

HOUSE BILL NO. 563

INTRODUCED BY MILLER

BY REQUEST OF THE BOARD OF COSMETOLOGISTS

IN THE HOUSE

January 30, 1985	Introduced and referred to Committee on Business and Labor.
February 21, 1985	Committee recommend bill do pass. Report adopted.  Statement of Intent attached.  Bill printed and placed on members' desks.
February 22, 1985	Second reading, do pass.  Considered correctly engrossed.
February 23, 1985	Third reading, passed.  Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Public Health, Welfare and Safety.
March 19, 1985	Committee recommend bill be concurrred in as amended. Report adopted.
March 22, 1985	Second reading, concurred in.

March 25, 1985

Third reading, concurred in.  
Ayes, 45; Noes, 4.

Returned to House with  
amendments.

IN THE HOUSE

March 26, 1985

Received from Senate.

April 8, 1985

Second reading, amendments  
concurred in.

On motion, rules suspended and  
bill placed on third reading  
this day.

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1                    HOUSE BILL NO. 563  
 2 INTRODUCTION BY M.L.L.  
 3 BY REQUEST OF THE BOARD OF COSMETOLOGISTS  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 LAWS RELATING TO COSMETOLOGY; PROVIDING FOR THE LICENSURE  
 7 AND REGULATION OF MANICURISTS, MANICURING SHOPS, AND SCHOOLS  
 8 OF MANICURING; AMENDING SECTIONS 37-31-101, 37-31-203,  
 9 37-31-301 THROUGH 37-31-305, 37-31-308, 37-31-311,  
 10 37-31-312, 37-31-322, AND 37-31-331, MCA; AND PROVIDING A  
 11 DELAYED EFFECTIVE DATE."  
 12

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

14 Section 1. Section 37-31-101, MCA, is amended to read:  
 15 "37-31-101. Definitions. Unless the context requires  
 16 otherwise, in this chapter the following definitions apply:

17 (1) "Practice and teaching of cosmetology" includes  
 18 work generally and usually included in the terms  
 19 "hairdressing", "manicuring", and "beauty culture" and  
 20 performed in so-called hairdressing and beauty shops or by  
 21 itinerant cosmetologists, which work is done for the  
 22 embellishment, cleanliness, and beautification of the hair,  
 23 scalp, face, arms, feet, or hands. The practice and teaching  
 24 of cosmetology shall not be construed to include:

25 (a) itinerant cosmetologists who perform their

1 services without compensation for demonstration purposes in  
 2 any regularly established store or place of business holding  
 3 a license from the state of Montana as such store or place  
 4 of business; or

5 (b) cosmetological artists who demonstrate  
 6 cosmetological skills under the auspices of the state  
 7 association of cosmetology or its affiliated units, whether  
 8 at meetings or in licensed cosmetological establishments.

9 (2) "Cosmetological establishment" means premises,  
 10 building, or part of a building in which is practiced a  
 11 branch or combination of branches of cosmetology or the  
 12 occupation of a hairdresser and cosmetician or cosmetologist  
 13 and which must have a manager-operator in charge.

14 (3) "Board" means the board of cosmetologists provided  
 15 for in 2-15-1857.

16 (4) "Department" means the department of commerce  
 17 provided for in Title 2, chapter 15, part 18.

18 (5) "Manicuring" includes nail care of the hands and  
 19 feet and the application and maintenance of artificial  
 20 nails.

21 (6) "Manicuring shop" means premises, a building, or  
 22 part of a building in which the art of manicuring is  
 23 practiced."

24 Section 2. Section 37-31-203, MCA, is amended to read:  
 25 "37-31-203. Rulemaking powers. The board shall

1 prescribe rules for:

- 2 (1) the conduct of its business;
- 3 (2) the qualification, examination, and registration
- 4 of applicants to practice cosmetology or manicuring or to
- 5 teach cosmetology;
- 6 (3) the qualification and registration of applicants
- 7 for manager-operator licenses;
- 8 (4) the regulation and instruction of apprentices and
- 9 students;
- 10 (5) the conduct of schools of cosmetology and schools
- 11 of manicuring for apprentices and students; and
- 12 (6) generally the conduct of the persons, firms, or
- 13 corporations affected by this chapter."

14 Section 3. Section 37-31-301, MCA, is amended to read:

15 "37-31-301. Prohibited acts. (1) Without an  
16 appropriate license issued under this chapter, it shall be  
17 unlawful to:

- 18 (a) practice cosmetology for compensation;
- 19 (b) own, manage, operate, or conduct a school of
- 20 cosmetology or school of manicuring;
- 21 (c) manage or operate a cosmetology shop, manicuring
- 22 shop, or beauty parlor;
- 23 (d) teach in a school of cosmetology or school of
- 24 manicuring;
- 25 (e) practice manicuring for compensation;

1 (f) practice as a finger waver.

2 (2) It is unlawful:

- 3 (a) for any person who owns, manages, or controls a
- 4 cosmetology shop to employ or use an unlicensed person as a
- 5 cosmetologist or manicurist;
- 6 (b) to operate a cosmetology school without complying
- 7 with all of the regulations of 37-31-311;
- 8 (c) to practice cosmetology in any place other than in
- 9 a licensed establishment as provided in this chapter, except
- 10 when a licensed operator is requested by a customer to go to
- 11 a place other than a licensed establishment and is sent to
- 12 such customer from a licensed establishment;
- 13 (d) for any person who owns, manages, or controls a
- 14 manicuring shop to employ or use an unlicensed person as a
- 15 manicurist;
- 16 (e) to operate a manicuring school without complying
- 17 with 37-31-311;
- 18 ~~(d)~~(f) to violate any of the provisions of this
- 19 chapter."

20 Section 4. Section 37-31-302, MCA, is amended to read:

21 "37-31-302. License required to practice, teach, or  
22 operate shop or school. (1) No person may practice or teach  
23 cosmetology or practice or teach manicuring without a  
24 license.

25 (2) No place may be used or maintained for the

1 teaching of cosmetology or manicuring for compensation  
2 except under a certificate of registration.

3 (3) No person may operate, or manage,--or--conduct a  
4 beauty shop or school-and-teach-the-art a manicuring shop or  
5 practice cosmetology or manicuring without a  
6 manager-operator license.

7 (4) No person may operate or conduct a school of  
8 cosmetology or a school of manicuring and teach the art of  
9 cosmetology or manicuring without a license to teach  
10 cosmetology.

11 ~~(4)~~(5) A person, firm, partnership, or corporation  
12 desiring to operate a cosmetological establishment shall  
13 make an application to the department for a certificate of  
14 registration and license. The application shall be  
15 accompanied by the annual registration fee.

16 ~~(5)~~(6) No license may be issued until the inspection  
17 fees required in 37-31-312 have been paid."

18 Section 5. Section 37-31-303, MCA, is amended to read:

19 "37-31-303. Application for license to practice or  
20 teach. ~~The~~ An applicant for a license to practice or teach  
21 cosmetology or for a license to practice manicuring must  
22 qualify by filing an application prescribed by the board and  
23 by taking and passing the examination prescribed by the  
24 board and given by the department, subject to 37-1-101. The  
25 license must be renewed annually under 37-31-322."

1 Section 6. Section 37-31-304, MCA, is amended to read:

2 "37-31-304. Qualifications of applicants for license  
3 to practice. (1) ~~Before one a person~~ may practice ~~or--teach~~  
4 cosmetology ~~or--a person, firm, partnership, or corporation~~  
5 ~~may operate a--school--of--cosmetology,--the--person,--firm,~~  
6 ~~partnership,--or--corporation,~~ he must obtain a license or  
7 ~~certificate-of-registration to practice cosmetology~~ from the  
8 department. Before a person may practice manicuring, he must  
9 obtain a license to practice manicuring from the department  
10 unless he is licensed to practice cosmetology.

11 (2) (a) To be eligible to take the examination to  
12 practice cosmetology, the applicant must be not less than 18  
13 years of age, a graduate of the 8th grade, and of good moral  
14 character. The applicant must have completed a continuous  
15 course of study of at least 2,000 hours in a registered  
16 beauty school, which course of study has been distributed  
17 over a period of not less than 10 months or more than 14  
18 months, and must have received a diploma from the beauty  
19 school or must have completed the course of study in  
20 cosmetology prescribed by the board of public education.

21 ~~(3)~~(b) ~~The~~ A person qualified under subsection (2)(a)  
22 must file with the department a written application to take  
23 the examination, accompanied by a health certificate issued  
24 by a registered, licensed physician on a form supplied by  
25 the department, and shall deposit with the department the

1 required examination fee and pass an examination as to his  
2 fitness to practice cosmetology.

3 (3) (a) To be eligible to take the examination to  
4 practice manicuring, an applicant must be not less than 18  
5 years of age, be of good moral character, possess a high  
6 school diploma, an equivalent of a high school diploma  
7 recognized by the superintendent of public instruction, or a  
8 certificate of completion from a postsecondary  
9 vocational-technical center program, and have completed a  
10 course of study prescribed by the board in a registered  
11 school of cosmetology or a registered school of manicuring.

12 (b) A person qualified under subsection (3)(a) must  
13 file with the department a written application to take the  
14 examination and deposit with the department the required  
15 examination fee."

16 Section 7. Section 37-31-305, MCA, is amended to read:

17 "37-31-305. Qualifications of applicants for license  
18 to teach. (1) Before an--applicant a person may teach  
19 manicuring to persons seeking only to be licensed to  
20 practice manicuring or teach cosmetology, he must obtain  
21 from the department a license to teach cosmetology.

22 (2) To be eligible to take an examination to obtain a  
23 license as-a-teacher-of to teach cosmetology, he a person  
24 must:

25 ††(a) be a graduate of high school or possess an

1 equivalent of a high school diploma recognized by the  
2 superintendent of public instruction; and

3 †2(b) †a(i) have a license to practice cosmetology  
4 issued by the department, been actively engaged as a beauty  
5 operator for 1 continuous year immediately prior to taking  
6 the examination, and have received a diploma from a  
7 registered school of cosmetology approved by the board,  
8 certifying satisfactory completion of 500 hours of student  
9 teacher training; or

10 †b(ii) have been actively engaged as a beauty operator  
11 for 3 continuous years immediately prior to taking the  
12 teachers' examination."

13 Section 8. Section 37-31-308, MCA, is amended to read:

14 "37-31-308. Examination -- reexamination -- exemption  
15 for handicapped persons. (1) Examinations for a license to  
16 practice cosmetology or manicuring or to teach cosmetology  
17 shall be held at a--place-and-time places and times  
18 by the board at--least-two-times-a-year-and-not-more-than  
19 five-times-a-year-and-for-teacher's-license-once-each--year.  
20 The examinations shall be conducted by the department,  
21 subject to 37-1-101. The examinations may not be confined  
22 to a specific method or system.

23 (2) Anyone failing twice to pass an examination for a  
24 license to practice cosmetology may not apply to retake the  
25 examination:

1 (a) sooner than 6 months after the date of the second  
2 failure; or

3 (b) until he has taken 200 hours additional teacher  
4 training at a registered school of cosmetology approved by  
5 the board.

6 (3) Anyone failing twice to pass the examination for a  
7 license to practice manicuring must meet the additional  
8 requirements prescribed by the board before applying to  
9 retake the examination.

10 (4) Anyone failing twice to pass the examination for a  
11 license to teach cosmetology must wait 1 year before  
12 reapplying to take the examination. Upon reapplying, the  
13 applicant must provide certification of completion of 500  
14 hours of teacher training during that year in a registered  
15 school licensed as a teacher training unit.

16 ~~(3)~~(5) Physically handicapped persons trained for  
17 cosmetology or manicuring by the department of social and  
18 rehabilitation services shall, for a period of 1 year  
19 immediately following their graduation, be exempt from the  
20 examination and the fees described in 37-31-323. On  
21 certification from the department of social and  
22 rehabilitation services that a department of social and  
23 rehabilitation services beneficiary has successfully  
24 completed the required apprenticeship-or training in a shop  
25 or beauty school or manicuring school, the department shall

1 issue the person the necessary certificate or license to  
2 practice the profession in this state."

3 Section 9. Section 37-31-311, MCA, is amended to read:

4 "37-31-311. ~~School~~----of----cosmetology Schools --  
5 certificate of registration -- requirements -- bond --  
6 curriculum. (1) No person, firm, partnership, or corporation  
7 may operate a school for the purpose of teaching cosmetology  
8 for compensation or for the purpose of teaching manicuring  
9 for compensation unless a certificate of registration has  
10 been first obtained from the department. Application for  
11 the certificate shall be filed with the department on a form  
12 prescribed by the board.

13 (2) No school for teaching cosmetology may be granted  
14 a certificate of registration unless it complies or can  
15 comply with the following requirements:

16 (a) It shall have in its employ a licensed teacher who  
17 is at all times in the immediate supervision of the work of  
18 the school, or other teachers the board determines are  
19 necessary for the proper conduct of the school. There may  
20 not be more than 25 students to each teacher.

21 (b) It shall possess apparatus and equipment the board  
22 determines is necessary for the ready and full teaching of  
23 all subjects or practices of cosmetology.

24 (c) It shall maintain a school term of not less than  
25 2,000 hours and shall prescribe a course of practical

1 training and technical instruction equal to the requirements  
2 for board examinations, which course of training and  
3 technical instruction shall be prescribed by the board.

4 (d) It shall keep a daily record of the attendance of  
5 each student, establish grades, and hold examinations before  
6 issuing diplomas.

7 (e) No owner or person in charge of a school of  
8 cosmetology may permit a person to sleep in or use for  
9 residential purposes, or any other purpose which would tend  
10 to make the room unsanitary, a room used wholly or in part  
11 for a school of cosmetology.

12 (3) No school for teaching manicuring may be granted a  
13 certificate of registration unless it complies with  
14 subsections (2)(a) and (2)(d) and the following  
15 requirements:

16 (a) It must possess apparatus and equipment the board  
17 determines necessary for the ready and full teaching of all  
18 subjects or practices of manicuring.

19 (b) It must maintain a school term and a course of  
20 practical training and technical instruction as prescribed  
21 by the board.

22 (c) No owner or person in charge of a school of  
23 manicuring may permit a person to sleep in or use for  
24 residential purposes, or any other purpose that would tend  
25 to make the room unsanitary, a room used wholly or in part

1 for a school of manicuring.

2 (3)(4) Licenses or certificates of registration for  
3 schools of cosmetology and schools of manicuring may be  
4 refused, revoked, or suspended, as provided in 37-31-331.

5 (4)(5) No teacher or student teacher may be permitted  
6 to practice cosmetology or manicuring on the public in a  
7 school of cosmetology or a school of manicuring. A school  
8 that enrolls student teachers for a course of student  
9 teacher training may not have, at any one time, more than  
10 one student teacher for each full-time licensed teacher  
11 actively engaged at the school. The student teachers may not  
12 substitute for full-time teachers.

13 (5)(6) The board may make further rules necessary for  
14 the proper conduct of schools of cosmetology and schools of  
15 manicuring.

16 (6)(7) The board shall require the person, firm,  
17 partnership, or corporation operating a school of  
18 cosmetology or a school of manicuring to furnish a good and  
19 sufficient bond in the amount of \$5,000 and in a form and  
20 manner prescribed by the board.

21 (7)(8) No professional beauty shop or manicuring shop  
22 may be operated in connection with a school of cosmetology  
23 or school of manicuring.

24 (8)(9) The board may, by rule, establish a suitable  
25 curriculum for teachers' training in registered schools of



1 cosmetology."

2 Section 10. Section 37-31-312, MCA, is amended to  
3 read:

4 "37-31-312. Inspection. (1) The department shall  
5 appoint one or more inspectors ~~who are licensed to practice~~  
6 ~~under this chapter~~, each of whom shall devote his time to  
7 inspecting beauty parlors and performing other duties as the  
8 department may direct. The inspectors may enter a beauty  
9 parlor, manicuring shop, or school of cosmetology, or school  
10 of manicuring during business hours for the purpose of  
11 inspection, and the refusal of a licensee to permit the  
12 inspection during business hours is cause for revocation of  
13 the license.

14 (2) Upon application for a license, any cosmetological  
15 establishment or manicuring shop must pay an initial  
16 inspection fee prescribed by the board.

17 (3) The board may authorize the department to grant to  
18 a cosmetological establishment or manicuring shop, upon  
19 payment of the initial inspection fee, a temporary permit  
20 authorizing the cosmetological establishment or manicuring  
21 shop to operate for a period of not to exceed 90 days or  
22 until the inspector is able to make the inspection,  
23 whichever event occurs first. This temporary permit is not  
24 renewable.

25 (4) The board shall conduct an annual inspection of

1 each cosmetology cosmetological establishment and manicuring  
2 shop in the state."

3 Section 11. Section 37-31-322, MCA, is amended to  
4 read:

5 "37-31-322. Renewal -- continuing education --  
6 delinquency fee. (1) Licenses and certificates may be issued  
7 for no longer than 1 year unless otherwise provided by rule.  
8 Licenses and certificates expire on December 31 unless  
9 otherwise provided by rule or renewed for the next year or  
10 renewal period. Licenses and certificates may be renewed by  
11 application made prior to December 31 of each year, unless  
12 otherwise provided, and the payment of a required renewal  
13 fee. Expired licenses and certificates may be renewed under  
14 rules made by the board, but the right to renew an expired  
15 license or certificate terminates after 10 years of  
16 nonpayment. The board may provide by rule for a change in  
17 the renewal date and renewal period for the manager-operator  
18 and salon owner category. The renewal fee may not exceed  
19 twice the fee for a 2-year renewal or three times the fee  
20 for a 3-year renewal and shall be as set by the board.

21 (2) In addition to the foregoing requirements for  
22 renewal, persons applying for the renewal of ~~teachers'~~  
23 licenses to teach cosmetology must have fulfilled the  
24 following additional requirements:

25 (a) During each year, an active teacher, either

1 full-time or part-time, must have successfully completed 30  
2 hours' professional teacher training at a school approved by  
3 the board.

4 (b) A person holding a teacher's license to teach  
5 cosmetology but not actively engaged either full-time or  
6 part-time in teaching cosmetology or manicuring during the  
7 preceding year may renew the license by paying the required  
8 fee. A person holding a teacher's license to teach  
9 cosmetology but not actively engaged in teaching cosmetology  
10 or manicuring either full-time or part-time for the  
11 preceding year or longer and wishing to resume active  
12 teaching of cosmetology or manicuring must successfully  
13 complete 30 hours' professional teacher training at a school  
14 approved by the board before resuming active teaching.  
15 However, the foregoing provisions do not prevent the board,  
16 under rules it adopts, from permitting a person holding a  
17 teacher's license to teach cosmetology and not actively  
18 engaged either full-time or part-time in teaching  
19 cosmetology or manicuring from teaching as a substitute for  
20 an active teacher.

21 (3) A fee prescribed by the board shall be charged, in  
22 addition to other fees fixed by law, for renewal  
23 applications of licenses and certificates made after  
24 December 31 of each year or other predetermined renewal  
25 deadline. The department shall notify license and

1 certificate holders of the expiration date of licenses and  
2 certificates not less than 30 days before the expiration  
3 date and call attention to the penalty imposed for failure  
4 to renew a license or certificate by the date of  
5 expiration."

6 Section 12. Section 37-31-331, MCA, is amended to  
7 read:

8 "37-31-331. Refusal, revocation, or suspension of  
9 licenses -- grounds -- notice and hearing. (1) The board may  
10 refuse to issue, refuse to renew, or may revoke or suspend a  
11 license in any one of the following cases:

12 (a) failure of a person, firm, partnership, or  
13 corporation operating a cosmetological establishment,  
14 manicuring shop, or school of cosmetology, or school of  
15 manicuring to comply with this chapter;

16 (b) failure to comply with the sanitary rules adopted  
17 by the board and approved by the department of health and  
18 environmental sciences for the regulation of cosmetological  
19 establishments, manicuring shops, or schools of cosmetology,  
20 or schools of manicuring;

21 (c) gross malpractice;

22 (d) continued practice by a person knowingly having an  
23 infectious or contagious disease;

24 (e) habitual drunkenness or habitual addiction to the  
25 use of morphine or any habit-forming drug;

1 (f) permitting a certificate of registration or  
2 license to be used where the holder is not personally,  
3 actively, and continuously engaged in business; or

4 (g) failure to display the license.

5 (2) However, the board may not refuse to authorize the  
6 department to issue or renew a license or revoke or suspend  
7 a license already issued until after notice and opportunity  
8 for a hearing."

9 NEW SECTION. Section 13. Extension of authority. Any  
10 existing authority of the board of cosmetologists to make  
11 rules on the subject of the provisions of this act is  
12 extended to the provisions of this act.

13 NEW SECTION. Section 14. Effective date. This act is  
14 effective January 1, 1986.

-End-

APPROVED BY COMM. ON  
BUSINESS AND LABOR

1                   STATEMENT OF INTENT  
2                   HOUSE BILL 563  
3                   House Business and Labor Committee  
4

5           A statement of intent is required for this bill because  
6 it grants the board of cosmetologists the authority to make  
7 rules regarding the practice and teaching of manicuring.  
8 Currently Title 37, chapter 31, allows for the licensing of  
9 practitioners, teachers, and schools of cosmetology. It is  
10 the intent of this bill to license those persons wishing to  
11 practice manicuring apart from the practice of cosmetology  
12 and to require that only a person who holds a valid license  
13 to teach cosmetology may teach manicuring to such persons.  
14 It is contemplated that rules adopted by the board should  
15 address the following:

16           (1) types of programs required for practicing or  
17 teaching manicuring or operating a school of manicuring,  
18 such as classroom instruction and examination;

19           (2) standards for determining programs to be approved  
20 for the fulfillment of the requirements, such as adequacy of  
21 facilities, qualification of instructors, and course  
22 content;

23           (3) the number of hours of instruction required;

24           (4) the basic content and the passing grade for any  
25 examination required;

1           (5) preparation of a written application to be filed  
2 for examination and practice of manicuring; and  
3           (6) methods of monitoring compliance.

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2 INTRODUCED BY MILLER

3 BY REQUEST OF THE BOARD OF COSMETOLOGISTS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
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19 "hairdressing", "manicuring", and "beauty culture" and  
20 performed in so-called hairdressing and beauty shops or by  
21 itinerant cosmetologists, which work is done for the  
22 embellishment, cleanliness, and beautification of the hair,  
23 scalp, face, arms, feet, or hands. The practice and teaching  
24 of cosmetology shall not be construed to include:

25 (a) itinerant cosmetologists who perform their

1 services without compensation for demonstration purposes in  
2 any regularly established store or place of business holding  
3 a license from the state of Montana as such store or place  
4 of business; or

5 (b) cosmetological artists who demonstrate  
6 cosmetological skills under the auspices of the state  
7 association of cosmetology or its affiliated units, whether  
8 at meetings or in licensed cosmetological establishments.

9 (2) "Cosmetological establishment" means premises,  
10 building, or part of a building in which is practiced a  
11 branch or combination of branches of cosmetology or the  
12 occupation of a hairdresser and cosmetician or cosmetologist  
13 and which must have a manager-operator in charge.

14 (3) "Board" means the board of cosmetologists provided  
15 for in 2-15-1857.

16 (4) "Department" means the department of commerce  
17 provided for in Title 2, chapter 15, part 18.

18 (5) "Manicuring" includes nail care of the hands and  
19 feet and the application and maintenance of artificial  
20 nails.

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22 part of a building in which the art of manicuring is  
23 practiced."

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9 students;
- 10 (5) the conduct of schools of cosmetology and schools  
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13 corporations affected by this chapter."

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15 "37-31-301. Prohibited acts. (1) Without an  
16 appropriate license issued under this chapter, it shall be  
17 unlawful to:

- 18 (a) practice cosmetology for compensation;
- 19 (b) own, manage, operate, or conduct a school of  
20 cosmetology or school of manicuring;
- 21 (c) manage or operate a cosmetology shop, manicuring  
22 shop, or beauty parlor;
- 23 (d) teach in a school of cosmetology or school of  
24 manicuring;
- 25 (e) practice manicuring for compensation;

1 (f) practice as a finger waver.

2 (2) It is unlawful:

- 3 (a) for any person who owns, manages, or controls a  
4 cosmetology shop to employ or use an unlicensed person as a  
5 cosmetologist or manicurist;
- 6 (b) to operate a cosmetology school without complying  
7 with all of the regulations of 37-31-311;
- 8 (c) to practice cosmetology in any place other than in  
9 a licensed establishment as provided in this chapter, except  
10 when a licensed operator is requested by a customer to go to  
11 a place other than a licensed establishment and is sent to  
12 such customer from a licensed establishment;
- 13 (d) for any person who owns, manages, or controls a  
14 manicuring shop to employ or use an unlicensed person as a  
15 manicurist;

16 (e) to operate a manicuring school without complying  
17 with 37-31-311;

18 ~~(d)~~(f) to violate any of the provisions of this  
19 chapter."

20 Section 4. Section 37-31-302, MCA, is amended to read:

21 "37-31-302. License required to practice, teach, or  
22 operate shop or school. (1) No person may practice or teach  
23 cosmetology or practice or teach manicuring without a  
24 license.

25 (2) No place may be used or maintained for the

1 teaching of cosmetology or manicuring for compensation  
 2 except under a certificate of registration.

3 (3) No person may operate, or manage, ~~or conduct~~ a  
 4 beauty shop or ~~school and teach the art~~ a manicuring shop or  
 5 practice cosmetology or manicuring without a  
 6 manager-operator license.

7 (4) No person may operate or conduct a school of  
 8 cosmetology or a school of manicuring and teach the art of  
 9 cosmetology or manicuring without a license to teach  
 10 cosmetology.

11 ~~(4)~~(5) A person, firm, partnership, or corporation  
 12 desiring to operate a cosmetological establishment shall  
 13 make an application to the department for a certificate of  
 14 registration and license. The application shall be  
 15 accompanied by the annual registration fee.

16 ~~(5)~~(6) No license may be issued until the inspection  
 17 fees required in 37-31-312 have been paid."

18 Section 5. Section 37-31-303, MCA, is amended to read:

19 "37-31-303. Application for license to practice or  
 20 teach. ~~The~~ An applicant for a license to practice or teach  
 21 cosmetology or for a license to practice manicuring must  
 22 qualify by filing an application prescribed by the board and  
 23 by taking and passing the examination prescribed by the  
 24 board and given by the department, subject to 37-1-101. The  
 25 license must be renewed annually under 37-31-322."

1 Section 6. Section 37-31-304, MCA, is amended to read:

2 "37-31-304. Qualifications of applicants for license  
 3 to practice. (1) Before ~~one a person~~ a person may practice ~~or teach~~  
 4 cosmetology ~~or a person, firm, partnership, or corporation~~  
 5 ~~may operate a school of cosmetology, the person, firm,~~  
 6 ~~partnership, or corporation,~~ he must obtain a license or  
 7 ~~certificate of registration~~ to practice cosmetology from the  
 8 department. Before a person may practice manicuring, he must  
 9 obtain a license to practice manicuring from the department  
 10 unless he is licensed to practice cosmetology.

11 (2) ~~(a)~~ (a) To be eligible to take the examination to  
 12 practice cosmetology, the applicant must be not less than 18  
 13 years of age, a graduate of the 8th grade, and of good moral  
 14 character. The applicant must have completed a continuous  
 15 course of study of at least 2,000 hours in a registered  
 16 beauty school, which course of study has been distributed  
 17 over a period of not less than 10 months or more than 14  
 18 months, and must have received a diploma from the beauty  
 19 school or must have completed the course of study in  
 20 cosmetology prescribed by the board of public education.

21 ~~(3)~~(b) ~~The~~ A person qualified under subsection (2)(a)  
 22 must file with the department a written application to take  
 23 the examination, accompanied by a health certificate issued  
 24 by a registered, licensed physician on a form supplied by  
 25 the department, and shall deposit with the department the

1 required examination fee and pass an examination as to his  
2 fitness to practice cosmetology.

3 (3) (a) To be eligible to take the examination to  
4 practice manicuring, an applicant must be not less than 18  
5 years of age, be of good moral character, possess a high  
6 school diploma, an equivalent of a high school diploma  
7 recognized by the superintendent of public instruction, or a  
8 certificate of completion from a postsecondary  
9 vocational-technical center program, and have completed a  
10 course of study prescribed by the board in a registered  
11 school of cosmetology or a registered school of manicuring.

12 (b) A person qualified under subsection (3)(a) must  
13 file with the department a written application to take the  
14 examination and deposit with the department the required  
15 examination fee."

16 Section 7. Section 37-31-305, MCA, is amended to read:

17 "37-31-305. Qualifications of applicants for license  
18 to teach. (1) Before an applicant a person may teach  
19 manicuring to persons seeking only to be licensed to  
20 practice manicuring or teach cosmetology, he must obtain  
21 from the department a license to teach cosmetology.

22 (2) To be eligible to take an examination to obtain a  
23 license as a teacher of to teach cosmetology, he a person  
24 must:

25 (a) be a graduate of high school or possess an

1 equivalent of a high school diploma recognized by the  
2 superintendent of public instruction; and

3 (b) (i) have a license to practice cosmetology  
4 issued by the department, been actively engaged as a beauty  
5 operator for 1 continuous year immediately prior to taking  
6 the examination, and have received a diploma from a  
7 registered school of cosmetology approved by the board,  
8 certifying satisfactory completion of 500 hours of student  
9 teacher training; or

10 (ii) have been actively engaged as a beauty operator  
11 for 3 continuous years immediately prior to taking the  
12 teachers' examination."

13 Section 8. Section 37-31-308, MCA, is amended to read:

14 "37-31-308. Examination -- reexamination -- exemption  
15 for handicapped persons. (1) Examinations for a license to  
16 practice cosmetology or manicuring or to teach cosmetology  
17 shall be held at a place and time places and times specified  
18 by the board at least two times a year and not more than  
19 five times a year and for teacher's license once each year.  
20 The examinations shall be conducted by the department,  
21 subject to 37-1-101. The examinations may not be confined  
22 to a specific method or system.

23 (2) Anyone failing twice to pass an examination for a  
24 license to practice cosmetology may not apply to retake the  
25 examination:



1 (a) sooner than 6 months after the date of the second  
2 failure; or

3 (b) until he has taken 200 hours additional teacher  
4 training at a registered school of cosmetology approved by  
5 the board.

6 (3) Anyone failing twice to pass the examination for a  
7 license to practice manicuring must meet the additional  
8 requirements prescribed by the board before applying to  
9 retake the examination.

10 (4) Anyone failing twice to pass the examination for a  
11 license to teach cosmetology must wait 1 year before  
12 reapplying to take the examination. Upon reapplying, the  
13 applicant must provide certification of completion of 500  
14 hours of teacher training during that year in a registered  
15 school licensed as a teacher training unit.

16 ~~(3)~~(5) Physically handicapped persons trained for  
17 cosmetology or manicuring by the department of social and  
18 rehabilitation services shall, for a period of 1 year  
19 immediately following their graduation, be exempt from the  
20 examination and the fees described in 37-31-323. On  
21 certification from the department of social and  
22 rehabilitation services that a department of social and  
23 rehabilitation services beneficiary has successfully  
24 completed the required apprenticeship-or training in a shop  
25 or beauty school or manicuring school, the department shall

1 issue the person the necessary certificate or license to  
2 practice the profession in this state."

3 Section 9. Section 37-31-311, MCA, is amended to read:  
4 "37-31-311. ~~School~~----of----cosmetology Schools --  
5 certificate of registration -- requirements -- bond --  
6 curriculum. (1) No person, firm, partnership, or corporation  
7 may operate a school for the purpose of teaching cosmetology  
8 for compensation or for the purpose of teaching manicuring  
9 for compensation unless a certificate of registration has  
10 been first obtained from the department. Application for  
11 the certificate shall be filed with the department on a form  
12 prescribed by the board.

13 (2) No school for teaching cosmetology may be granted  
14 a certificate of registration unless it complies or can  
15 comply with the following requirements:

16 (a) It shall have in its employ a licensed teacher who  
17 is at all times in the immediate supervision of the work of  
18 the school, or other teachers the board determines are  
19 necessary for the proper conduct of the school. There may  
20 not be more than 25 students to each teacher.

21 (b) It shall possess apparatus and equipment the board  
22 determines is necessary for the ready and full teaching of  
23 all subjects or practices of cosmetology.

24 (c) It shall maintain a school term of not less than  
25 2,000 hours and shall prescribe a course of practical

1 training and technical instruction equal to the requirements  
 2 for board examinations, which course of training and  
 3 technical instruction shall be prescribed by the board.

4 (d) It shall keep a daily record of the attendance of  
 5 each student, establish grades, and hold examinations before  
 6 issuing diplomas.

7 (e) No owner or person in charge of a school of  
 8 cosmetology may permit a person to sleep in or use for  
 9 residential purposes, or any other purpose which would tend  
 10 to make the room unsanitary, a room used wholly or in part  
 11 for a school of cosmetology.

12 (3) No school for teaching manicuring may be granted a  
 13 certificate of registration unless it complies with  
 14 subsections (2)(a) and (2)(d) and the following  
 15 requirements:

16 (a) It must possess apparatus and equipment the board  
 17 determines necessary for the ready and full teaching of all  
 18 subjects or practices of manicuring.

19 (b) It must maintain a school term and a course of  
 20 practical training and technical instruction as prescribed  
 21 by the board.

22 (c) No owner or person in charge of a school of  
 23 manicuring may permit a person to sleep in or use for  
 24 residential purposes, or any other purpose that would tend  
 25 to make the room unsanitary, a room used wholly or in part

1 for a school of manicuring.

2 ~~(3)~~(4) Licenses or certificates of registration for  
 3 schools of cosmetology and schools of manicuring may be  
 4 refused, revoked, or suspended, as provided in 37-31-331.

5 ~~(4)~~(5) No teacher or student teacher may be permitted  
 6 to practice cosmetology or manicuring on the public in a  
 7 school of cosmetology or a school of manicuring. A school  
 8 that enrolls student teachers for a course of student  
 9 teacher training may not have, at any one time, more than  
 10 one student teacher for each full-time licensed teacher  
 11 actively engaged at the school. The student teachers may not  
 12 substitute for full-time teachers.

13 ~~(5)~~(6) The board may make further rules necessary for  
 14 the proper conduct of schools of cosmetology and schools of  
 15 manicuring.

16 ~~(6)~~(7) The board shall require the person, firm,  
 17 partnership, or corporation operating a school of  
 18 cosmetology or a school of manicuring to furnish a good and  
 19 sufficient bond in the amount of \$5,000 and in a form and  
 20 manner prescribed by the board.

21 ~~(7)~~(8) No professional beauty shop or manicuring shop  
 22 may be operated in connection with a school of cosmetology  
 23 or school of manicuring.

24 ~~(8)~~(9) The board may, by rule, establish a suitable  
 25 curriculum for teachers' training in registered schools of

1 cosmetology."

2 Section 10. Section 37-31-312, MCA, is amended to  
3 read:

4 "37-31-312. Inspection. (1) The department shall  
5 appoint one or more inspectors ~~who are licensed to practice~~  
6 ~~under this chapter~~, each of whom shall devote his time to  
7 inspecting beauty parlors and performing other duties as the  
8 department may direct. The inspectors may enter a beauty  
9 parlor, manicuring shop, or school of cosmetology, or school  
10 of manicuring during business hours for the purpose of  
11 inspection, and the refusal of a licensee to permit the  
12 inspection during business hours is cause for revocation of  
13 the license.

14 (2) Upon application for a license, any cosmetological  
15 establishment or manicuring shop must pay an initial  
16 inspection fee prescribed by the board.

17 (3) The board may authorize the department to grant to  
18 a cosmetological establishment or manicuring shop, upon  
19 payment of the initial inspection fee, a temporary permit  
20 authorizing the cosmetological establishment or manicuring  
21 shop to operate for a period of not to exceed 90 days or  
22 until the inspector is able to make the inspection,  
23 whichever event occurs first. This temporary permit is not  
24 renewable.

25 (4) The board shall conduct an annual inspection of

1 each ~~cosmetology~~ cosmetological establishment and manicuring  
2 shop in the state."

3 Section 11. Section 37-31-322, MCA, is amended to  
4 read:

5 "37-31-322. Renewal -- continuing education --  
6 delinquency fee. (1) Licenses and certificates may be issued  
7 for no longer than 1 year unless otherwise provided by rule.  
8 Licenses and certificates expire on December 31 unless  
9 otherwise provided by rule or renewed for the next year or  
10 renewal period. Licenses and certificates may be renewed by  
11 application made prior to December 31 of each year, unless  
12 otherwise provided, and the payment of a required renewal  
13 fee. Expired licenses and certificates may be renewed under  
14 rules made by the board, but the right to renew an expired  
15 license or certificate terminates after 10 years of  
16 nonpayment. The board may provide by rule for a change in  
17 the renewal date and renewal period for the manager-operator  
18 and salon owner category. The renewal fee may not exceed  
19 twice the fee for a 2-year renewal or three times the fee  
20 for a 3-year renewal and shall be as set by the board.

21 (2) In addition to the foregoing requirements for  
22 renewal, persons applying for the renewal of teachers'  
23 licenses to teach cosmetology must have fulfilled the  
24 following additional requirements:

25 (a) During each year, an active teacher, either

1 full-time or part-time, must have successfully completed 30  
2 hours' professional teacher training at a school approved by  
3 the board.

4 (b) A person holding a teacher's license to teach  
5 cosmetology but not actively engaged either full-time or  
6 part-time in teaching cosmetology or manicuring during the  
7 preceding year may renew the license by paying the required  
8 fee. A person holding a teacher's license to teach  
9 cosmetology but not actively engaged in teaching cosmetology  
10 or manicuring either full-time or part-time for the  
11 preceding year or longer and wishing to resume active  
12 teaching of cosmetology or manicuring must successfully  
13 complete 30 hours' professional teacher training at a school  
14 approved by the board before resuming active teaching.  
15 However, the foregoing provisions do not prevent the board,  
16 under rules it adopts, from permitting a person holding a  
17 teacher's license to teach cosmetology and not actively  
18 engaged either full-time or part-time in teaching  
19 cosmetology or manicuring from teaching as a substitute for  
20 an active teacher.

21 (3) A fee prescribed by the board shall be charged, in  
22 addition to other fees fixed by law, for renewal  
23 applications of licenses and certificates made after  
24 December 31 of each year or other predetermined renewal  
25 deadline. The department shall notify license and

1 certificate holders of the expiration date of licenses and  
2 certificates not less than 30 days before the expiration  
3 date and call attention to the penalty imposed for failure  
4 to renew a license or certificate by the date of  
5 expiration."

6 Section 12. Section 37-31-331, MCA, is amended to  
7 read:

8 "37-31-331. Refusal, revocation, or suspension of  
9 licenses -- grounds -- notice and hearing. (1) The board may  
10 refuse to issue, refuse to renew, or may revoke or suspend a  
11 license in any one of the following cases:

12 (a) failure of a person, firm, partnership, or  
13 corporation operating a cosmetological establishment,  
14 manicuring shop, or school of cosmetology, or school of  
15 manicuring to comply with this chapter;

16 (b) failure to comply with the sanitary rules adopted  
17 by the board and approved by the department of health and  
18 environmental sciences for the regulation of cosmetological  
19 establishments, manicuring shops, or schools of cosmetology,  
20 or schools of manicuring;

21 (c) gross malpractice;

22 (d) continued practice by a person knowingly having an  
23 infectious or contagious disease;

24 (e) habitual drunkenness or habitual addiction to the  
25 use of morphine or any habit-forming drug;

1 (f) permitting a certificate of registration or  
2 license to be used where the holder is not personally,  
3 actively, and continuously engaged in business; or

4 (g) failure to display the license.

5 (2) However, the board may not refuse to authorize the  
6 department to issue or renew a license or revoke or suspend  
7 a license already issued until after notice and opportunity  
8 for a hearing."

9 NEW SECTION. Section 13. Extension of authority. Any  
10 existing authority of the board of cosmetologists to make  
11 rules on the subject of the provisions of this act is  
12 extended to the provisions of this act.

13 NEW SECTION. Section 14. Effective date. This act is  
14 effective January 1, 1986.

-End-

STATEMENT OF INTENT

HOUSE BILL 563

House Business and Labor Committee

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A statement of intent is required for this bill because it grants the board of cosmetologists the authority to make rules regarding the practice and teaching of manicuring. Currently Title 37, chapter 31, allows for the licensing of practitioners, teachers, and schools of cosmetology. It is the intent of this bill to license those persons wishing to practice manicuring apart from the practice of cosmetology and to require that only a person who holds a valid license to teach cosmetology may teach manicuring to such persons. It is contemplated that rules adopted by the board should address the following:

(1) types of programs required for practicing or teaching manicuring or operating a school of manicuring, such as classroom instruction and examination;

(2) standards for determining programs to be approved for the fulfillment of the requirements, such as adequacy of facilities, qualification of instructors, and course content;

(3) the number of hours of instruction required;

(4) the basic content and the passing grade for any examination required;

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- (5) preparation of a written application to be filed for examination and practice of manicuring; and
- (6) methods of monitoring compliance.

HOUSE BILL NO. 563

INTRODUCED BY MILLER

BY REQUEST OF THE BOARD OF COSMETOLOGISTS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO COSMETOLOGY; PROVIDING FOR THE LICENSURE AND REGULATION OF MANICURISTS, MANICURING SHOPS, AND SCHOOLS OF MANICURING; AMENDING SECTIONS 37-31-101, 37-31-203, 37-31-301 THROUGH 37-31-305, 37-31-308, 37-31-311, 37-31-312, 37-31-322, AND 37-31-331, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 37-31-101, MCA, is amended to read:

"37-31-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Practice and teaching of cosmetology" includes work generally and usually included in the terms "hairdressing", "manicuring", and "beauty culture" and performed in so-called hairdressing and beauty shops or by itinerant cosmetologists, which work is done for the embellishment, cleanliness, and beautification of the hair, scalp, face, arms, feet, or hands. The practice and teaching of cosmetology shall not be construed to include:

(a) itinerant cosmetologists who perform their

services without compensation for demonstration purposes in any regularly established store or place of business holding a license from the state of Montana as such store or place of business; or

(b) cosmetological artists who demonstrate cosmetological skills under the auspices of the state association of cosmetology or its affiliated units, whether at meetings or in licensed cosmetological establishments.

(2) "Cosmetological establishment" means premises, building, or part of a building in which is practiced a branch or combination of branches of cosmetology or the occupation of a hairdresser and cosmetician or cosmetologist and which must have a manager-operator in charge.

(3) "Board" means the board of cosmetologists provided for in 2-15-1857.

(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(5) "Manicuring" includes nail care of the hands and feet and the application and maintenance of artificial nails.

(6) "Manicuring shop" means premises, a building, or part of a building in which the art of manicuring is practiced."

Section 2. Section 37-31-203, MCA, is amended to read:

"37-31-203. Rulemaking powers. The board shall



1 prescribe rules for:

2 (1) the conduct of its business;

3 (2) the qualification, examination, and registration

4 of applicants to practice cosmetology or manicuring or to

5 teach cosmetology;

6 (3) the qualification and registration of applicants

7 for manager-operator licenses;

8 (4) the regulation and instruction of apprentices and

9 students;

10 (5) the conduct of schools of cosmetology and schools

11 of manicuring for apprentices and students; and

12 (6) generally the conduct of the persons, firms, or

13 corporations affected by this chapter."

14 Section 3. Section 37-31-301, MCA, is amended to read:

15 "37-31-301. Prohibited acts. (1) Without an

16 appropriate license issued under this chapter, it shall be

17 unlawful to:

18 (a) practice cosmetology for compensation;

19 (b) own, manage, operate, or conduct a school of

20 cosmetology or school of manicuring;

21 (c) manage or operate a cosmetology shop, manicuring

22 shop, or beauty parlor;

23 (d) teach in a school of cosmetology or school of

24 manicuring;

25 (e) practice manicuring for compensation;

1 (f) practice as a finger waver.

2 (2) It is unlawful:

3 (a) for any person who owns, manages, or controls a

4 cosmetology shop to employ or use an unlicensed person as a

5 cosmetologist or manicurist;

6 (b) to operate a cosmetology school without complying

7 with all of the regulations of 37-31-311;

8 (c) to practice cosmetology in any place other than in

9 a licensed establishment as provided in this chapter, except

10 when a licensed operator is requested by a customer to go to

11 a place other than a licensed establishment and is sent to

12 such customer from a licensed establishment;

13 (d) for any person who owns, manages, or controls a

14 manicuring shop to employ or use an unlicensed person as a

15 manicurist;

16 (e) to operate a manicuring school without complying

17 with 37-31-311;

18 ~~(d)~~(f) to violate any of the provisions of this

19 chapter."

20 Section 4. Section 37-31-302, MCA, is amended to read:

21 "37-31-302. License required to practice, teach, or

22 operate shop or school. (1) No person may practice or teach

23 cosmetology or practice or teach manicuring without a

24 license.

25 (2) No place may be used or maintained for the



1 teaching of cosmetology or manicuring for compensation  
 2 except under a certificate of registration.

3 (3) No person may operate or manage,--or--conduct a  
 4 beauty shop or school and teach the art a manicuring shop or  
 5 practice cosmetology or manicuring without a  
 6 manager-operator license.

7 (4) No person may operate or conduct a school of  
 8 cosmetology or a school of manicuring and teach the art of  
 9 cosmetology or manicuring without a license to teach  
 10 cosmetology.

11 ~~(4)~~(5) A person, firm, partnership, or corporation  
 12 desiring to operate a cosmetological establishment shall  
 13 make an application to the department for a certificate of  
 14 registration and license. The application shall be  
 15 accompanied by the annual registration fee.

16 ~~(5)~~(6) No license may be issued until the inspection  
 17 fees required in 37-31-312 have been paid."

18 Section 5. Section 37-31-303, MCA, is amended to read:

19 "37-31-303. Application for license to practice or  
 20 teach. The An applicant for a license to practice or teach  
 21 cosmetology or for a license to practice manicuring must  
 22 qualify by filing an application prescribed by the board and  
 23 by taking and passing the examination prescribed by the  
 24 board and given by the department, subject to 37-1-101. The  
 25 license must be renewed annually under 37-31-322."

1 Section 6. Section 37-31-304, MCA, is amended to read:

2 "37-31-304. Qualifications of applicants for license  
 3 to practice. (1) Before one a person may practice or--teach  
 4 cosmetology or--a person, firm, partnership, or corporation  
 5 may operate a--school--of--cosmetology,--the--person,--firm,  
 6 partnership,--or--corporation, he must obtain a license or  
 7 certificate-of-registration to practice cosmetology from the  
 8 department. Before a person may practice manicuring, he must  
 9 obtain a license to practice manicuring from the department  
 10 unless he is licensed to practice cosmetology.

11 (2) (a) To be eligible to take the examination to  
 12 practice cosmetology, the applicant must be not less than 18  
 13 years of age, a graduate of the 8th grade, and of good moral  
 14 character. The applicant must have completed a continuous  
 15 course of study of at least 2,000 hours in a registered  
 16 beauty school, which course of study has been distributed  
 17 over a period of not less than 10 months or more than 14  
 18 months, and must have received a diploma from the beauty  
 19 school or must have completed the course of study in  
 20 cosmetology prescribed by the board of public education.

21 ~~(3)~~(b) The A person qualified under subsection (2)(a)  
 22 must file with the department a written application to take  
 23 the examination, accompanied by a health certificate issued  
 24 by a registered, licensed physician on a form supplied by  
 25 the department, and shall deposit with the department the

1 required examination fee and pass an examination as to his  
2 fitness to practice cosmetology.

3 (3) (a) To be eligible to take the examination to  
4 practice manicuring, an applicant must be not less than 18  
5 years of age, be of good moral character, possess a high  
6 school diploma, an equivalent of a high school diploma  
7 recognized by the superintendent of public instruction, or a  
8 certificate of completion from a postsecondary  
9 vocational-technical center program, and have completed a  
10 course of study prescribed by the board in a registered  
11 school of cosmetology or a registered school of manicuring.

12 (b) A person qualified under subsection (3)(a) must  
13 file with the department a written application to take the  
14 examination and deposit with the department the required  
15 examination fee."

16 Section 7. Section 37-31-305, MCA, is amended to read:

17 "37-31-305. Qualifications of applicants for license  
18 to teach. (1) Before an applicant a person may teach  
19 manicuring to persons seeking only to be licensed to  
20 practice manicuring or teach cosmetology, he must obtain  
21 from the department a license to teach cosmetology.

22 (2) To be eligible to take an examination to obtain a  
23 license as-a-teacher-of to teach cosmetology, he a person  
24 must:

25 (i)(a) be a graduate of high school or possess an

1 equivalent of a high school diploma recognized by the  
2 superintendent of public instruction; and

3 (2)(b) (i) have a license to practice cosmetology  
4 issued by the department, been actively engaged as a beauty  
5 operator for 1 continuous year immediately prior to taking  
6 the examination, and have received a diploma from a  
7 registered school of cosmetology approved by the board,  
8 certifying satisfactory completion of 500 hours of student  
9 teacher training; or

10 (ii) have been actively engaged as a beauty operator  
11 for 3 continuous years immediately prior to taking the  
12 teachers' examination."

13 Section 8. Section 37-31-308, MCA, is amended to read:

14 "37-31-308. Examination -- reexamination -- exemption  
15 for handicapped persons. (1) Examinations for a license to  
16 practice cosmetology or manicuring or to teach cosmetology  
17 shall be held at a-place-and-time places and times specified  
18 by the board at-least-two-times-a-year-and-not-more-than  
19 five-times-a-year-and-for-teacher's-license-once-each-year.  
20 The examinations shall be conducted by the department,  
21 subject to 37-1-101. The examinations may not be confined  
22 to a specific method or system.

23 (2) Anyone failing twice to pass an examination for a  
24 license to practice cosmetology may not apply to retake the  
25 examination:

1 (a) sooner than 6 months after the date of the second  
2 failure; or

3 (b) until he has taken 200 hours additional teacher  
4 training at a registered school of cosmetology approved by  
5 the board.

6 (3) Anyone failing twice to pass the examination for a  
7 license to practice manicuring must meet the additional  
8 requirements prescribed by the board before applying to  
9 retake the examination.

10 (4) Anyone failing twice to pass the examination for a  
11 license to teach cosmetology must wait 1 year before  
12 reapplying to take the examination. Upon reapplying, the  
13 applicant must provide certification of completion of 500  
14 hours of teacher training during that year in a registered  
15 school licensed as a teacher training unit.

16 ~~(3)~~(5) Physically handicapped persons trained for  
17 cosmetology or manicuring by the department of social and  
18 rehabilitation services shall, for a period of 1 year  
19 immediately following their graduation, be exempt from the  
20 examination and the fees described in 37-31-323. On  
21 certification from the department of social and  
22 rehabilitation services that a department of social and  
23 rehabilitation services beneficiary has successfully  
24 completed the required apprenticeship or training in a shop  
25 or beauty school or manicuring school, the department shall

1 issue the person the necessary certificate or license to  
2 practice the profession in this state."

3 Section 9. Section 37-31-311, MCA, is amended to read:

4 "~~37-31-311. School~~ ~~of~~ ~~cosmetology~~ Schools --  
5 certificate of registration -- requirements -- bond --  
6 curriculum. (1) No person, firm, partnership, or corporation  
7 may operate a school for the purpose of teaching cosmetology  
8 for compensation or for the purpose of teaching manicuring  
9 for compensation unless a certificate of registration has  
10 been first obtained from the department. Application for  
11 the certificate shall be filed with the department on a form  
12 prescribed by the board.

13 (2) No school for teaching cosmetology may be granted  
14 a certificate of registration unless it complies or can  
15 comply with the following requirements:

16 (a) It shall have in its employ a licensed teacher who  
17 is at all times in the immediate supervision of the work of  
18 the school, or other teachers the board determines are  
19 necessary for the proper conduct of the school. There may  
20 not be more than 25 students to each teacher.

21 (b) It shall possess apparatus and equipment the board  
22 determines is necessary for the ready and full teaching of  
23 all subjects or practices of cosmetology.

24 (c) It shall maintain a school term of not less than  
25 2,000 hours and shall prescribe a course of practical

1 training and technical instruction equal to the requirements  
2 for board examinations, which course of training and  
3 technical instruction shall be prescribed by the board.

4 (d) It shall keep a daily record of the attendance of  
5 each student, establish grades, and hold examinations before  
6 issuing diplomas.

7 (e) No owner or person in charge of a school of  
8 cosmetology may permit a person to sleep in or use for  
9 residential purposes, or any other purpose which would tend  
10 to make the room unsanitary, a room used wholly or in part  
11 for a school of cosmetology.

12 (3) No school for teaching manicuring may be granted a  
13 certificate of registration unless it complies with  
14 subsections (2)(a) and (2)(d) and the following  
15 requirements:

16 (a) It must possess apparatus and equipment the board  
17 determines necessary for the ready and full teaching of all  
18 subjects or practices of manicuring.

19 (b) It must maintain a school term and a course of  
20 practical training and technical instruction as prescribed  
21 by the board.

22 (c) No owner or person in charge of a school of  
23 manicuring may permit a person to sleep in or use for  
24 residential purposes, or any other purpose that would tend  
25 to make the room unsanitary, a room used wholly or in part

1 for a school of manicuring.

2 ~~(3)~~(4) Licenses or certificates of registration for  
3 schools of cosmetology and schools of manicuring may be  
4 refused, revoked, or suspended, as provided in 37-31-331.

5 ~~(4)~~(5) No teacher or student teacher may be permitted  
6 to practice cosmetology or manicuring on the public in a  
7 school of cosmetology or a school of manicuring. A school  
8 that enrolls student teachers for a course of student  
9 teacher training may not have, at any one time, more than  
10 one student teacher for each full-time licensed teacher  
11 actively engaged at the school. The student teachers may not  
12 substitute for full-time teachers.

13 ~~(5)~~(6) The board may make further rules necessary for  
14 the proper conduct of schools of cosmetology and schools of  
15 manicuring.

16 ~~(6)~~(7) The board shall require the person, firm,  
17 partnership, or corporation operating a school of  
18 cosmetology or a school of manicuring to furnish a good and  
19 sufficient bond in the amount of \$5,000 and in a form and  
20 manner prescribed by the board.

21 ~~(7)~~(8) No professional beauty shop or manicuring shop  
22 may be operated in connection with a school of cosmetology  
23 or school of manicuring.

24 ~~(8)~~(9) The board may, by rule, establish a suitable  
25 curriculum for teachers' training in registered schools of

1 cosmetology."

2 Section 10. Section 37-31-312, MCA, is amended to  
3 read:

4 "37-31-312. Inspection. (1) The department shall  
5 appoint one or more inspectors ~~who are licensed to practice~~  
6 ~~under this chapter~~, each of whom shall devote his time to  
7 inspecting beauty parlors and performing other duties as the  
8 department may direct. The inspectors may enter a beauty  
9 parlor, manicuring shop, or school of cosmetology, or school  
10 of manicuring during business hours for the purpose of  
11 inspection, and the refusal of a licensee to permit the  
12 inspection during business hours is cause for revocation of  
13 the license.

14 (2) Upon application for a license, any cosmetological  
15 establishment or manicuring shop must pay an initial  
16 inspection fee prescribed by the board.

17 (3) The board may authorize the department to grant to  
18 a cosmetological establishment or manicuring shop, upon  
19 payment of the initial inspection fee, a temporary permit  
20 authorizing the cosmetological establishment or manicuring  
21 shop to operate for a period of not to exceed 90 days or  
22 until the inspector is able to make the inspection,  
23 whichever event occurs first. This temporary permit is not  
24 renewable.

25 (4) The board shall conduct an annual inspection of

1 each ~~cosmetology~~ cosmetological establishment and manicuring  
2 shop in the state."

3 Section 11. Section 37-31-322, MCA, is amended to  
4 read:

5 "37-31-322. Renewal -- continuing education --  
6 delinquency fee. (1) Licenses and certificates may be issued  
7 for no longer than 1 year unless otherwise provided by rule.  
8 Licenses and certificates expire on December 31 unless  
9 otherwise provided by rule or renewed for the next year or  
10 renewal period. Licenses and certificates may be renewed by  
11 application made prior to December 31 of each year, unless  
12 otherwise provided, and the payment of a required renewal  
13 fee. Expired licenses and certificates may be renewed under  
14 rules made by the board, but the right to renew an expired  
15 license or certificate terminates after 10 years of  
16 nonpayment. The board may provide by rule for a change in  
17 the renewal date and renewal period for the manager-operator  
18 and salon owner category. The renewal fee may not exceed  
19 twice the fee for a 2-year renewal or three times the fee  
20 for a 3-year renewal and shall be as set by the board.

21 (2) In addition to the foregoing requirements for  
22 renewal, persons applying for the renewal of ~~teachers'~~  
23 licenses to teach cosmetology must have fulfilled the  
24 following additional requirements:

25 (a) During each year, an active teacher, either

1 full-time or part-time, must have successfully completed 30  
2 hours' professional teacher training at a school approved by  
3 the board.

4 (b) A person holding a teacher's license to teach  
5 cosmetology but not actively engaged either full-time or  
6 part-time in teaching cosmetology or manicuring during the  
7 preceding year may renew the license by paying the required  
8 fee. A person holding a teacher's license to teach  
9 cosmetology but not actively engaged in teaching cosmetology  
10 or manicuring either full-time or part-time for the  
11 preceding year or longer and wishing to resume active  
12 teaching of cosmetology or manicuring must successfully  
13 complete 30 hours' professional teacher training at a school  
14 approved by the board before resuming active teaching.  
15 However, the foregoing provisions do not prevent the board,  
16 under rules it adopts, from permitting a person holding a  
17 teacher's license to teach cosmetology and not actively  
18 engaged either full-time or part-time in teaching  
19 cosmetology or manicuring from teaching as a substitute for  
20 an active teacher.

21 (3) A fee prescribed by the board shall be charged, in  
22 addition to other fees fixed by law, for renewal  
23 applications of licenses and certificates made after  
24 December 31 of each year or other predetermined renewal  
25 deadline. The department shall notify license and

1 certificate holders of the expiration date of licenses and  
2 certificates not less than 30 days before the expiration  
3 date and call attention to the penalty imposed for failure  
4 to renew a license or certificate by the date of  
5 expiration."

6 Section 12. Section 37-31-331, MCA, is amended to  
7 read:

8 "37-31-331. Refusal, revocation, or suspension of  
9 licenses -- grounds -- notice and hearing. (1) The board may  
10 refuse to issue, refuse to renew, or may revoke or suspend a  
11 license in any one of the following cases:

12 (a) failure of a person, firm, partnership, or  
13 corporation operating a cosmetological establishment,  
14 manicuring shop, or school of cosmetology, or school of  
15 manicuring to comply with this chapter;

16 (b) failure to comply with the sanitary rules adopted  
17 by the board and approved by the department of health and  
18 environmental sciences for the regulation of cosmetological  
19 establishments, manicuring shops, or schools of cosmetology,  
20 or schools of manicuring;

21 (c) gross malpractice;

22 (d) continued practice by a person knowingly having an  
23 infectious or contagious disease;

24 (e) habitual drunkenness or habitual addiction to the  
25 use of morphine or any habit-forming drug;

1 (f) permitting a certificate of registration or  
2 license to be used where the holder is not personally,  
3 actively, and continuously engaged in business; or

4 (g) failure to display the license.

5 (2) However, the board may not refuse to authorize the  
6 department to issue or renew a license or revoke or suspend  
7 a license already issued until after notice and opportunity  
8 for a hearing."

9 NEW SECTION. Section 13. Extension of authority. Any  
10 existing authority of the board of cosmetologists to make  
11 rules on the subject of the provisions of this act is  
12 extended to the provisions of this act.

13 NEW SECTION. Section 14. Effective date. This act is  
14 effective January 1, 1986.

-End-

SENATE

STANDING COMMITTEE REPORT

MARCH 18, 85

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 563

THIRD reading copy ( BLUE color )

LICENSURE AND REGULATION OF MANICURISTS & MANICURIST SHOPS AND SCHOOLS

MILLER (JACOBSON)

Respectfully report as follows: That HOUSE BILL No. 563

be amended as follows:

- 1. Page 2, lines 5 though 8. Strike: subsection (b) in its entirety
2. Page 6, lines 23 through 25. Following: "examination" on line 23 Strike: remainder of line 23 through "department," on line 25
3. Page 8, lines 4 though 6. Following: "department" on line 4 Strike: remainder of line 4 through "examination," on line 6
4. Page 15, line 25 through line 5, page 16. Following: "deadline." on line 25 Strike: remainder of line 25 through "expiration." on line 5

DO PASS XXXXXXXX

XXXXXXXXXX

AND AS AMENDED BE CONCURRED IN

Judy Jacobson SENATOR JUDY JACOBSON Chairman.



1                   STATEMENT OF INTENT  
 2                   HOUSE BILL 563  
 3                   House Business and Labor Committee  
 4

5           A statement of intent is required for this bill because  
 6 it grants the board of cosmetologists the authority to make  
 7 rules regarding the practice and teaching of manicuring.  
 8 Currently Title 37, chapter 31, allows for the licensing of  
 9 practitioners, teachers, and schools of cosmetology. It is  
 10 the intent of this bill to license those persons wishing to  
 11 practice manicuring apart from the practice of cosmetology  
 12 and to require that only a person who holds a valid license  
 13 to teach cosmetology may teach manicuring to such persons.  
 14 It is contemplated that rules adopted by the board should  
 15 address the following:

- 16           (1) types of programs required for practicing or
- 17 teaching manicuring or operating a school of manicuring,
- 18 such as classroom instruction and examination;
- 19           (2) standards for determining programs to be approved
- 20 for the fulfillment of the requirements, such as adequacy of
- 21 facilities, qualification of instructors, and course
- 22 content;
- 23           (3) the number of hours of instruction required;
- 24           (4) the basic content and the passing grade for any
- 25 examination required;

- 1           (5) preparation of a written application to be filed
- 2 for examination and practice of manicuring; and
- 3           (6) methods of monitoring compliance.

REFERENCE BILL  
 HB 563



1 HOUSE BILL NO. 563  
 2 INTRODUCED BY MILLER  
 3 BY REQUEST OF THE BOARD OF COSMETOLOGISTS  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE  
 6 LAWS RELATING TO COSMETOLOGY; PROVIDING FOR THE LICENSURE  
 7 AND REGULATION OF MANICURISTS, MANICURING SHOPS, AND SCHOOLS  
 8 OF MANICURING; AMENDING SECTIONS 37-31-101, 37-31-203,  
 9 37-31-301 THROUGH 37-31-305, 37-31-308, 37-31-311,  
 10 37-31-312, 37-31-322, AND 37-31-331, MCA; AND PROVIDING A  
 11 DELAYED EFFECTIVE DATE."  
 12

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

14 Section 1. Section 37-31-101, MCA, is amended to read:  
 15 "37-31-101. Definitions. Unless the context requires  
 16 otherwise, in this chapter the following definitions apply:

17 (1) "Practice and teaching of cosmetology" includes  
 18 work generally and usually included in the terms  
 19 "hairdressing", "manicuring", and "beauty culture" and  
 20 performed in so-called hairdressing and beauty shops or by  
 21 itinerant cosmetologists, which work is done for the  
 22 embellishment, cleanliness, and beautification of the hair,  
 23 scalp, face, arms, feet, or hands. The practice and teaching  
 24 of cosmetology shall not be construed to include:

25 (a) itinerant cosmetologists who perform their

1 services without compensation for demonstration purposes in  
 2 any regularly established store or place of business holding  
 3 a license from the state of Montana as such store or place  
 4 of business; ~~or.~~

5 ~~(b) "cosmetological artists who demonstrate~~  
 6 ~~cosmetological skills under the auspices of the state~~  
 7 ~~association of cosmetology or its affiliated units, whether~~  
 8 ~~at meetings or in licensed cosmetological establishments.~~

9 (2) "Cosmetological establishment" means premises,  
 10 building, or part of a building in which is practiced a  
 11 branch or combination of branches of cosmetology or the  
 12 occupation of a hairdresser and cosmetician or cosmetologist  
 13 and which must have a manager-operator in charge.

14 (3) "Board" means the board of cosmetologists provided  
 15 for in 2-15-1857.

16 (4) "Department" means the department of commerce  
 17 provided for in Title 2, chapter 15, part 18.

18 (5) "Manicuring" includes nail care of the hands and  
 19 feet and the application and maintenance of artificial  
 20 nails.

21 (6) "Manicuring shop" means premises, a building, or  
 22 part of a building in which the art of manicuring is  
 23 practiced."

24 Section 2. Section 37-31-203, MCA, is amended to read:  
 25 "37-31-203. Rulemaking powers. The board shall

1 prescribe rules for:

- 2 (1) the conduct of its business;
- 3 (2) the qualification, examination, and registration
- 4 of applicants to practice cosmetology or manicuring or to
- 5 teach cosmetology;
- 6 (3) the qualification and registration of applicants
- 7 for manager-operator licenses;
- 8 (4) the regulation and instruction of apprentices and
- 9 students;
- 10 (5) the conduct of schools of cosmetology and schools
- 11 of manicuring for apprentices and students; and
- 12 (6) generally the conduct of the persons, firms, or
- 13 corporations affected by this chapter."

14 Section 3. Section 37-31-301, MCA, is amended to read:

15 "37-31-301. Prohibited acts. (1) Without an

16 appropriate license issued under this chapter, it shall be

17 unlawful to:

- 18 (a) practice cosmetology for compensation;
- 19 (b) own, manage, operate, or conduct a school of
- 20 cosmetology or school of manicuring;
- 21 (c) manage or operate a cosmetology shop, manicuring
- 22 shop, or beauty parlor;
- 23 (d) teach in a school of cosmetology or school of
- 24 manicuring;
- 25 (e) practice manicuring for compensation;

1 (f) practice as a finger waver.

2 (2) It is unlawful:

3 (a) for any person who owns, manages, or controls a

4 cosmetology shop to employ or use an unlicensed person as a

5 cosmetologist or manicurist;

6 (b) to operate a cosmetology school without complying

7 with all of the regulations of 37-31-311;

8 (c) to practice cosmetology in any place other than in

9 a licensed establishment as provided in this chapter, except

10 when a licensed operator is requested by a customer to go to

11 a place other than a licensed establishment and is sent to

12 such customer from a licensed establishment;

13 (d) for any person who owns, manages, or controls a

14 manicuring shop to employ or use an unlicensed person as a

15 manicurist;

16 (e) to operate a manicuring school without complying

17 with 37-31-311;

18 ~~(d)~~(f) to violate any of the provisions of this

19 chapter."

20 Section 4. Section 37-31-302, MCA, is amended to read:

21 "37-31-302. License required to practice, teach, or

22 operate shop or school. (1) No person may practice or teach

23 cosmetology or practice or teach manicuring without a

24 license.

25 (2) No place may be used or maintained for the

1 teaching of cosmetology or manicuring for compensation  
2 except under a certificate of registration.

3 (3) No person may operate, or manage,--or--conduct a  
4 beauty shop or ~~school and teach the art~~ a manicuring shop or  
5 practice cosmetology or manicuring without a  
6 manager-operator license.

7 (4) No person may operate or conduct a school of  
8 cosmetology or a school of manicuring and teach the art of  
9 cosmetology or manicuring without a license to teach  
10 cosmetology.

11 ~~4~~(5) A person, firm, partnership, or corporation  
12 desiring to operate a cosmetological establishment shall  
13 make an application to the department for a certificate of  
14 registration and license. The application shall be  
15 accompanied by the annual registration fee.

16 ~~5~~(6) No license may be issued until the inspection  
17 fees required in 37-31-312 have been paid."

18 Section 5. Section 37-31-303, MCA, is amended to read:

19 "37-31-303. Application for license to practice or  
20 teach. ~~The~~ An applicant for a license to practice or teach  
21 cosmetology or for a license to practice manicuring must  
22 qualify by filing an application prescribed by the board and  
23 by taking and passing the examination prescribed by the  
24 board and given by the department, subject to 37-1-101. The  
25 license must be renewed annually under 37-31-322."

1 Section 6. Section 37-31-304, MCA, is amended to read:

2 "37-31-304. Qualifications of applicants for license  
3 to practice. (1) Before one a person may practice ~~or--teach~~  
4 cosmetology ~~or--a person, firm, partnership, or corporation~~  
5 ~~may operate a school of cosmetology, the person, firm,~~  
6 ~~partnership, or corporation,~~ he must obtain a license or  
7 certificate of registration to practice cosmetology from the  
8 department. Before a person may practice manicuring, he must  
9 obtain a license to practice manicuring from the department  
10 unless he is licensed to practice cosmetology.

11 (2) (a) To be eligible to take the examination to  
12 practice cosmetology, the applicant must be not less than 18  
13 years of age, a graduate of the 8th grade, and of good moral  
14 character. The applicant must have completed a continuous  
15 course of study of at least 2,000 hours in a registered  
16 beauty school, which course of study has been distributed  
17 over a period of not less than 10 months or more than 14  
18 months, and must have received a diploma from the beauty  
19 school or must have completed the course of study in  
20 cosmetology prescribed by the board of public education.

21 ~~3~~(b) The A person qualified under subsection (2)(a)  
22 must file with the department a written application to take  
23 the examination,--accompanied by a health certificate--issued  
24 by--a--registered,--licensed physician on a form supplied by  
25 the department, and shall deposit with the department the

1 required examination fee and pass an examination as to his  
2 fitness to practice cosmetology.

3 (3) (a) To be eligible to take the examination to  
4 practice manicuring, an applicant must be not less than 18  
5 years of age, be of good moral character, possess a high  
6 school diploma, an equivalent of a high school diploma  
7 recognized by the superintendent of public instruction, or a  
8 certificate of completion from a postsecondary  
9 vocational-technical center program, and have completed a  
10 course of study prescribed by the board in a registered  
11 school of cosmetology or a registered school of manicuring.

12 (b) A person qualified under subsection (3)(a) must  
13 file with the department a written application to take the  
14 examination and deposit with the department the required  
15 examination fee."

16 Section 7. Section 37-31-305, MCA, is amended to read:

17 "37-31-305. Qualifications of applicants for license  
18 to teach. (1) Before an--applicant a person may teach  
19 manicuring to persons seeking only to be licensed to  
20 practice manicuring or teach cosmetology, he must obtain  
21 from the department a license to teach cosmetology.

22 (2) To be eligible to take an examination to obtain a  
23 license as-a-teacher-of to teach cosmetology, he a person  
24 must:

25 ††(a) be a graduate of high school or possess an

1 equivalent of a high school diploma recognized by the  
2 superintendent of public instruction; and

3 †2)(b) †(i) have a license to practice cosmetology  
4 issued by the department--been-actively-engaged-as-a--beauty  
5 operator--for--1-continuous-year-immediately-prior-to-taking  
6 the--examination; and have received a diploma from a  
7 registered school of cosmetology approved by the board,  
8 certifying satisfactory completion of 500 hours of student  
9 teacher training; or

10 †b)(ii) have been actively engaged as a beauty operator  
11 for 3 continuous years immediately prior to taking the  
12 teachers' examination."

13 Section 8. Section 37-31-308, MCA, is amended to read:

14 "37-31-308. Examination -- reexamination -- exemption  
15 for handicapped persons. (1) Examinations for a license to  
16 practice cosmetology or manicuring or to teach cosmetology  
17 shall be held at a--place-and-time places and times specified  
18 by the board at--least-two-times-a-year-and-not-more-than  
19 five-times-a-year-and-for-teacher's-license-once-each--year.  
20 The examinations shall be conducted by the department,  
21 subject to 37-1-101. The examinations may not be confined  
22 to a specific method or system.

23 (2) Anyone failing twice to pass an examination for a  
24 license to practice cosmetology may not apply to retake the  
25 examination:

1 (a) sooner than 6 months after the date of the second  
2 failure; or

3 (b) until he has taken 200 hours additional teacher  
4 training at a registered school of cosmetology approved by  
5 the board.

6 (3) Anyone failing twice to pass the examination for a  
7 license to practice manicuring must meet the additional  
8 requirements prescribed by the board before applying to  
9 retake the examination.

10 (4) Anyone failing twice to pass the examination for a  
11 license to teach cosmetology must wait 1 year before  
12 reapplying to take the examination. Upon reapplying, the  
13 applicant must provide certification of completion of 500  
14 hours of teacher training during that year in a registered  
15 school licensed as a teacher training unit.

16 ~~(3)~~(5) Physically handicapped persons trained for  
17 cosmetology or manicuring by the department of social and  
18 rehabilitation services shall, for a period of 1 year  
19 immediately following their graduation, be exempt from the  
20 examination and the fees described in 37-31-323. On  
21 certification from the department of social and  
22 rehabilitation services that a department of social and  
23 rehabilitation services beneficiary has successfully  
24 completed the required apprenticeship-or training in a shop  
25 or beauty school or manicuring school, the department shall

1 issue the person the necessary certificate or license to  
2 practice the profession in this state."

3 Section 9. Section 37-31-311, MCA, is amended to read:

4 "37-31-311. ~~School~~---of---cosmetology Schools --  
5 certificate of registration -- requirements -- bond --  
6 curriculum. (1) No person, firm, partnership, or corporation  
7 may operate a school for the purpose of teaching cosmetology  
8 for compensation or for the purpose of teaching manicuring  
9 for compensation unless a certificate of registration has  
10 been first obtained from the department. Application for  
11 the certificate shall be filed with the department on a form  
12 prescribed by the board.

13 (2) No school for teaching cosmetology may be granted  
14 a certificate of registration unless it complies or can  
15 comply with the following requirements:

16 (a) It shall have in its employ a licensed teacher who  
17 is at all times in the immediate supervision of the work of  
18 the school, or other teachers the board determines are  
19 necessary for the proper conduct of the school. There may  
20 not be more than 25 students to each teacher.

21 (b) It shall possess apparatus and equipment the board  
22 determines is necessary for the ready and full teaching of  
23 all subjects or practices of cosmetology.

24 (c) It shall maintain a school term of not less than  
25 2,000 hours and shall prescribe a course of practical

1 training and technical instruction equal to the requirements  
2 for board examinations, which course of training and  
3 technical instruction shall be prescribed by the board.

4 (d) It shall keep a daily record of the attendance of  
5 each student, establish grades, and hold examinations before  
6 issuing diplomas.

7 (e) No owner or person in charge of a school of  
8 cosmetology may permit a person to sleep in or use for  
9 residential purposes, or any other purpose which would tend  
10 to make the room unsanitary, a room used wholly or in part  
11 for a school of cosmetology.

12 (3) No school for teaching manicuring may be granted a  
13 certificate of registration unless it complies with  
14 subsections (2)(a) and (2)(d) and the following  
15 requirements:

16 (a) It must possess apparatus and equipment the board  
17 determines necessary for the ready and full teaching of all  
18 subjects or practices of manicuring.

19 (b) It must maintain a school term and a course of  
20 practical training and technical instruction as prescribed  
21 by the board.

22 (c) No owner or person in charge of a school of  
23 manicuring may permit a person to sleep in or use for  
24 residential purposes, or any other purpose that would tend  
25 to make the room unsanitary, a room used wholly or in part

1 for a school of manicuring.

2 ~~(3)~~(4) Licenses or certificates of registration for  
3 schools of cosmetology and schools of manicuring may be  
4 refused, revoked, or suspended, as provided in 37-31-331.

5 ~~(4)~~(5) No teacher or student teacher may be permitted  
6 to practice cosmetology or manicuring on the public in a  
7 school of cosmetology or a school of manicuring. A school  
8 that enrolls student teachers for a course of student  
9 teacher training may not have, at any one time, more than  
10 one student teacher for each full-time licensed teacher  
11 actively engaged at the school. The student teachers may not  
12 substitute for full-time teachers.

13 ~~(5)~~(6) The board may make further rules necessary for  
14 the proper conduct of schools of cosmetology and schools of  
15 manicuring.

16 ~~(6)~~(7) The board shall require the person, firm,  
17 partnership, or corporation operating a school of  
18 cosmetology or a school of manicuring to furnish a good and  
19 sufficient bond in the amount of \$5,000 and in a form and  
20 manner prescribed by the board.

21 ~~(7)~~(8) No professional beauty shop or manicuring shop  
22 may be operated in connection with a school of cosmetology  
23 or school of manicuring.

24 ~~(8)~~(9) The board may, by rule, establish a suitable  
25 curriculum for teachers' training in registered schools of

1 cosmetology."

2 Section 10. Section 37-31-312, MCA, is amended to  
3 read:

4 "37-31-312. Inspection. (1) The department shall  
5 appoint one or more inspectors ~~who are licensed to practice~~  
6 ~~under this chapter~~, each of whom shall devote his time to  
7 inspecting beauty parlors and performing other duties as the  
8 department may direct. The inspectors may enter a beauty  
9 parlor, manicuring shop, or school of cosmetology, or school  
10 of manicuring during business hours for the purpose of  
11 inspection, and the refusal of a licensee to permit the  
12 inspection during business hours is cause for revocation of  
13 the license.

14 (2) Upon application for a license, any cosmetological  
15 establishment or manicuring shop must pay an initial  
16 inspection fee prescribed by the board.

17 (3) The board may authorize the department to grant to  
18 a cosmetological establishment or manicuring shop, upon  
19 payment of the initial inspection fee, a temporary permit  
20 authorizing the cosmetological establishment or manicuring  
21 shop to operate for a period of not to exceed 90 days or  
22 until the inspector is able to make the inspection,  
23 whichever event occurs first. This temporary permit is not  
24 renewable.

25 (4) The board shall conduct an annual inspection of

1 each ~~cosmetology~~ cosmetological establishment and manicuring  
2 shop in the state."

3 Section 11. Section 37-31-322, MCA, is amended to  
4 read:

5 "37-31-322. Renewal -- continuing education --  
6 delinquency fee. (1) Licenses and certificates may be issued  
7 for no longer than 1 year unless otherwise provided by rule.  
8 Licenses and certificates expire on December 31 unless  
9 otherwise provided by rule or renewed for the next year or  
10 renewal period. Licenses and certificates may be renewed by  
11 application made prior to December 31 of each year, unless  
12 otherwise provided, and the payment of a required renewal  
13 fee. Expired licenses and certificates may be renewed under  
14 rules made by the board, but the right to renew an expired  
15 license or certificate terminates after 10 years of  
16 nonpayment. The board may provide by rule for a change in  
17 the renewal date and renewal period for the manager-operator  
18 and salon owner category. The renewal fee may not exceed  
19 twice the fee for a 2-year renewal or three times the fee  
20 for a 3-year renewal and shall be as set by the board.

21 (2) In addition to the foregoing requirements for  
22 renewal, persons applying for the renewal of ~~teachers'~~  
23 licenses to teach cosmetology must have fulfilled the  
24 following additional requirements:

25 (a) During each year, an active teacher, either



1 full-time or part-time, must have successfully completed 30  
 2 hours' professional teacher training at a school approved by  
 3 the board.

4 (b) A person holding a teacher's license to teach  
 5 cosmetology but not actively engaged either full-time or  
 6 part-time in teaching cosmetology or manicuring during the  
 7 preceding year may renew the license by paying the required  
 8 fee. A person holding a teacher's license to teach  
 9 cosmetology but not actively engaged in teaching cosmetology  
 10 or manicuring either full-time or part-time for the  
 11 preceding year or longer and wishing to resume active  
 12 teaching of cosmetology or manicuring must successfully  
 13 complete 30 hours' professional teacher training at a school  
 14 approved by the board before resuming active teaching.  
 15 However, the foregoing provisions do not prevent the board,  
 16 under rules it adopts, from permitting a person holding a  
 17 teacher's license to teach cosmetology and not actively  
 18 engaged either full-time or part-time in teaching  
 19 cosmetology or manicuring from teaching as a substitute for  
 20 an active teacher.

21 (3) A fee prescribed by the board shall be charged, in  
 22 addition to other fees fixed by law, for renewal  
 23 applications of licenses and certificates made after  
 24 December 31 of each year or other predetermined renewal  
 25 deadline. ~~The department shall notify license and~~

1 ~~certificate-holders-of-the-expiration-date-of--licenses--and~~  
 2 ~~certificates--not--less--than--30--days--before--the--expiration~~  
 3 ~~date--and--call--attention--to--the--penalty--imposed--for--failure~~  
 4 ~~to--renew--a--license--or--certificate--by--the--date--of~~  
 5 ~~expiration:--"~~

6 Section 12. Section 37-31-331, MCA, is amended to  
 7 read:

8 "37-31-331. Refusal, revocation, or suspension of  
 9 licenses -- grounds -- notice and hearing. (1) The board may  
 10 refuse to issue, refuse to renew, or may revoke or suspend a  
 11 license in any one of the following cases:

12 (a) failure of a person, firm, partnership, or  
 13 corporation operating a cosmetological establishment,  
 14 manicuring shop, or school of cosmetology, or school of  
 15 manicuring to comply with this chapter;

16 (b) failure to comply with the sanitary rules adopted  
 17 by the board and approved by the department of health and  
 18 environmental sciences for the regulation of cosmetological  
 19 establishments, manicuring shops, or schools of cosmetology,  
 20 or schools of manicuring;

21 (c) gross malpractice;

22 (d) continued practice by a person knowingly having an  
 23 infectious or contagious disease;

24 (e) habitual drunkenness or habitual addiction to the  
 25 use of morphine or any habit-forming drug;

1 (f) permitting a certificate of registration or  
2 license to be used where the holder is not personally,  
3 actively, and continuously engaged in business; or

4 (g) failure to display the license.

5 (2) However, the board may not refuse to authorize the  
6 department to issue or renew a license or revoke or suspend  
7 a license already issued until after notice and opportunity  
8 for a hearing."

9 NEW SECTION. Section 13. Extension of authority. Any  
10 existing authority of the board of cosmetologists to make  
11 rules on the subject of the provisions of this act is  
12 extended to the provisions of this act.

13 NEW SECTION. Section 14. Effective date. This act is  
14 effective January 1, 1986.

-End-