of nursing, department of professional  
 22 and occupational licensing, created by 2-15-1610;  
 23       ~~(k)~~ board of nursing home administrators,  
 24 department of professional and occupational licensing,  
 25 created by 2-15-1611;

1       ~~(l)~~ board of optometrists, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1612;  
 4       ~~(m)~~ board of osteopathic physicians, department of  
 5 professional and occupational licensing, created by  
 6 2-15-1607;  
 7       ~~(n)~~ board of pharmacists, department of  
 8 professional and occupational licensing, created by  
 9 2-15-1609;  
 10       ~~(o)~~ board of podiatry examiners, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1608;  
 13       ~~(p)~~ board of psychologists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1617;  
 16       ~~(q)~~ board of radiologic technologists, department  
 17 of professional and occupational licensing, created by  
 18 2-15-1614;  
 19       ~~(r)~~ board of speech pathologists and audiologists,  
 20 department of professional and occupational licensing,  
 21 created by 2-15-1615;  
 22       ~~(s)~~ board of veterinarians, department of  
 23 professional and occupational licensing, created by  
 24 2-15-1618;  
 25       ~~(t)~~ board of veterans' affairs, department of

1 social and rehabilitation services, created by 2-15-2202;  
 2 ~~(v)~~(u) board of sanitarians, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1631.  
 5 (3) The following units of state government shall  
 6 terminate on July 1, 1983:  
 7 (a) board of aeronautics, department of community  
 8 affairs, created by 2-15-1103;  
 9 (b) state board of hail insurance, department of  
 10 agriculture, created by 2-15-3003;  
 11 (c) board of horse racing, department of professional  
 12 and occupational licensing, created by 2-15-1662;  
 13 (d) board of livestock, department of livestock,  
 14 created by 2-15-3102;  
 15 (e) board of milk control, department of business  
 16 regulation, created by 2-15-1802;  
 17 (f) board of oil and gas conservation, department of  
 18 natural resources and conservation, created by 2-15-3303;  
 19 (g) Montana outfitters council, department of fish,  
 20 wildlife, and parks, created by 2-15-3403;  
 21 (h) public service commission, department of public  
 22 service regulation, created by 69-1-102;  
 23 (i) board of water and wastewater operators,  
 24 department of health and environmental sciences, created by  
 25 2-15-2105;

1 (j) board of water well contractors, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1632.  
 4 (4) The following agencies terminate on July 1, 1985:  
 5 (a) the board of public accountants, created by  
 6 2-15-1641;  
 7 (b) the board of architects, created by 2-15-1651;  
 8 (c) state banking board, department of business  
 9 regulation, created by 2-15-1803;  
 10 (d) the state electrical board, created by 2-15-1654;  
 11 (e) the board of professional engineers and land  
 12 surveyors, created by 2-15-1653;  
 13 (f) office of commissioner of insurance and the  
 14 insurance department, state auditor's office, created by  
 15 2-15-1902 and 2-15-1903;  
 16 (g) office of the securities commissioner, state  
 17 auditor's office, created by 2-15-1901;  
 18 (h) the board of landscape architects, created by  
 19 2-15-1652;  
 20 (i) the board of county printing, created by  
 21 2-15-1102;  
 22 (j) the board of plumbers, created by 2-15-1655;  
 23 (k) board of physical therapy examiners, created by  
 24 2-15-1628.  
 25 (5) The following agency terminates on July 1, 1987:

1 the board of barbers, department of professional and  
 2 occupational licensing, created by 2-15-1625."

3 Section 3. Section 2-15-1625, MCA, is amended to read:  
 4 "2-15-1625. Board of barbers. (1) There is a board of  
 5 barbers.

6 (2) The board consists of ~~three members~~ two barbers  
 7 and one public member who is not a barber appointed by the  
 8 governor. Each barber member shall be a practicing barber  
 9 who has been a barber in this state for at least 5 years  
 10 immediately before his appointment.

11 (3) Each member shall serve for a term of 3 years. The  
 12 governor may remove a member for cause.

13 (4) The board is allocated to the department for  
 14 administrative purposes only as prescribed in 2-15-121."

15 Section 4. Section 37-30-101, MCA, is amended to read:

16 "37-30-101. Definitions -- practice of barbering. (1)  
 17 Unless the context requires otherwise, as used in this  
 18 chapter the following definitions apply:

19 (a) "Barbershop" means a place where a person carries  
 20 on, engages in, practices, or causes to be carried on,  
 21 engaged in, or practiced the business of barbering.

22 (b) "Board" means the board of barbers provided for in  
 23 2-15-1625.

24 (c) "Department" means the department of professional  
 25 and occupational licensing provided for in Title 2, chapter

1 15, part 16.

2 ~~(2) An "apprentice" under this chapter is a person~~  
 3 ~~who receives instruction in an approved barber school or~~  
 4 ~~college and from a barber authorized to practice barbering~~  
 5 ~~in this state.~~

6 ~~(3)~~ (2) Any one or any combination of the following  
 7 practices, when done upon the human body for tonsorial  
 8 purposes and not for the treatment of disease or physical or  
 9 mental ailments and when done for payment, either directly  
 10 or indirectly, constitutes the practice of barbering:

11 (a) shaving or trimming the beard;

12 (b) cutting the hair;

13 (c) giving facial or scalp massage or treatment with  
 14 oils, creams, lotions, or other preparations, either by hand  
 15 or mechanical appliances;

16 (d) singeing or shampooing the hair or applying hair  
 17 tonic, or dyeing the hair of male persons;

18 (e) applying cosmetic preparations, antiseptics,  
 19 powders, oils, lotions to scalp, face, or neck.

20 (3) The practice of cosmetology by a licensed  
 21 cosmetologist, including cutting the hair of any person,  
 22 does not constitute the practice of barbering."

23 Section 5. Section 37-30-203, MCA, is amended to read:

24 "37-30-203. Powers and duties of board and department  
 25 -- conducting examinations -- rulemaking -- hiring of



1 inspectors ~~price agreements.~~ (1) The department shall,  
 2 subject to 37-1-101, conduct practical examinations of  
 3 applicants ~~for apprentice cards and~~ for certificates of  
 4 registration to practice as registered barbers not less than  
 5 four times a year at times and places the board determines.  
 6 The examinations shall cover the fundamentals of barbering,  
 7 dermatology, and sanitation. The department shall issue  
 8 apprentice cards and certificates of registration.

9 (2) The board may adopt rules for the administration  
 10 of this chapter.

11 (3) A person hired by the department to make an  
 12 inspection of a barbershop, school, or college shall be  
 13 recommended by the board. He shall receive \$30 per day @  
 14 salary plus travel expenses as provided for in 2-18-501  
 15 through 2-18-503, as amended.

16 ~~(4) The board may approve price agreements~~  
 17 ~~establishing minimum prices for barber work which are signed~~  
 18 ~~and submitted to the board by an organized group or groups~~  
 19 ~~of at least 75% of the barbers in a city or town if the~~  
 20 ~~board after ascertaining by investigations and proofs as~~  
 21 ~~the situation permits and requires, finds that the price~~  
 22 ~~agreement is just and will best protect the public health~~  
 23 ~~and safety by affording a sufficient minimum price for~~  
 24 ~~barber work to enable the barbers to furnish modern and~~  
 25 ~~healthful services and appliances to minimize the danger to~~

1 ~~the public health incident to this work under this chapter,~~  
 2 ~~a city or town includes the territory within its legal~~  
 3 ~~limits and the territory adjacent to it and lying within 3~~  
 4 ~~miles of its legal limits, in determining whether a price~~  
 5 ~~agreement is just and will best protect the public health~~  
 6 ~~and safety, the board shall consider all conditions~~  
 7 ~~affecting the barber business in its relation to the public~~  
 8 ~~health and safety.~~

9 ~~(5) In determining reasonable minimum prices, the~~  
 10 ~~board shall consider the necessary cost incurred in the city~~  
 11 ~~or town to maintain a barbershop in a clean, healthful, and~~  
 12 ~~sanitary condition.~~

13 ~~(6) After making an investigation, the board shall by~~  
 14 ~~order fix the minimum price for work usually performed in a~~  
 15 ~~barbershop in the city or town in which the price agreement~~  
 16 ~~has been signed. The board may, on the petition of 50% of~~  
 17 ~~the barbers of the city or town, readjust the minimum~~  
 18 ~~prices, and the new prices must be approved by 75% of the~~  
 19 ~~barbers in the city or town.~~

20 ~~(7) This section does not apply to students who have~~  
 21 ~~been enrolled less than 9 months in a barber college in this~~  
 22 ~~state or who are not apprentice barbers."~~

23 Section 6. Section 37-30-301, MCA, is amended to read:  
 24 "37-30-301. Certificate required. A person may not  
 25 practice or attempt to practice barbering or serve or

1 ~~attempt to serve as a barber apprentice~~ unless he first  
2 receives from the department a certificate of registration."

3 Section 7. Section 37-30-302, MCA, is amended to read:

4 "37-30-302. Barber school curriculum approval --  
5 application for apprenticeship certificate of registration.

6 (1) A school or college of barbering may not be approved by  
7 the board unless it teaches the curriculum of the  
8 standardized schools approved by the national education  
9 council of barber examiners.

10 (2) Students of schools or colleges may, after  
11 attending the schools for a period of 9 months, make  
12 application to the department for an ~~apprenticeship card to~~  
13 ~~practice barbering under the immediate personal supervision~~  
14 ~~of a licensed barber for the period of 1 year~~ a certificate  
15 of registration."

16 Section 8. Section 37-30-303, MCA, is amended to read:

17 "37-30-303. ~~Apprenticeship required~~ ~~application~~  
18 Application -- examination. (1) A person is qualified to  
19 receive a certificate of registration to practice barbering  
20 ~~only by serving as an apprentice barber and~~ successfully  
21 passing an examination conducted by the department, subject  
22 to 37-1-101, to determine his fitness to practice barbering.

23 (2) An apprentice applicant must file with the  
24 department an application setting forth the following  
25 information:

1 (a) full name and age of apprentice;

2 (b) name and place of approved barber school;

3 (c) dates of attendance at approved barber school;

4 (d) whether the applicant received a certificate of  
5 graduation from an approved barber school; and

6 (e) other information the board considers necessary.

7 (3) An apprentice applicant must successfully pass an  
8 apprentice examination conducted by the department, subject  
9 to 37-1-101, and pay to the department the required fee. The  
10 department shall then issue ~~an apprentice barbering card~~  
11 ~~which expires 2 years from the date of examination~~ a  
12 certificate of registration."

13 Section 9. Section 37-30-306, MCA, is amended to read:

14 "37-30-306. Communicable disease -- physician's  
15 certificate required. (1) A barber ~~or barber apprentice~~ may  
16 not receive a certificate of registration or renewal until  
17 he has presented to the board of barbers a physician's  
18 certificate showing him to be free of physical ailments that  
19 would tend to endanger the health of the public. A person  
20 practicing barbering without a certificate of registration  
21 is guilty of a violation of this chapter.

22 (2) It is unlawful for a barber, ~~barber apprentice~~ or  
23 student of barbering to practice the occupation of a barber  
24 or do barber work while he has an infectious, contagious, or  
25 communicable disease that would endanger the health of the

1 public.

2 {3} If a barber ~~or barber-apprentice~~, after securing  
3 his certificate, contracts a communicable, infectious, or  
4 contagious disease endangering the public health, the board  
5 of barbers shall revoke or suspend his certificate of  
6 registration until the board has satisfactory proof that the  
7 barber ~~or barber-apprentice~~ is no longer afflicted with the  
8 communicable, infectious, or contagious disease."

9 Section 10. Section 37-30-307, MCA, is amended to  
10 read:

11 "37-30-307. Fees -- handicapped persons exempted --  
12 other fees prohibited. ~~{1}--The--fee--to--be--paid--by--an~~  
13 ~~apprentice--for--an--apprentice--examination--and--an--apprentice~~  
14 ~~card--is--\$25.~~

15 ~~{2}{1}~~ The fee to be paid by an applicant for an  
16 examination to determine his fitness to receive a  
17 certificate of registration to practice barbering is \$20 and  
18 for the issuance of the certificate an additional \$10.

19 ~~{3}{2}~~ A person registered as a barber ~~or--barber~~  
20 ~~apprentice~~ shall, before July 1 of each year, pay a license  
21 fee, set by the board in an amount not to exceed \$15 and  
22 based on clerical and administrative costs, for the renewal  
23 of his certificate of registration. If a barber fails to  
24 have the certificate renewed before July 1 of each year, the  
25 barber shall on renewal of the certificate of registration

1 pay a penalty of \$10 in addition to the regular renewal fee.  
2 If a certificate of registration is not renewed within 1  
3 year after the date of expiration, the barber is not  
4 entitled to have the certificate of registration renewed or  
5 a new certificate of registration issued without first  
6 applying for and taking the examination and paying the fees  
7 provided for in this section.

8 ~~{4}{3}~~ However, physically handicapped persons trained  
9 for the barber profession by the department of social and  
10 rehabilitation services and certified by that department as  
11 having successfully completed a 9-month course in a  
12 reputable barber college are not required to pay fees and  
13 are for a period of 1 year immediately following their  
14 training exempt from all except the sanitary provisions of  
15 this chapter.

16 ~~{5}{4}~~ No other or additional license or fee may be  
17 imposed on barbers ~~or barber-apprentices~~ by a municipality  
18 or other subdivision of this state."

19 Section 11. Section 37-30-403, MCA, is amended to  
20 read:

21 "37-30-403. Facilities required for licensure --  
22 inspection. (1) Before a license is issued to conduct a  
23 barbershop, school, or college in this state, the  
24 barbershop, school, or college must be inspected by the  
25 department and approved by the board and shall meet the

1 following requirements:

2 (a) It must have both hot and cold running water  
3 connected with the city water supply. In villages or towns  
4 where running water is not available, hot-water tanks shall  
5 have not less than a 2-gallon capacity with gravity  
6 pressure. Wastewater shall be disposed of through some  
7 system carrying it away from the building. This shall be  
8 done by sewer connections or in a manner meeting the  
9 requirements of the department of health and environmental  
10 sciences rules, city ordinances, and having the approval of  
11 the city or village board of health, as required by law.

12 (b) The headrest of a barber chair must be equipped so  
13 that each customer will be supplied with a clean, fresh  
14 paper or towel.

15 (c) It must have a closed cabinet for each chair, to  
16 keep instruments in when not in use, and must have proper  
17 sterilization equipment for immersing instruments before use  
18 on each customer.

19 (d) It must have a sufficient number of towels so that  
20 each customer will be served with a clean, laundered towel.

21 (e) It must be well-lighted, well-ventilated, and kept  
22 in a clean, orderly, and sanitary condition at all times.

23 (f) It must pay to the department the required fee.

24 (2) Barbershops, barber schools, or colleges shall be  
25 open for inspection during business hours, to members of the

1 department.

2 (3) The board shall inspect annually each barbershop,  
3 school, or college to determine compliance with statutory  
4 requirements and board rules. The board may suspend or  
5 revoke the license of any barbershop, school, or college  
6 that violates statutory requirements or board rules.

7 (4) The board may grant a temporary license to a  
8 barbershop, school, or college until such time as the  
9 initial inspection is completed."

10 Section 12. Section 37-30-404, MCA, is amended to  
11 read:

12 "37-30-404. Barber schools -- operator -- license fee  
13 --patrons. (1) A barber school or college operating in this  
14 state must have in charge a person who has had 10 years'  
15 continuous experience as a barber.

16 (2) The owner of the school or college shall first  
17 secure a permit to operate granted by the board and issued  
18 by the department, on payment of an annual license fee of  
19 \$50, and shall keep the permit prominently displayed.

20 (3) The owner shall, before commencing business, file  
21 with the secretary of state a bond to this state, which  
22 shall be approved by the attorney general, in the sum of  
23 \$2,000, conditioned on the faithful compliance of the barber  
24 school or college with this chapter and the payment of  
25 judgments that may be obtained against the school, college,

1 or owner on account of fraud, misrepresentation, or deceit  
2 practiced by them or by their agents.

3 ~~(4) Barber schools or barber colleges may not charge~~  
4 ~~patrons for barbering services and materials rendered.~~

5 (5)(4) All barber schools or colleges shall keep  
6 prominently displayed a substantial sign as a barber school  
7 or barber college.

8 (6)(5) On receiving students, all barber schools or  
9 colleges shall immediately apply to the department for  
10 student permits on blank forms prescribed by the board."

11 Section 13. Section 37-30-422, MCA, is amended to  
12 read:

13 "37-30-422. Maintenance of sanitary conditions.  
14 Barbershops, barber schools, and barber colleges shall be  
15 operated and maintained in a sanitary condition in order to  
16 preserve the public health and prevent the spread of  
17 disease. The board of barbers and in consultation with the  
18 department of health and environmental sciences may adopt  
19 rules to preserve the public health and prevent the spread  
20 of disease."

21 Section 14. Section 37-30-425, MCA, is amended to  
22 read:

23 "37-30-425. Refusal, suspension, or revocation of  
24 license. The board may, after notice and opportunity for a  
25 hearing, either refuse to issue or renew or may suspend or

1 revoke a barbershop or barber school or college license for  
2 any one or combination of the following causes:

3 (1) the violation of any of the provisions of  
4 37-30-308; 37-30-403, except subsection (1)(f); 37-30-412;  
5 37-30-413; and 37-30-421;

6 ~~(2) conviction of a felony shown by a certified copy~~  
7 ~~of the record of the court of conviction;~~

8 (3)(2) gross malpractice or gross incompetency;

9 (4)(3) continued practice by a person knowingly having  
10 an infectious or contagious disease;

11 (5)(4) advertising by means of knowingly false or  
12 deceptive statements;

13 (6)(5) advertising, practicing, or attempting to  
14 practice under a trade name other than one's own;

15 (7)(6) habitual drunkenness or addiction to the use of  
16 morphine, cocaine, or other habit-forming drugs;

17 (8)(7) the commission of any of the offenses described  
18 in 37-30-203."

19 NEW SECTION. Section 15. Admission of licensee from  
20 other state. The department may issue, at the board's  
21 discretion, a barber's license without examination to a  
22 person who holds a current license as a barber from another  
23 jurisdiction if the board finds that the standards for  
24 licensure in the other jurisdiction are at least  
25 substantially equivalent to those prevailing in this state

1 and that the applicant is otherwise qualified.

2 Section 16. Repealer. Sections 37-30-304 and  
3 37-30-305, MCA, are repealed.

4 Section 17. Codification instruction. Section 15 is  
5 intended to be codified as an integral part of Title 37,  
6 chapter 6 30, and the provisions of Title 37, chapter 6 30,  
7 apply to section 15.

8 Section 18. Effective date. This act is effective on  
9 passage and approval.

-End-

SENATE BILL NO. 452

INTRODUCED BY HIMSL, S. BROWN

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE BOARD OF BARBERS UNDER EXISTING STATUTORY AUTHORITY AND RULES; REVISING BOARD MAKEUP; EXEMPTING COSMETOLOGISTS FROM PROHIBITIONS UNDER BARBERING LAWS; GIVING THE BOARD AUTHORITY TO GRANT TEMPORARY LICENSES TO BARBERSHOPS; REQUIRING ANNUAL INSPECTIONS OF BARBERSHOPS; ELIMINATING BARBER APPRENTICESHIP REQUIREMENTS; AUTHORIZING RECIPROCAL LICENSING; DELETING PRICE-SETTING PROVISIONS; DELETING CRIMINAL CONVICTION AS GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE; AMENDING SECTIONS 2-8-103, 2-15-1625, 37-30-101, 37-30-203, 37-30-301 THROUGH 37-30-303, 37-30-306, 37-30-307, 37-30-403, 37-30-404, 37-30-422, AND 37-30-425, MCA; REPEALING SECTIONS 37-30-304 AND 37-30-305, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the sunset law, sections 2-8-103 and 2-8-112, MCA, terminates the Board of Barbers and requires a performance evaluation of the Board by the Legislative Audit Committee; and

WHEREAS, as a result of the performance evaluation, the Legislative Audit Committee recommends that the Board of

Barbers be reestablished under existing statutory authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Reestablishment. The board of barbers is reestablished for 6 years pursuant to 2-18-122 with its existing statutory authority and rules.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

~~(c) board of barbers, department of professional and~~

1 ~~occupational licensing, created by 2-15-1625;~~  
 2 (f)(g) board of chiropractors, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1613;  
 5 (f)(d) board of cosmetologists, department of  
 6 professional and occupational licensing, created by  
 7 2-15-1626;  
 8 (f)(e) board of dentists, department of professional  
 9 and occupational licensing, created by 2-15-1606;  
 10 (f)(f) board of hearing aid dispensers, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1616;  
 13 (f)(g) board of massage therapists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1627;  
 16 (f)(h) Montana state board of medical examiners,  
 17 department of professional and occupational licensing,  
 18 created by 2-15-1605;  
 19 (f)(i) board of morticians, department of professional  
 20 and occupational licensing, created by 2-15-1619;  
 21 (f)(j) board of nursing, department of professional  
 22 and occupational licensing, created by 2-15-1610;  
 23 (f)(k) board of nursing home administrators,  
 24 department of professional and occupational licensing,  
 25 created by 2-15-1611;

1 (f)(l) board of optometrists, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1612;  
 4 (f)(m) board of osteopathic physicians, department of  
 5 professional and occupational licensing, created by  
 6 2-15-1607;  
 7 (f)(n) board of pharmacists, department of  
 8 professional and occupational licensing, created by  
 9 2-15-1609;  
 10 (f)(o) board of podiatry examiners, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1608;  
 13 (f)(p) board of psychologists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1617;  
 16 (f)(q) board of radiologic technologists, department  
 17 of professional and occupational licensing, created by  
 18 2-15-1614;  
 19 (f)(r) board of speech pathologists and audiologists,  
 20 department of professional and occupational licensing,  
 21 created by 2-15-1615;  
 22 (f)(s) board of veterinarians, department of  
 23 professional and occupational licensing, created by  
 24 2-15-1618;  
 25 (f)(t) board of veterans' affairs, department of



1 social and rehabilitation services, created by 2-15-2202;  
 2 ~~(v)~~(u) board of sanitarians, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1631.

5 (3) The following units of state government shall  
 6 terminate on July 1, 1983:

7 (a) board of aeronautics, department of community  
 8 affairs, created by 2-15-1103;

9 (b) state board of hail insurance, department of  
 10 agriculture, created by 2-15-3003;

11 (c) board of horse racing, department of professional  
 12 and occupational licensing, created by 2-15-1662;

13 (d) board of livestock, department of livestock,  
 14 created by 2-15-3102;

15 (e) board of milk control, department of business  
 16 regulation, created by 2-15-1802;

17 (f) board of oil and gas conservation, department of  
 18 natural resources and conservation, created by 2-15-3303;

19 (g) Montana outfitters council, department of fish,  
 20 wildlife, and parks, created by 2-15-3403;

21 (h) public service commission, department of public  
 22 service regulation, created by 69-1-102;

23 (i) board of water and wastewater operators,  
 24 department of health and environmental sciences, created by  
 25 2-15-2105;

1 (j) board of water well contractors, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1632.

4 (4) The following agencies terminate on July 1, 1985:

5 (a) the board of public accountants, created by  
 6 2-15-1641;

7 (b) the board of architects, created by 2-15-1651;

8 (c) state banking board, department of business  
 9 regulation, created by 2-15-1803;

10 (d) the state electrical board, created by 2-15-1654;

11 (e) the board of professional engineers and land  
 12 surveyors, created by 2-15-1653;

13 (f) office of commissioner of insurance and the  
 14 insurance department, state auditor's office, created by  
 15 2-15-1902 and 2-15-1903;

16 (g) office of the securities commissioner, state  
 17 auditor's office, created by 2-15-1901;

18 (h) the board of landscape architects, created by  
 19 2-15-1652;

20 (i) the board of county printing, created by  
 21 2-15-1102;

22 (j) the board of plumbers, created by 2-15-1655;

23 (k) board of physical therapy examiners, created by  
 24 2-15-1628.

25 (5) The following agency terminates on July 1, 1987:

1 the board of barbers, department of professional and  
 2 occupational licensing, created by 2-15-1625."

3 Section 3. Section 2-15-1625, MCA, is amended to read:

4 "2-15-1625. Board of barbers. (1) There is a board of  
 5 barbers.

6 (2) The board consists of ~~three--members~~ two barbers  
 7 and one public member who is not a barber appointed by the  
 8 governor. Each barber member shall be a practicing barber  
 9 who has been a barber in this state for at least 5 years  
 10 immediately before his appointment.

11 (3) Each member shall serve for a term of 3 years. The  
 12 governor may remove a member for cause.

13 (4) The board is allocated to the department for  
 14 administrative purposes only as prescribed in 2-15-121."

15 Section 4. Section 37-30-101, MCA, is amended to read:

16 "37-30-101. Definitions -- practice of barbering. (1)  
 17 Unless the context requires otherwise, as used in this  
 18 chapter the following definitions apply:

19 (a) "Barbershop" means a place where a person carries  
 20 on, engages in, practices, or causes to be carried on,  
 21 engaged in, or practiced the business of barbering.

22 (b) "Board" means the board of barbers provided for in  
 23 2-15-1625.

24 (c) "Department" means the department of professional  
 25 and occupational licensing provided for in Title 2, chapter

1 15, part 16.

2 ~~(2) An "apprentice", under this chapter, is a person~~  
 3 ~~who receives instruction in an approved barber school or~~  
 4 ~~college and from a barber authorized to practice barbering~~  
 5 ~~in this state.~~

6 ~~(3)~~ (2) Any one or any combination of the following  
 7 practices, when done upon the human body for tonsorial  
 8 purposes and not for the treatment of disease or physical or  
 9 mental ailments and when done for payment, either directly  
 10 or indirectly, constitutes the practice of barbering:

11 (a) shaving or trimming the beard;

12 (b) cutting the hair;

13 (c) giving facial or scalp massage or treatment with  
 14 oils, creams, lotions, or other preparations, either by hand  
 15 or mechanical appliances;

16 (d) singeing or shampooing the hair or applying hair  
 17 tonic, or dyeing the hair of male persons;

18 (e) applying cosmetic preparations, antiseptics,  
 19 powders, oils, lotions to scalp, face, or neck.

20 ~~(3) The practice of cosmetology by a licensed~~  
 21 ~~cosmetologist, including cutting the hair of any person,~~  
 22 ~~does not constitute the practice of barbering."~~

23 Section 5. Section 37-30-203, MCA, is amended to read:

24 "37-30-203. Powers and duties of board and department  
 25 -- conducting examinations -- rulemaking -- hiring of

1 inspectors ~~price agreements.~~ (1) The department shall,  
 2 subject to 37-1-101, conduct practical examinations of  
 3 applicants ~~for apprentice cards and~~ for certificates of  
 4 registration to practice as registered barbers not less than  
 5 four times a year at times and places the board determines.  
 6 The examinations shall cover the fundamentals of barbering,  
 7 dermatology, and sanitation. The department shall issue  
 8 apprentice cards and certificates of registration.

9 (2) The board may adopt rules for the administration  
 10 of this chapter.

11 (3) A person hired by the department to make an  
 12 inspection of a barbershop, school, or college shall be  
 13 recommended by the board. He shall receive \$30 per day a  
 14 salary plus travel expenses as provided for in 2-18-501  
 15 through 2-18-503, as amended.

16 ~~(4) The board may approve price agreements~~  
 17 ~~establishing minimum prices for barber work which are signed~~  
 18 ~~and submitted to the board by an organized group or groups~~  
 19 ~~of at least 75% of the barbers in a city or town if the~~  
 20 ~~board, after ascertaining by investigations and proofs as~~  
 21 ~~the situation permits and requires, finds that the price~~  
 22 ~~agreement is just and will best protect the public health~~  
 23 ~~and safety by affording a sufficient minimum price for~~  
 24 ~~barber work to enable the barbers to furnish modern and~~  
 25 ~~healthful services and appliances to minimize the danger to~~

1 ~~the public health incident to this work. Under this chapter,~~  
 2 ~~a city or town includes the territory within its legal~~  
 3 ~~limits and the territory adjacent to it and lying within 3~~  
 4 ~~miles of its legal limits, in determining whether a price~~  
 5 ~~agreement is just and will best protect the public health~~  
 6 ~~and safety, the board shall consider all conditions~~  
 7 ~~affecting the barber business in its relation to the public~~  
 8 ~~health and safety.~~

9 ~~(5) In determining reasonable minimum prices, the~~  
 10 ~~board shall consider the necessary cost incurred in the city~~  
 11 ~~or town to maintain a barbershop in a clean, healthful, and~~  
 12 ~~sanitary condition.~~

13 ~~(6) After making an investigation, the board shall by~~  
 14 ~~order fix the minimum price for work usually performed in a~~  
 15 ~~barbershop in the city or town in which the price agreement~~  
 16 ~~has been signed. The board may, on the petition of 50% of~~  
 17 ~~the barbers of the city or town, readjust the minimum~~  
 18 ~~prices, and the new prices must be approved by 75% of the~~  
 19 ~~barbers in the city or town.~~

20 ~~(7) This section does not apply to students who have~~  
 21 ~~been enrolled less than 9 months in a barber college in this~~  
 22 ~~state or who are not apprentice barbers."~~

23 Section 6. Section 37-30-301, MCA, is amended to read:  
 24 "37-30-301. Certificate required. A person may not  
 25 practice or attempt to practice barbering or serve or

1 ~~attempt to serve as a barber apprentice~~ unless he first  
2 receives from the department a certificate of registration."

3 Section 7. Section 37-30-302, MCA, is amended to read:  
4 "37-30-302. Barber school curriculum approval --  
5 application for apprenticeship certificate of registration.

6 (1) A school or college of barbering may not be approved by  
7 the board unless it teaches the curriculum of the  
8 standardized schools approved by the national education  
9 council of barber examiners.

10 (2) Students of schools or colleges may, after  
11 attending the schools for a period of 9 months, make  
12 application to the department for an ~~apprenticeship card to~~  
13 ~~practice barbering under the immediate personal supervision~~  
14 ~~of a licensed barber for the period of 1 year~~ a certificate  
15 of registration."

16 Section 8. Section 37-30-303, MCA, is amended to read:

17 "37-30-303. ~~Apprenticeship required~~ ~~application~~  
18 Application -- examination. (1) A person is qualified to  
19 receive a certificate of registration to practice barbering  
20 ~~only by serving as an apprentice barber and~~ successfully  
21 passing an examination conducted by the department, subject  
22 to 37-1-101, to determine his fitness to practice barbering.

23 (2) An apprentice applicant must file with the  
24 department an application setting forth the following  
25 information:

1 (a) full name and age ~~of apprentice;~~

2 (b) name and place of approved barber school;

3 (c) dates of attendance at approved barber school;

4 (d) whether the applicant received a certificate of  
5 graduation from an approved barber school; and

6 (e) other information the board considers necessary.

7 (3) An apprentice applicant must successfully pass an  
8 apprentice examination conducted by the department, subject  
9 to 37-1-101, and pay to the department the required fee. The  
10 department shall then issue ~~an apprentice barbering card~~  
11 ~~which expires 2 years from the date of examination~~ a  
12 certificate of registration."

13 Section 9. Section 37-30-306, MCA, is amended to read:

14 "37-30-306. Communicable disease -- physician's  
15 certificate required. (1) A barber ~~or barber apprentice~~ may  
16 not receive a certificate of registration or renewal until  
17 he has presented to the board of barbers a physician's  
18 certificate showing him to be free of physical ailments that  
19 would tend to endanger the health of the public. A person  
20 practicing barbering without a certificate of registration  
21 is guilty of a violation of this chapter.

22 (2) It is unlawful for a barber ~~or barber apprentice~~, or  
23 student of barbering to practice the occupation of a barber  
24 or do barber work while he has an infectious, contagious, or  
25 communicable disease that would endanger the health of the

1 public.

2 (3) If a barber ~~or barber-apprentice~~, after securing  
3 his certificate, contracts a communicable, infectious, or  
4 contagious disease endangering the public health, the board  
5 of barbers shall revoke or suspend his certificate of  
6 registration until the board has satisfactory proof that the  
7 barber ~~or barber-apprentice~~ is no longer afflicted with the  
8 communicable, infectious, or contagious disease."

9 Section 10. Section 37-30-307, MCA, is amended to  
10 read:

11 "37-30-307. Fees -- handicapped persons exempted --  
12 other fees prohibited. ~~(1) The fee to be paid by an~~  
13 ~~apprentice for an apprentice examination and an apprentice~~  
14 ~~card is \$25.~~

15 ~~(2) (1)~~ The fee to be paid by an applicant for an  
16 examination to determine his fitness to receive a  
17 certificate of registration to practice barbering is \$20 and  
18 for the issuance of the certificate an additional \$10.

19 ~~(3) (2)~~ A person registered as a barber ~~or barber~~  
20 ~~apprentice~~ shall, before July 1 of each year, pay a license  
21 fee, set by the board in an amount not to exceed \$15 and  
22 based on clerical and administrative costs, for the renewal  
23 of his certificate of registration. If a barber fails to  
24 have the certificate renewed before July 1 of each year, the  
25 barber shall on renewal of the certificate of registration

1 pay a penalty of \$10 in addition to the regular renewal fee.  
2 If a certificate of registration is not renewed within 1  
3 year after the date of expiration, the barber is not  
4 entitled to have the certificate of registration renewed or  
5 a new certificate of registration issued without first  
6 applying for and taking the examination and paying the fees  
7 provided for in this section.

8 ~~(4) (3)~~ However, physically handicapped persons trained  
9 for the barber profession by the department of social and  
10 rehabilitation services and certified by that department as  
11 having successfully completed a 9-month course in a  
12 reputable barber college are not required to pay fees and  
13 are for a period of 1 year immediately following their  
14 training exempt from all except the sanitary provisions of  
15 this chapter.

16 ~~(5) (4)~~ No other or additional license or fee may be  
17 imposed on barbers ~~or barber-apprentices~~ by a municipality  
18 or other subdivision of this state."

19 Section 11. Section 37-30-403, MCA, is amended to  
20 read:

21 "37-30-403. Facilities required for licensure --  
22 inspection. (1) Before a license is issued to conduct a  
23 barbershop, school, or college in this state, the  
24 barbershop, school, or college must be inspected by the  
25 department and approved by the board and shall meet the

1 following requirements:

2 (a) It must have both hot and cold running water  
3 connected with the city water supply. In villages or towns  
4 where running water is not available, hot-water tanks shall  
5 have not less than a 2-gallon capacity with gravity  
6 pressure. Wastewater shall be disposed of through some  
7 system carrying it away from the building. This shall be  
8 done by sewer connections or in a manner meeting the  
9 requirements of the department of health and environmental  
10 sciences rules, city ordinances, and having the approval of  
11 the city or village board of health, as required by law.

12 (b) The headrest of a barber chair must be equipped so  
13 that each customer will be supplied with a clean, fresh  
14 paper or towel.

15 (c) It must have a closed cabinet for each chair, to  
16 keep instruments in when not in use, and must have proper  
17 sterilization equipment for immersing instruments before use  
18 on each customer.

19 (d) It must have a sufficient number of towels so that  
20 each customer will be served with a clean, laundered towel.

21 (e) It must be well-lighted, well-ventilated, and kept  
22 in a clean, orderly, and sanitary condition at all times.

23 (f) It must pay to the department the required fee.

24 (2) Barbershops, barber schools, or colleges shall be  
25 open for inspection during business hours, to members of the

1 department.

2 (3) The board shall inspect annually each barbershop,  
3 school, or college to determine compliance with statutory  
4 requirements and board rules. The board may suspend or  
5 revoke the license of any barbershop, school, or college  
6 that violates statutory requirements or board rules.

7 (4) The board may grant a temporary license to a  
8 barbershop, school, or college until such time as the  
9 initial inspection is completed."

10 Section 12. Section 37-30-404, MCA, is amended to  
11 read:

12 "37-30-404. Barber schools — operator — license fee  
13 —patrons. (1) A barber school or college operating in this  
14 state must have in charge a person who has had 10 years'  
15 continuous experience as a barber.

16 (2) The owner of the school or college shall first  
17 secure a permit to operate granted by the board and issued  
18 by the department, on payment of an annual license fee of  
19 \$50, and shall keep the permit prominently displayed.

20 (3) The owner shall, before commencing business, file  
21 with the secretary of state a bond to this state, which  
22 shall be approved by the attorney general, in the sum of  
23 \$2,000, conditioned on the faithful compliance of the barber  
24 school or college with this chapter and the payment of  
25 judgments that may be obtained against the school, college,

1 or owner on account of fraud, misrepresentation, or deceit  
2 practiced by them or by their agents.

3 ~~(4) Barber schools or barber colleges may not charge~~  
4 ~~patrons for barbering services and materials rendered.~~

5 ~~(5)(4)~~ All barber schools or colleges shall keep  
6 prominently displayed a substantial sign as a barber school  
7 or barber college.

8 ~~(6)(5)~~ On receiving students, all barber schools or  
9 colleges shall immediately apply to the department for  
10 student permits on blank forms prescribed by the board."

11 Section 13. Section 37-30-422, MCA, is amended to  
12 read:

13 "37-30-422. Maintenance of sanitary conditions.  
14 Barbershops, barber schools, and barber colleges shall be  
15 operated and maintained in a sanitary condition in order to  
16 preserve the public health and prevent the spread of  
17 disease. The board of barbers and in consultation with the  
18 department of health and environmental sciences may adopt  
19 rules to preserve the public health and prevent the spread  
20 of disease."

21 Section 14. Section 37-30-425, MCA, is amended to  
22 read:

23 "37-30-425. Refusal, suspension, or revocation of  
24 license. The board may, after notice and opportunity for a  
25 hearing, either refuse to issue or renew or may suspend or

1 revoke a barbershop or barber school or college license for  
2 any one or combination of the following causes:

3 (1) the violation of any of the provisions of  
4 37-30-303; 37-30-403, except subsection (1)(f); 37-30-412;  
5 37-30-413; and 37-30-421;

6 ~~(2) conviction of a felony shown by a certified copy~~  
7 ~~of the record of the court of conviction;~~

8 ~~(3)(2)~~ gross malpractice or gross incompetency;

9 ~~(4)(3)~~ continued practice by a person knowingly having  
10 an infectious or contagious disease;

11 ~~(5)(4)~~ advertising by means of knowingly false or  
12 deceptive statements;

13 ~~(6)(5)~~ advertising, practicing, or attempting to  
14 practice under a trade name other than one's own;

15 ~~(7)(6)~~ habitual drunkenness or addiction to the use of  
16 morphine, cocaine, or other habit-forming drugs;

17 ~~(8)(7)~~ the commission of any of the offenses described  
18 in 37-30-203."

19 NEW SECTION. Section 15. Admission of licensee from  
20 other state. The department may issue, at the board's  
21 discretion, a barber's license without examination to a  
22 person who holds a current license as a barber from another  
23 jurisdiction if the board finds that the standards for  
24 licensure in the other jurisdiction are at least  
25 substantially equivalent to those prevailing in this state

1 and that the applicant is otherwise qualified.

2 Section 16. Repealer. Sections 37-30-304 and  
3 37-30-305, MCA, are repealed.

4 Section 17. Codification instruction. Section 15 is  
5 intended to be codified as an integral part of Title 37,  
6 chapter 6 30, and the provisions of Title 37, chapter 6 30,  
7 apply to section 15.

8 Section 18. Effective date. This act is effective on  
9 passage and approval.

-End-



## 1 SENATE BILL NO. 452

2 INTRODUCED BY HINSL, S. BROWN

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE  
6 BOARD OF BARBERS UNDER EXISTING STATUTORY AUTHORITY AND  
7 RULES; REVISING BOARD MAKEUP; EXEMPTING COSMETOLOGISTS FROM  
8 PROHIBITIONS UNDER BARBERING LAWS; GIVING THE BOARD  
9 AUTHORITY TO GRANT TEMPORARY LICENSES TO BARBERSHOPS;  
10 REQUIRING ANNUAL INSPECTIONS OF BARBERSHOPS; ~~ELIMINATING~~  
11 ~~BARBER-APPRENTICESHIP-REQUIREMENTS;~~ AUTHORIZING RECIPROCAL  
12 LICENSING; DELETING PRICE-SETTING PROVISIONS; DELETING  
13 CRIMINAL CONVICTION AS GROUNDS FOR DENIAL OR REVOCATION OF A  
14 LICENSE; AMENDING SECTIONS 2-8-103, 2-15-1625, 37-30-101,  
15 37-30-203, ~~37-30-301~~---THROUGH---~~37-30-303~~---~~37-30-306~~,  
16 ~~37-30-307~~, 37-30-403, 37-30-404, 37-30-422, AND 37-30-425,  
17 MCA; ~~REPEATING--SECTIONS--37-30-304--AND--37-30-305,--MCA;~~ AND  
18 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

19  
20 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
21 MCA, terminates the Board of Barbers and requires a  
22 performance evaluation of the Board by the Legislative Audit  
23 Committee; and

24 WHEREAS, as a result of the performance evaluation, the  
25 Legislative Audit Committee recommends that the Board of

1 Barbers be reestablished under existing statutory authority.

2  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 Section 1. Reestablishment. The board of barbers is  
5 reestablished for 6 years pursuant to 2-18-122 with its  
6 existing statutory authority and rules.

7 Section 2. Section 2-8-103, MCA, is amended to read:  
8 "2-8-103. Agencies to terminate. (1) The following  
9 agencies shall terminate on July 1, 1979:

10 (a) board of abstracters, department of professional  
11 and occupational licensing, created by 2-15-1643;

12 (b) board of real estate, department of professional  
13 and occupational licensing, created by 2-15-1642;

14 (c) state board of warm air heating, ventilation, and  
15 air conditioning, department of professional and  
16 occupational licensing, created by 2-15-1656;

17 (d) board of institutions, department of institutions,  
18 created by 2-15-2303.

19 (2) The following agencies shall terminate on July 1,  
20 1981:

21 (a) commission for human rights, department of labor  
22 and industry, created by 2-15-1706;

23 (b) board of athletics, department of professional and  
24 occupational licensing, created by 2-15-1661;

25 ~~(c) board of barbers, department of professional and~~

1 ~~occupational licensing, created by 2-15-1625;~~  
 2     ~~(c)~~ board of chiropractors, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1613;  
 5     ~~(d)~~ board of cosmetologists, department of  
 6 professional and occupational licensing, created by  
 7 2-15-1626;  
 8     ~~(e)~~ board of dentists, department of professional  
 9 and occupational licensing, created by 2-15-1606;  
 10     ~~(f)~~ board of hearing aid dispensers, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1616;  
 13     ~~(g)~~ board of massage therapists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1627;  
 16     ~~(h)~~ Montana state board of medical examiners,  
 17 department of professional and occupational licensing,  
 18 created by 2-15-1605;  
 19     ~~(i)~~ board of morticians, department of professional  
 20 and occupational licensing, created by 2-15-1619;  
 21     ~~(j)~~ board of nursing, department of professional  
 22 and occupational licensing, created by 2-15-1610;  
 23     ~~(k)~~ board of nursing home administrators,  
 24 department of professional and occupational licensing,  
 25 created by 2-15-1611;

1     ~~(l)~~ board of optometrists, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1612;  
 4     ~~(m)~~ board of osteopathic physicians, department of  
 5 professional and occupational licensing, created by  
 6 2-15-1607;  
 7     ~~(n)~~ board of pharmacists, department of  
 8 professional and occupational licensing, created by  
 9 2-15-1609;  
 10     ~~(o)~~ board of podiatry examiners, department of  
 11 professional and occupational licensing, created by  
 12 2-15-1608;  
 13     ~~(p)~~ board of psychologists, department of  
 14 professional and occupational licensing, created by  
 15 2-15-1617;  
 16     ~~(q)~~ board of radiologic technologists, department  
 17 of professional and occupational licensing, created by  
 18 2-15-1614;  
 19     ~~(r)~~ board of speech pathologists and audiologists,  
 20 department of professional and occupational licensing,  
 21 created by 2-15-1615;  
 22     ~~(s)~~ board of veterinarians, department of  
 23 professional and occupational licensing, created by  
 24 2-15-1618;  
 25     ~~(t)~~ board of veterans' affairs, department of

1 social and rehabilitation services, created by 2-15-2202;  
 2 ~~(v)~~(u) board of sanitarians, department of  
 3 professional and occupational licensing, created by  
 4 2-15-1631.  
 5 (3) The following units of state government shall  
 6 terminate on July 1, 1983:  
 7 (a) board of aeronautics, department of community  
 8 affairs, created by 2-15-1103;  
 9 (b) state board of hail insurance, department of  
 10 agriculture, created by 2-15-3003;  
 11 (c) board of horse racing, department of professional  
 12 and occupational licensing, created by 2-15-1662;  
 13 (d) board of livestock, department of livestock,  
 14 created by 2-15-3102;  
 15 (e) board of milk control, department of business  
 16 regulation, created by 2-15-1802;  
 17 (f) board of oil and gas conservation, department of  
 18 natural resources and conservation, created by 2-15-3303;  
 19 (g) Montana outfitters council, department of fish,  
 20 wildlife, and parks, created by 2-15-3403;  
 21 (h) public service commission, department of public  
 22 service regulation, created by 69-1-102;  
 23 (i) board of water and wastewater operators,  
 24 department of health and environmental sciences, created by  
 25 2-15-2105;

1 (j) board of water well contractors, department of  
 2 professional and occupational licensing, created by  
 3 2-15-1632.  
 4 (4) The following agencies terminate on July 1, 1985:  
 5 (a) the board of public accountants, created by  
 6 2-15-1641;  
 7 (b) the board of architects, created by 2-15-1651;  
 8 (c) state banking board, department of business  
 9 regulation, created by 2-15-1803;  
 10 (d) the state electrical board, created by 2-15-1654;  
 11 (e) the board of professional engineers and land  
 12 surveyors, created by 2-15-1653;  
 13 (f) office of commissioner of insurance and the  
 14 insurance department, state auditor's office, created by  
 15 2-15-1902 and 2-15-1903;  
 16 (g) office of the securities commissioner, state  
 17 auditor's office, created by 2-15-1901;  
 18 (h) the board of landscape architects, created by  
 19 2-15-1652;  
 20 (i) the board of county printing, created by  
 21 2-15-1102;  
 22 (j) the board of plumbers, created by 2-15-1655;  
 23 (k) board of physical therapy examiners, created by  
 24 2-15-1628.  
 25 (5) The following agency terminates on July 1, 1987:

1 the board of barbers, department of professional and  
 2 occupational licensing, created by 2-15-1625."

3 Section 3. Section 2-15-1625, MCA, is amended to read:  
 4 "2-15-1625. Board of barbers. (1) There is a board of  
 5 barbers.

6 (2) The board consists of ~~three members~~ two THREE  
 7 barbers and one public member who is not a barber appointed  
 8 by the governor. Each barber member shall be a practicing  
 9 barber who has been a barber in this state for at least 5  
 10 years immediately before his appointment.

11 (3) Each member shall serve for a term of 3 years. The  
 12 governor may remove a member for cause.

13 (4) The board is allocated to the department for  
 14 administrative purposes only as prescribed in 2-15-121."

15 Section 4. Section 37-30-101, MCA, is amended to read:

16 "37-30-101. Definitions -- practice of barbering. (1)  
 17 Unless the context requires otherwise, as used in this  
 18 chapter the following definitions apply:

19 (a) "Barbershop" means a place where a person carries  
 20 on, engages in, practices, or causes to be carried on,  
 21 engaged in, or practiced the business of barbering.

22 (b) "Board" means the board of barbers provided for in  
 23 2-15-1625.

24 (c) "Department" means the department of professional  
 25 and occupational licensing provided for in Title 2, chapter

1 15, part 16.

2 ~~(2) -- An "apprentice" under this chapter is a person~~  
 3 ~~who receives instruction in an approved barber school or~~  
 4 ~~college and from a barber authorized to practice barbering~~  
 5 ~~in this state.~~

6 (2) AN "APPRENTICE", UNDER THIS CHAPTER, IS A PERSON  
 7 WHO RECEIVES INSTRUCTION IN AN APPROVED BARBER SCHOOL OR  
 8 COLLEGE AND FROM A BARBER AUTHORIZED TO PRACTICE BARBERING  
 9 IN THIS STATE.

10 ~~(3) (3)~~ Any one or any combination of the following  
 11 practices, when done upon the human body for tonsorial  
 12 purposes and not for the treatment of disease or physical or  
 13 mental ailments and when done for payment, either directly  
 14 or indirectly, constitutes the practice of barbering:

15 (a) shaving or trimming the beard;

16 (b) cutting the hair;

17 (c) giving facial or scalp massage or treatment with  
 18 oils, creams, lotions, or other preparations, either by hand  
 19 or mechanical appliances;

20 (d) singeing or shampooing the hair or applying hair  
 21 tonic, or dyeing the hair of male persons;

22 (e) applying cosmetic preparations, antiseptics,  
 23 powders, oils, lotions to scalp, face, or neck.

24 ~~(3) (4)~~ The practice of cosmetology by a licensed  
 25 cosmetologist, including cutting the hair of any person,

1 does not constitute the practice of barbering."

2 Section 5. Section 37-30-203, MCA, is amended to read:

3 "37-30-203. Powers and duties of board and department  
4 -- conducting examinations -- rulemaking -- hiring of  
5 inspectors ---price--agreements. (1) The department shall,  
6 subject to 37-1-101, conduct practical examinations of  
7 applicants for-apprentice-cards-and FOR APPRENTICE CARDS AND  
8 for certificates of registration to practice as registered  
9 barbers not less than four times a year at times and places  
10 the board determines. The examinations shall cover the  
11 fundamentals of barbering, dermatology, and sanitation. The  
12 department shall issue apprentice-cards-and APPRENTICE CARDS  
13 AND certificates of registration.

14 (2) The board may adopt rules for the administration  
15 of this chapter.

16 (3) A person hired by the department to make an  
17 inspection of a barbershop, school, or college shall be  
18 recommended by the board. He shall receive \$30--per--day @  
19 salary plus travel expenses as provided for in 2-18-501  
20 through 2-18-503, as amended.

21 (4) ~~The board may approve price agreements~~  
22 ~~establishing minimum prices for barber work which are signed~~  
23 ~~and submitted to the board by an organized group or groups~~  
24 ~~of at least 75% of the barbers in a city or town if the~~  
25 ~~board, after ascertaining by investigations and proofs as~~

1 ~~the situation permits and requires, finds that the price~~  
2 ~~agreement is just and will best protect the public health~~  
3 ~~and safety by affording a sufficient minimum price for~~  
4 ~~barber work to enable the barbers to furnish modern and~~  
5 ~~healthful services and appliances to minimize the danger to~~  
6 ~~the public health incident to this work. Under this chapter,~~  
7 ~~a city or town includes the territory within its legal~~  
8 ~~limits and the territory adjacent to it and lying within 3~~  
9 ~~miles of its legal limits, in determining whether a price~~  
10 ~~agreement is just and will best protect the public health~~  
11 ~~and safety, the board shall consider all conditions~~  
12 ~~affecting the barber business in its relation to the public~~  
13 ~~health and safety.~~

14 (5) ~~In determining reasonable minimum prices, the~~  
15 ~~board shall consider the necessary cost incurred in the city~~  
16 ~~or town to maintain a barbershop in a clean, healthful, and~~  
17 ~~sanitary condition.~~

18 (6) ~~After making an investigation, the board shall by~~  
19 ~~order fix the minimum price for work usually performed in a~~  
20 ~~barbershop in the city or town in which the price agreement~~  
21 ~~has been signed. The board may, on the petition of 50% of~~  
22 ~~the barbers of the city or town, readjust the minimum~~  
23 ~~prices, and the new prices must be approved by 75% of the~~  
24 ~~barbers in the city or town.~~

25 (7) ~~This section does not apply to students who have~~

1 been enrolled less than 9 months in a barber college in this  
2 state or who are not apprentice barbers."

3 Section 6. Section 37-30-301, MCA, is amended to read:  
4 "37-30-301. Certificate required. A person may not  
5 practice or attempt to practice barbering or serve or  
6 attempt to serve as a barber apprentice unless he first  
7 receives from the department a certificate of registration."

8 Section 7. Section 37-30-302, MCA, is amended to read:  
9 "37-30-302. Barber school curriculum approval. An  
10 application for apprenticeship certificate of registration  
11 (1) A school or college of barbering may not be approved by  
12 the board unless it teaches the curriculum of the  
13 standardized schools approved by the national education  
14 council of barber examiners.

15 (2) Students of schools or colleges may, after  
16 attending the schools for a period of 9 months, make  
17 application to the department for an apprenticeship card to  
18 practice barbering under the immediate personal supervision  
19 of a licensed barber for the period of 1 year a certificate  
20 of registration."

21 Section 8. Section 37-30-303, MCA, is amended to read:  
22 "37-30-303. Apprenticeship required. An application  
23 Application examination (1) A person is qualified to  
24 receive a certificate of registration to practice barbering  
25 only by serving as an apprentice barber and successfully

1 passing an examination conducted by the department, subject  
2 to 37-1-101, to determine his fitness to practice barbering.  
3 (2) An apprentice applicant must file with the  
4 department an application setting forth the following  
5 information:

6 (a) full name and age of apprentice;  
7 (b) name and place of approved barber school;  
8 (c) dates of attendance at approved barber school;  
9 (d) whether the applicant received a certificate of  
10 graduation from an approved barber school; and  
11 (e) other information the board considers necessary.

12 (3) An apprentice applicant must successfully pass an  
13 apprentice examination conducted by the department, subject  
14 to 37-1-101, and pay to the department the required fees. The  
15 department shall then issue an apprentice barbering card  
16 which expires 2 years from the date of examination a  
17 certificate of registration."

18 Section 9. Section 37-30-306, MCA, is amended to read:  
19 "37-30-306. Communicable disease. A physician's  
20 certificate required. (1) A barber or barber apprentice may  
21 not receive a certificate of registration or renewal until  
22 he has presented to the board of barbers a physician's  
23 certificate showing him to be free of physical ailments that  
24 would tend to endanger the health of the public. A person  
25 practicing barbering without a certificate of registration

1 is guilty of a violation of this chapter.

2 (2) It is unlawful for a barber, barber apprentice or

3 student of barbering to practice the occupation of a barber

4 or do barber work while he has an infectious, contagious, or

5 communicable disease that would endanger the health of the

6 public.

7 (3) If a barber or barber apprentice after securing

8 his certificate contracts a communicable, infectious, or

9 contagious disease endangering the public health, the board

10 of barbers shall revoke or suspend his certificate of

11 registration until the board has satisfactory proof that the

12 barber or barber apprentice is no longer afflicted with the

13 communicable, infectious, or contagious disease."

14 Section 10, Section 37-30-307, MCA, is amended to

15 read:

16 "37-30-307. Fees-----handicapped persons exempt---

17 other fees prohibited.-(1) The fee to be paid by an

18 apprentice for an apprentice examination and an apprentice

19 card is \$25.

20 (2) (1) The fee to be paid by an applicant for an

21 examination to determine his fitness to receive a

22 certificate of registration to practice barbering is \$20 and

23 for the issuance of the certificate an additional \$10.

24 (3) (2) A person registered as a barber or barber

25 apprentice shall, before July 1 of each year, pay a license

1 fee, set by the board in an amount not to exceed \$15 and

2 based on clerical and administrative costs, for the renewal

3 of his certificate of registration. If a barber fails to

4 have the certificate renewed before July 1 of each year, the

5 barber shall, on renewal of the certificate of registration

6 pay a penalty of \$10 in addition to the regular renewal fee.

7 If a certificate of registration is not renewed within 1

8 year after the date of expiration, the barber is not

9 entitled to have the certificate of registration renewed or

10 a new certificate of registration issued without first

11 applying for and taking the examination and paying the fees

12 provided for in this section.

13 (4) (3) However, physically handicapped persons trained

14 for the barber profession by the department of social and

15 rehabilitation services and certified by that department as

16 having successfully completed a 9-month course in a

17 reputable barber college are not required to pay fees and

18 are for a period of 1 year immediately following their

19 training exempt from all except the sanitary provisions of

20 this chapter.

21 (5) (4) No other or additional license or fee may be

22 imposed on barbers or barber apprentices by a municipality

23 or other subdivision of this state."

24 Section 6. Section 37-30-403, MCA, is amended to read:

25 "37-30-403. Facilities required for licensure --

1 inspection. (1) Before a license is issued to conduct a  
2 barbershop, school, or college in this state, the  
3 barbershop, school, or college must be inspected by the  
4 department and approved by the board and shall meet the  
5 following requirements:

6 (a) It must have both hot and cold running water  
7 connected with the city water supply. In villages or towns  
8 where running water is not available, hot-water tanks shall  
9 have not less than a 2-gallon capacity with gravity  
10 pressure. Wastewater shall be disposed of through some  
11 system carrying it away from the building. This shall be  
12 done by sewer connections or in a manner meeting the  
13 requirements of the department of health and environmental  
14 sciences rules, city ordinances, and having the approval of  
15 the city or village board of health, as required by law.

16 (b) The headrest of a barber chair must be equipped so  
17 that each customer will be supplied with a clean, fresh  
18 paper or towel.

19 (c) It must have a closed cabinet for each chair, to  
20 keep instruments in when not in use, and must have proper  
21 sterilization equipment for immersing instruments before use  
22 on each customer.

23 (d) It must have a sufficient number of towels so that  
24 each customer will be served with a clean, laundered towel.

25 (e) It must be well-lighted, well-ventilated, and kept

1 in a clean, orderly, and sanitary condition at all times.

2 (f) It must pay to the department the required fee.

3 (2) Barbershops, barber schools, or colleges shall be  
4 open for inspection during business hours, to members of the  
5 department.

6 ~~(3) The board shall inspect annually each barbershop,~~  
7 ~~school, or college to determine compliance with statutory~~  
8 ~~requirements and board rules. The board may suspend or~~  
9 ~~revoke the license of any barbershop, school, or college~~  
10 ~~that violates statutory requirements or board rules.~~

11 ~~(4) The board may grant a temporary license to a~~  
12 ~~barbershop, school, or college until such time as the~~  
13 ~~initial inspection is completed.\*~~

14 Section 7. Section 37-30-404, MCA, is amended to read:

15 \*37-30-404. Barber schools -- operator -- license fee  
16 ---patrons. (1) A barber school or college operating in this  
17 state must have in charge a person who has had 10 years'  
18 continuous experience as a barber.

19 (2) The owner of the school or college shall first  
20 secure a permit to operate granted by the board and issued  
21 by the department, on payment of an annual license fee of  
22 \$50, and shall keep the permit prominently displayed.

23 (3) The owner shall, before commencing business, file  
24 with the secretary of state a bond to this state, which  
25 shall be approved by the attorney general, in the sum of



1 \$2,000, conditioned on the faithful compliance of the barber  
2 school or college with this chapter and the payment of  
3 judgments that may be obtained against the school, college,  
4 or owner on account of fraud, misrepresentation, or deceit  
5 practiced by them or by their agents.

6 ~~{4}--Barber--schools--or--barber--colleges--may--not--charge~~  
7 ~~patrons--for--barbering--services--and--materials--rendered.~~

8 {5}{4} All barber schools or colleges shall keep  
9 prominently displayed a substantial sign as a barber school  
10 or barber college.

11 {6}{5} On receiving students, all barber schools or  
12 colleges shall immediately apply to the department for  
13 student permits on blank forms prescribed by the board."

14 Section 8. Section 37-30-422, MCA, is amended to read:

15 "37-30-422. Maintenance of sanitary conditions.  
16 Barbershops, barber schools, and barber colleges shall be  
17 operated and maintained in a sanitary condition in order to  
18 preserve the public health and prevent the spread of  
19 disease. The board of barbers ~~and in consultation with~~ the  
20 department of health and environmental sciences may adopt  
21 rules to preserve the public health and prevent the spread  
22 of disease."

23 Section 9. Section 37-30-425, MCA, is amended to read:

24 "37-30-425. Refusal, suspension, or revocation of  
25 license. The board may, after notice and opportunity for a

1 hearing, either refuse to issue or renew or may suspend or  
2 revoke a barbershop or barber school or college license for  
3 any one or combination of the following causes:

4 (1) the violation of any of the provisions of  
5 37-30-308; 37-30-403, except subsection (1)(f); 37-30-412;  
6 37-30-413; and 37-30-421;

7 ~~{2}--conviction--of--a--felony--shown--by--a--certified--copy~~  
8 ~~of--the--record--of--the--court--of--conviction;~~

9 {3}{2} gross malpractice or gross incompetency;

10 {4}{3} continued practice by a person knowingly having  
11 an infectious or contagious disease;

12 {5}{4} advertising by means of knowingly false or  
13 deceptive statements;

14 {6}{5} advertising, practicing, or attempting to  
15 practice under a trade name other than one's own;

16 {7}{6} habitual drunkenness or addiction to the use of  
17 morphine, cocaine, or other habit-forming drugs;

18 {8}{7} the commission of any of the offenses described  
19 in 37-30-203."

20 NEW SECTION. Section 10. Admission of licensee from  
21 other state. The department may issue, at the board's  
22 discretion, a barber's license without examination to a  
23 person who holds a current license as a barber from another  
24 jurisdiction if the board finds that the standards for  
25 licensure in the other jurisdiction are at least

1 substantially equivalent to those prevailing in this state  
2 and that the applicant is otherwise qualified.

3 ~~Section 16, Repeater, Sections 37-38-304 and~~  
4 ~~37-38-305, MEA, are repealed.~~

5 Section 11. Codification instruction. Section ~~15~~ 10 is  
6 intended to be codified as an integral part of Title 37,  
7 chapter 6 30, and the provisions of Title 37, chapter 6 30,  
8 apply to section ~~15~~ 10.

9 Section 12. Effective date. This act is effective on  
10 passage and approval.

-End-

April 17 1981

FREE CONFERENCE COMMITTEE  
ON SENATE BILL NO. 452

(Report No. 1, April 16, 1981)

MR. PRESIDENT AND SPEAKER OF THE HOUSE:

We, your Free Conference Committee on Senate Bill No. 452, met April 16, 1981, and considered:

House Business and Industry Committee Amendments to the third reading copy, dated March 24, 1981, and recommend as follows:

That the Senate accede to Committee amendment nos. 1 through 11;

That Senate Bill No. 452 be further amended as specified in CLERICAL INSTRUCTION nos. 1 through 3;

That the reference copy of Senate Bill No. 452 read as specified in the CLERICAL INSTRUCTIONS;

And, that the Free Conference Committee Report to Senate Bill No. 452 be adopted.

CLERICAL INSTRUCTIONS:

1. Title, line 11.

Following: "REQUIREMENTS,"

Insert: "REDUCING APPRENTICESHIP TERM;"

2. Title, line 16.

Following: "37-30-307,"

Insert: "37-30-305,"

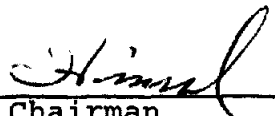
3. Page 14, following line 23.


Insert: "Section 6. Section 37-30-305, MCA, is amended to read:  
"37-30-305. Application for barber's certificate - examination  
On completion of ~~1-year~~ 3 months of apprenticeship under the  
immediate personal supervision of a licensed barber, an  
apprentice must apply to the department to take the exam-  
ination for a barber's certificate of registration. An  
apprentice may take the examination for a barber's  
certificate of registration as many as three times before  
expiration of the apprentice card. If an apprentice fails to  
pass the examination for a barber's certificate of  
registration three times, he shall surrender the apprentice  
card to the department and may not be authorized to do the  
acts which constitute the practice of barbering."

Renumber: subsequent sections.

SB 452  
FREE CONFERENCE COMMITTEE REPORT NO. 1  
Page 2

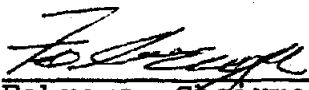
FOR THE SENATE:

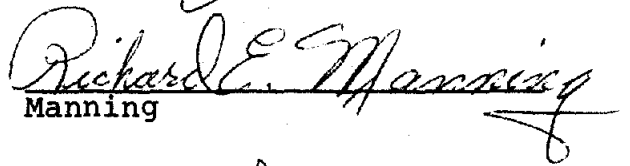
  
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Himsl, Chairman

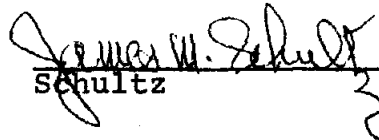
  
\_\_\_\_\_  
S. Brown

  
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Halligan

FOR THE HOUSE:

  
\_\_\_\_\_  
Fabrega, Chairman

  
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Manning

  
\_\_\_\_\_  
Schultz

## 1 SENATE BILL NO. 452

2 INTRODUCED BY HIMSL, S. BROWN

3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REESTABLISH THE  
6 BOARD OF BARBERS UNDER EXISTING STATUTORY AUTHORITY AND  
7 RULES; REVISING BOARD MAKEUP; EXEMPTING COSMETOLOGISTS FROM  
8 PROHIBITIONS UNDER BARBERING LAWS; GIVING THE BOARD  
9 AUTHORITY TO GRANT TEMPORARY LICENSES TO BARBERSHOPS;  
10 REQUIRING ANNUAL INSPECTIONS OF BARBERSHOPS; ELIMINATING  
11 ~~BARBER-APPRENTICESHIP-REQUIREMENTS;~~ REDUCING APPRENTICESHIP  
12 TERM; AUTHORIZING RECIPROCAL LICENSING; DELETING  
13 PRICE-SETTING PROVISIONS; DELETING CRIMINAL CONVICTION AS  
14 GROUNDS FOR DENIAL OR REVOCATION OF A LICENSE; AMENDING  
15 SECTIONS 2-8-103, 2-15-1625, 37-30-101, 37-30-203, ~~37-30-301~~  
16 ~~THROUGH---37-30-303,---37-30-306,---37-30-307,~~ 37-30-305,  
17 37-30-403, 37-30-404, 37-30-422, AND 37-30-425, MCA;  
18 ~~REPEALING--SECTIONS--37-30-304--AND--37-30-305,---MCA;~~ AND  
19 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

20  
21 WHEREAS, the sunset law, sections 2-8-103 and 2-8-112,  
22 MCA, terminates the Board of Barbers and requires a  
23 performance evaluation of the Board by the Legislative Audit  
24 Committee; and

25 WHEREAS, as a result of the performance evaluation, the

1 Legislative Audit Committee recommends that the Board of  
2 Barbers be reestablished under existing statutory authority.

3  
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

5 Section 1. Reestablishment. The board of barbers is  
6 reestablished for 6 years pursuant to 2-18-122 with its  
7 existing statutory authority and rules.

8 Section 2. Section 2-8-103, MCA, is amended to read:  
9 "2-8-103. Agencies to terminate. (1) The following  
10 agencies shall terminate on July 1, 1979:

11 (a) board of abstracters, department of professional  
12 and occupational licensing, created by 2-15-1643;

13 (b) board of real estate, department of professional  
14 and occupational licensing, created by 2-15-1642;

15 (c) state board of warm air heating, ventilation, and  
16 air conditioning, department of professional and  
17 occupational licensing, created by 2-15-1656;

18 (d) board of institutions, department of institutions,  
19 created by 2-15-2303.

20 (2) The following agencies shall terminate on July 1,  
21 1981:

22 (a) commission for human rights, department of labor  
23 and industry, created by 2-15-1706;

24 (b) board of athletics, department of professional and  
25 occupational licensing, created by 2-15-1661;

1 ~~(c) board of barbers, department of professional and~~  
2 ~~occupational licensing, created by 2-15-1625†~~

3 †~~(c)~~ board of chiropractors, department of  
4 professional and occupational licensing, created by  
5 2-15-1613;

6 †~~(d)~~ board of cosmetologists, department of  
7 professional and occupational licensing, created by  
8 2-15-1626;

9 †~~(e)~~ board of dentists, department of professional  
10 and occupational licensing, created by 2-15-1606;

11 †~~(f)~~ board of hearing aid dispensers, department of  
12 professional and occupational licensing, created by  
13 2-15-1616;

14 †~~(g)~~ board of massage therapists, department of  
15 professional and occupational licensing, created by  
16 2-15-1627;

17 †~~(h)~~ Montana state board of medical examiners,  
18 department of professional and occupational licensing,  
19 created by 2-15-1605;

20 †~~(i)~~ board of morticians, department of professional  
21 and occupational licensing, created by 2-15-1619;

22 †~~(j)~~ board of nursing, department of professional  
23 and occupational licensing, created by 2-15-1610;

24 †~~(k)~~ board of nursing home administrators,  
25 department of professional and occupational licensing,

1 created by 2-15-1611;

2 †~~(l)~~ board of optometrists, department of  
3 professional and occupational licensing, created by  
4 2-15-1612;

5 †~~(m)~~ board of osteopathic physicians, department of  
6 professional and occupational licensing, created by  
7 2-15-1607;

8 †~~(n)~~ board of pharmacists, department of  
9 professional and occupational licensing, created by  
10 2-15-1609;

11 †~~(o)~~ board of podiatry examiners, department of  
12 professional and occupational licensing, created by  
13 2-15-1608;

14 †~~(p)~~ board of psychologists, department of  
15 professional and occupational licensing, created by  
16 2-15-1617;

17 †~~(q)~~ board of radiologic technologists, department  
18 of professional and occupational licensing, created by  
19 2-15-1614;

20 †~~(r)~~ board of speech pathologists and audiologists,  
21 department of professional and occupational licensing,  
22 created by 2-15-1615;

23 †~~(s)~~ board of veterinarians, department of  
24 professional and occupational licensing, created by  
25 2-15-1618;

1       ~~(u)~~(t) board of veterans' affairs, department of  
2 social and rehabilitation services, created by 2-15-2202;

3       ~~(v)~~(u) board of sanitarians, department of  
4 professional and occupational licensing, created by  
5 2-15-1631.

6       (3) The following units of state government shall  
7 terminate on July 1, 1985:

8       (a) board of aeronautics, department of community  
9 affairs, created by 2-15-1103;

10       (b) state board of hail insurance, department of  
11 agriculture, created by 2-15-3003;

12       (c) board of horse racing, department of professional  
13 and occupational licensing, created by 2-15-1662;

14       (d) board of livestock, department of livestock,  
15 created by 2-15-3102;

16       (e) board of milk control, department of business  
17 regulation, created by 2-15-1802;

18       (f) board of oil and gas conservation, department of  
19 natural resources and conservation, created by 2-15-3303;

20       (g) Montana outfitters council, department of fish,  
21 wildlife, and parks, created by 2-15-3403;

22       (h) public service commission, department of public  
23 service regulation, created by 69-1-102;

24       (i) board of water and wastewater operators,  
25 department of health and environmental sciences, created by

1 2-15-2105;

2       (j) board of water well contractors, department of  
3 professional and occupational licensing, created by  
4 2-15-1632.

5       (4) The following agencies terminate on July 1, 1985:

6       (a) the board of public accountants, created by  
7 2-15-1641;

8       (b) the board of architects, created by 2-15-1651;

9       (c) state banking board, department of business  
10 regulation, created by 2-15-1803;

11       (d) the state electrical board, created by 2-15-1654;

12       (e) the board of professional engineers and land  
13 surveyors, created by 2-15-1653;

14       (f) office of commissioner of insurance and the  
15 insurance department, state auditor's office, created by  
16 2-15-1902 and 2-15-1903;

17       (g) office of the securities commissioner, state  
18 auditor's office, created by 2-15-1901;

19       (h) the board of landscape architects, created by  
20 2-15-1652;

21       (i) the board of county printing, created by  
22 2-15-1102;

23       (j) the board of plumbers, created by 2-15-1655;

24       (k) board of physical therapy examiners, created by  
25 2-15-1628.

1 (5) The following agency terminates on July 1, 1987:  
2 the board of barbers, department of professional and  
3 occupational licensing, created by 2-15-1625."

4 Section 3. Section 2-15-1625, MCA, is amended to read:  
5 "2-15-1625. Board of barbers. (1) There is a board of  
6 barbers.

7 (2) The board consists of ~~three--members~~ two ~~THREE~~  
8 barbers and one public member who is not a barber appointed  
9 by the governor. Each barber member shall be a practicing  
10 barber who has been a barber in this state for at least 5  
11 years immediately before his appointment.

12 (3) Each member shall serve for a term of 3 years. The  
13 governor may remove a member for cause.

14 (4) The board is allocated to the department for  
15 administrative purposes only as prescribed in 2-15-121."

16 Section 4. Section 37-30-101, MCA, is amended to read:  
17 "37-30-101. Definitions -- practice of barbering. (1)  
18 Unless the context requires otherwise, as used in this  
19 chapter the following definitions apply:

20 (a) "Barbershop" means a place where a person carries  
21 on, engages in, practices, or causes to be carried on,  
22 engaged in, or practiced the business of barbering.

23 (b) "Board" means the board of barbers provided for in  
24 2-15-1625.

25 (c) "Department" means the department of professional

1 and occupational licensing provided for in Title 2, chapter  
2 15, part 16.

3 ~~(2)--An--"apprentice"--under--this--chapter--is--a--person~~  
4 ~~who--receives--instruction--in--an--approved--barber--school--or~~  
5 ~~college--and--from--a--barber--authorized--to--practice--barbering~~  
6 ~~in--this--state.~~

7 (2) AN "APPRENTICE", UNDER THIS CHAPTER, IS A PERSON  
8 WHO RECEIVES INSTRUCTION IN AN APPROVED BARBER SCHOOL OR  
9 COLLEGE AND FROM A BARBER AUTHORIZED TO PRACTICE BARBERING  
10 IN THIS STATE.

11 ~~(3)(2)(3)~~ Any one or any combination of the following  
12 practices, when done upon the human body for tonsorial  
13 purposes and not for the treatment of disease or physical or  
14 mental ailments and when done for payment, either directly  
15 or indirectly, constitutes the practice of barbering:

- 16 (a) shaving or trimming the beard;
- 17 (b) cutting the hair;
- 18 (c) giving facial or scalp massage or treatment with  
19 oils, creams, lotions, or other preparations, either by hand  
20 or mechanical appliances;
- 21 (d) singeing or shampooing the hair or applying hair  
22 tonic, or dyeing the hair of male persons;
- 23 (e) applying cosmetic preparations, antiseptics,  
24 powders, oils, lotions to scalp, face, or neck.

25 ~~(3)(4)~~ The practice of cosmetology by a licensed



1 cosmetologist, including cutting the hair of any person,  
 2 does not constitute the practice of barbering."

3 Section 5. Section 37-30-203, MCA, is amended to read:

4 "37-30-203. Powers and duties of board and department  
 5 -- conducting examinations -- rulemaking -- hiring of  
 6 inspectors ---price-agreements. (1) The department shall,  
 7 subject to 37-1-101, conduct practical examinations of  
 8 applicants for ~~apprentice cards and~~ FOR APPRENTICE CARDS AND  
 9 for certificates of registration to practice as registered  
 10 barbers not less than four times a year at times and places  
 11 the board determines. The examinations shall cover the  
 12 fundamentals of barbering, dermatology, and sanitation. The  
 13 department shall issue ~~apprentice cards and~~ APPRENTICE CARDS  
 14 AND certificates of registration.

15 (2) The board may adopt rules for the administration  
 16 of this chapter.

17 (3) A person hired by the department to make an  
 18 inspection of a barbershop, school, or college shall be  
 19 recommended by the board. He shall receive \$30-per-day a  
 20 salary plus travel expenses as provided for in 2-18-501  
 21 through 2-18-503, as amended.

22 ~~(4) The board may approve price agreements~~  
 23 ~~establishing minimum prices for barber work which are signed~~  
 24 ~~and submitted to the board by an organized group or groups~~  
 25 ~~of at least 75% of the barbers in a city or town if the~~

1 board after ascertaining by investigations and proofs as  
 2 the situation permits and requires, finds that the price  
 3 agreement is just and will best protect the public health  
 4 and safety by affording a sufficient minimum price for  
 5 barber work to enable the barbers to furnish modern and  
 6 healthful services and appliances to minimize the danger to  
 7 the public health incident to this work. Under this chapter,  
 8 a city or town includes the territory within its legal  
 9 limits and the territory adjacent to it and lying within 3  
 10 miles of its legal limits in determining whether a price  
 11 agreement is just and will best protect the public health  
 12 and safety. The board shall consider all conditions  
 13 affecting the barber business in its relation to the public  
 14 health and safety.

15 (5) In determining reasonable minimum prices, the  
 16 board shall consider the necessary cost incurred in the city  
 17 or town to maintain a barbershop in a clean, healthful and  
 18 sanitary condition.

19 (6) After making an investigation, the board shall by  
 20 order fix the minimum price for work usually performed in a  
 21 barbershop in the city or town in which the price agreement  
 22 has been signed. The board may, on the petition of 50% of  
 23 the barbers of the city or town, readjust the minimum  
 24 prices and the new prices must be approved by 75% of the  
 25 barbers in the city or town.

1 (7) This section does not apply to students who have  
2 been enrolled less than 9 months in a barber college in this  
3 state or who are not apprentice barbers."

4 Section 6 Section 37-30-301, MCA, is amended to read  
5 "37-30-301 Certificate required. A person may not  
6 practice or attempt to practice barbering or serve or  
7 attempt to serve as a barber apprentice unless he first  
8 receives from the department a certificate of registration."

9 Section 7 Section 37-30-302, MCA, is amended to read  
10 "37-30-302 Barber school curriculum approval. An  
11 application for apprenticeship certificate of registration  
12 (1) A school or college of barbering may not be approved by  
13 the board unless it teaches the curriculum of the  
14 standardized schools approved by the national education  
15 council of barber examiners.

16 (2) Students of schools or colleges may, after  
17 attending the schools for a period of 9 months, make  
18 application to the department for an apprenticeship card to  
19 practice barbering under the immediate personal supervision  
20 of a licensed barber for the period of 1 year a certificate  
21 of registration."

22 Section 8 Section 37-30-303, MCA, is amended to read  
23 "37-30-303 Apprenticeship required. An application  
24 Application examination (1) A person is qualified to  
25 receive a certificate of registration to practice barbering

1 only by serving as an apprentice barber and successfully  
2 passing an examination conducted by the department, subject  
3 to 37-1-101, to determine his fitness to practice barbering.

4 (2) An apprentice applicant must file with the  
5 department an application setting forth the following  
6 information:

- 7 (a) full name and age of apprentice;
- 8 (b) name and place of approved barber school;
- 9 (c) dates of attendance at approved barber school;
- 10 (d) whether the applicant received a certificate of  
11 graduation from an approved barber school; and
- 12 (e) other information the board considers necessary.

13 (3) An apprentice applicant must successfully pass an  
14 apprentice examination conducted by the department, subject  
15 to 37-1-101, and pay to the department the required fee. The  
16 department shall then issue an apprentice barbering card  
17 which expires 2 years from the date of examination a  
18 certificate of registration."

19 Section 9 Section 37-30-306, MCA, is amended to read  
20 "37-30-306 Communicable disease. A physician's  
21 certificate required (1) A barber or barber apprentice may  
22 not receive a certificate of registration or renewal until  
23 he has presented to the board of barbers a physician's  
24 certificate showing him to be free of physical ailments that  
25 would tend to endanger the health of the public. A person

1 practicing barbering without a certificate of registration  
2 is guilty of a violation of this chapter.

3 (2) It is unlawful for a barber, barber apprentice, or  
4 student of barbering to practice the occupation of a barber  
5 or do barber work while he has an infectious, contagious, or  
6 communicable disease that would endanger the health of the  
7 public.

8 (3) If a barber or barber apprentice, after securing  
9 his certificate, contracts a communicable, infectious, or  
10 contagious disease endangering the public health, the board  
11 of barbers shall revoke or suspend his certificate of  
12 registration until the board has satisfactory proof that the  
13 barber or barber apprentice is no longer afflicted with the  
14 communicable, infectious, or contagious disease."

15 Section 10, Section 37-30-307, MCA, is amended to  
16 read:

17 "37-30-307. Fees --- handicapped persons exempt ---  
18 other fees prohibited --- (1) The fee to be paid by an  
19 apprentice for an apprentice examination and an apprentice  
20 card is \$25.

21 (2) (1) The fee to be paid by an applicant for an  
22 examination to determine his fitness to receive a  
23 certificate of registration to practice barbering is \$20 and  
24 for the issuance of the certificate an additional \$10.

25 (3) (2) A person registered as a barber or barber

1 apprentice shall, before July 1 of each year, pay a license  
2 fee set by the board in an amount not to exceed \$15 and  
3 based on clerical and administrative costs, for the renewal  
4 of his certificate of registration. If a barber fails to  
5 have the certificate renewed before July 1 of each year, the  
6 barber shall, on renewal of the certificate of registration,  
7 pay a penalty of \$10 in addition to the regular renewal fee  
8 if a certificate of registration is not renewed within 1  
9 year after the date of expiration, the barber is not  
10 entitled to have the certificate of registration renewed or  
11 a new certificate of registration issued without first  
12 applying for and taking the examination and paying the fees  
13 provided for in this section.

14 (4) (3) However, physically handicapped persons trained  
15 for the barber profession by the department of social and  
16 rehabilitation services and certified by that department as  
17 having successfully completed a 9-month course in a  
18 reputable barber college are not required to pay fees and  
19 are for a period of 1 year immediately following their  
20 training exempt from all except the sanitary provisions of  
21 this chapter.

22 (5) (4) No other or additional license or fee may be  
23 imposed on barbers or barber apprentices by a municipality  
24 or other subdivision of this state."

25 SECTION 6. SECTION 37-30-305, MCA, IS AMENDED TO READ:

1 "37-30-305. Application for barber's certificate -  
 2 examination. On completion of ~~1-year~~ 3 months of  
 3 apprenticeship under the immediate personal supervision of a  
 4 licensed barber, an apprentice must apply to the department  
 5 to take the examination for a barber's certificate of  
 6 registration. An apprentice may take the examination for a  
 7 barber's certificate of registration as many as three times  
 8 before expiration of the apprentice card. If an apprentice  
 9 fails to pass the examination for a barber's certificate of  
 10 registration three times, he shall surrender the apprentice  
 11 card to the department and may not be authorized to do the  
 12 acts which constitute the practice of barbering."

13 Section 7. Section 37-30-403, MCA, is amended to read:

14 "37-30-403. Facilities required for licensure --  
 15 inspection. (1) Before a license is issued to conduct a  
 16 barbershop, school, or college in this state, the  
 17 barbershop, school, or college must be inspected by the  
 18 department and approved by the board and shall meet the  
 19 following requirements:

20 (a) It must have both hot and cold running water  
 21 connected with the city water supply. In villages or towns  
 22 where running water is not available, hot-water tanks shall  
 23 have not less than a 2-gallon capacity with gravity  
 24 pressure. Wastewater shall be disposed of through some  
 25 system carrying it away from the building. This shall be

1 done by sewer connections or in a manner meeting the  
 2 requirements of the department of health and environmental  
 3 sciences rules, city ordinances, and having the approval of  
 4 the city or village board of health, as required by law.

5 (b) The headrest of a barber chair must be equipped so  
 6 that each customer will be supplied with a clean, fresh  
 7 paper or towel.

8 (c) It must have a closed cabinet for each chair, to  
 9 keep instruments in when not in use, and must have proper  
 10 sterilization equipment for immersing instruments before use  
 11 on each customer.

12 (d) It must have a sufficient number of towels so that  
 13 each customer will be served with a clean, laundered towel.

14 (e) It must be well-lighted, well-ventilated, and kept  
 15 in a clean, orderly, and sanitary condition at all times.

16 (f) It must pay to the department the required fee.

17 (2) Barbershops, barber schools, or colleges shall be  
 18 open for inspection during business hours, to members of the  
 19 department.

20 (3) The board shall inspect annually each barbershop,  
 21 school, or college to determine compliance with statutory  
 22 requirements and board rules. The board may suspend or  
 23 revoke the license of any barbershop, school, or college  
 24 that violates statutory requirements or board rules.

25 (4) The board may grant a temporary license to a

1 ~~barbershop, school, or college until such time as the~~  
2 ~~initial inspection is completed."~~

3 Section 8. Section 37-30-404, MCA, is amended to read:

4 "37-30-404. Barber schools -- operator -- license fee  
5 ---patrons. (1) A barber school or college operating in this  
6 state must have in charge a person who has had 10 years'  
7 continuous experience as a barber.

8 (2) The owner of the school or college shall first  
9 secure a permit to operate granted by the board and issued  
10 by the department, on payment of an annual license fee of  
11 \$50, and shall keep the permit prominently displayed.

12 (3) The owner shall, before commencing business, file  
13 with the secretary of state a bond to this state, which  
14 shall be approved by the attorney general, in the sum of  
15 \$2,000, conditioned on the faithful compliance of the barber  
16 school or college with this chapter and the payment of  
17 judgments that may be obtained against the school, college,  
18 or owner on account of fraud, misrepresentation, or deceit  
19 practiced by them or by their agents.

20 ~~(4) -- Barber schools or barber colleges may not charge~~  
21 ~~patrons for barbering services and materials rendered.~~

22 (5) (4) All barber schools or colleges shall keep  
23 prominently displayed a substantial sign as a barber school  
24 or barber college.

25 (6) (5) On receiving students, all barber schools or

1 colleges shall immediately apply to the department for  
2 student permits on blank forms prescribed by the board."

3 Section 9. Section 37-30-422, MCA, is amended to read:

4 "37-30-422. Maintenance of sanitary conditions.  
5 Barbershops, barber schools, and barber colleges shall be  
6 operated and maintained in a sanitary condition in order to  
7 preserve the public health and prevent the spread of  
8 disease. The board of barbers and in consultation with the  
9 department of health and environmental sciences may adopt  
10 rules to preserve the public health and prevent the spread  
11 of disease."

12 Section 10. Section 37-30-425, MCA, is amended to  
13 read:

14 "37-30-425. Refusal, suspension, or revocation of  
15 license. The board may, after notice and opportunity for a  
16 hearing, either refuse to issue or renew or may suspend or  
17 revoke a barbershop or barber school or college license for  
18 any one or combination of the following causes:

19 (1) the violation of any of the provisions of  
20 37-30-308; 37-30-403, except subsection (1)(f); 37-30-412;  
21 37-30-413; and 37-30-421;

22 ~~(2) -- conviction of a felony shown by a certified copy~~  
23 ~~of the record of the court of conviction;~~

24 (3) (2) gross malpractice or gross incompetency;

25 (4) (3) continued practice by a person knowingly having

1 an infectious or contagious disease;

2 ~~†5†~~(4) advertising by means of knowingly false or  
3 deceptive statements;

4 ~~†6†~~(5) advertising, practicing, or attempting to  
5 practice under a trade name other than one's own;

6 ~~†7†~~(6) habitual drunkenness or addiction to the use of  
7 morphine, cocaine, or other habit-forming drugs;

8 ~~†8†~~(7) the commission of any of the offenses described  
9 in 37-30-203."

10 NEW SECTION. Section 11. Admission of licensee from  
11 other state. The department may issue, at the board's  
12 discretion, a barber's license without examination to a  
13 person who holds a current license as a barber from another  
14 jurisdiction if the board finds that the standards for  
15 licensure in the other jurisdiction are at least  
16 substantially equivalent to those prevailing in this state  
17 and that the applicant is otherwise qualified.

18 ~~Section 16. Repeater. Sections 37-30-304 and~~  
19 ~~37-30-305, MGA, are repealed.~~

20 Section 12. Codification instruction. Section ~~†5~~ †10 †11  
21 is intended to be codified as an integral part of Title 37,  
22 chapter 6 †30, and the provisions of Title 37, chapter 6 †30,  
23 apply to section ~~†5~~ †10.

24 Section 13. Effective date. This act is effective on  
25 passage and approval.

March 24, 1981

HOUSE BUSINESS AND INDUSTRY COMMITTEE amendments to SENATE BILL 452 in the third reading copy are as follows:

1. Title, lines 10 and 11.

Following: "BARBERSHOPS;" on line 10

Strike: the remainder of line 10 through "REQUIREMENTS;" on line 11

2. Title, lines 15 and 16.

Following: "37-30-203," on line 15

Strike: the remainder of line 15 through "37-30-307," on line 16

3. Title, line 17.

Following: "MCA;"

Strike: "REPEALING SECTIONS 37-30-304 AND 37-30-305, MCA;"

4. Page 7, lines 6 and 7.

Following: "~~members~~" on line 6

Strike: "~~two~~"

Insert: "three"

5. Page 8, following line 5.

Insert: "(2) An "apprentice", under this chapter, is a person who receives instruction in an approved barber school or college and from a barber authorized to practice barbering in this state."

Renumber: subsequent subsections

6. Page 9, line 3.

Following: "and"

Insert: "for apprentice cards and"

7. Page 9, line 8.

Following: "and"

Insert: "apprentice cards and"

8. Page 10, line 24 through page 14, line 18.

Strike: Sections 6, 7, 8, 9, and 10 in their entirety

Renumber: subsequent sections

9. Page 19, lines 2 and 3.

Strike: Section 16 in its entirety

Renumber: subsequent sections

10. Page 19, line 4.

Following: "instruction. Section"

Strike: "15"

Insert: "10"

11. Page 19, line 7.

Following: "section"

Strike: "15"

Insert: "10"

BE CONCURRED IN AS AMENDED