

SENATE BILL NO. 151

INTRODUCED BY JACOBSON, HANSEN, WALKER, PAVLOVICH,  
NORMAN, RASMUSSEN, HARPER, GRADY

IN THE SENATE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 31, 1989	SECOND READING, DO PASS.
FEBRUARY 1, 1989	ENGROSSING REPORT.
FEBRUARY 2, 1989	THIRD READING, PASSED. AYES, 36; NOES, 13.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY.
FEBRUARY 20, 1989	FIRST READING.
FEBRUARY 28, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1989	SECOND READING, CONCURRED IN.
MARCH 4, 1989	THIRD READING, CONCURRED IN. AYES, 88; NOES, 6.
	RETURNED TO SENATE.

MARCH 6, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *151*  
 2 INTRODUCED BY *Jacobson, Sheehy, Hunsicker, O'Leary,*  
 3 *Calant, Roman, Rosmarino, Hays, Brady,*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
 5 RELATING TO THE PRACTICE OF COSMETOLOGY; EXPANDING THE  
 6 MEMBERSHIP OF THE BOARD OF COSMETOLOGISTS; REGULATING THE  
 7 PRACTICE OF BOOTH RENTAL; PROVIDING THAT LICENSING  
 8 EXAMINATIONS BE ADMINISTERED BY THE BOARD OF COSMETOLOGISTS;  
 9 AND AMENDING SECTIONS 2-15-1857, 37-31-101, 37-31-203,  
 10 37-31-301 THROUGH 37-31-303, 37-31-308, AND 37-31-312, MCA."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 2-15-1857, MCA, is amended to read:

14 "2-15-1857. Board of cosmetologists. (1) There is a  
 15 board of cosmetologists.

16 (2) (a) The board consists of seven members and may  
 17 include:

18 (i) three licensed cosmetologists;

19 (ii) one licensed manicurist or licensed electrologist;

20 (iii) two persons who are members of or affiliated with  
 21 a school of cosmetology; and

22 (iv) one public member who is not engaged in the  
 23 practice of cosmetology, or electrology, or manicuring.

24 (b) Members are appointed by the governor with the  
 25 consent of the senate.

1 (3) Each licensed ~~cosmetologist~~ member appointed shall  
 2 have actively engaged in the profession of cosmetology,  
 3 manicuring, or electrology for at least 5 years before his  
 4 appointment and have been a resident of this state for at  
 5 least 5 years immediately before his appointment. Each  
 6 member shall be at least 18 years old and a graduate of a  
 7 high school or its equivalent. No more than two members of  
 8 the board may be members of or affiliated with a school of  
 9 cosmetology.

10 ~~(3)~~(4) Each member shall serve for a term of 4 years.

11 ~~(4)~~(5) The board is allocated to the department for  
 12 administrative purposes only as prescribed in 2-15-121."

13 **Section 2.** Section 37-31-101, MCA, is amended to read:

14 "37-31-101. Definitions. Unless the context requires  
 15 otherwise, in this chapter the following definitions apply:

16 (1) "Practice and teaching of cosmetology" includes  
 17 work generally and usually included in the terms  
 18 "hairdressing", "manicuring", and "beauty culture" and  
 19 performed in so-called hairdressing and beauty shops,  
 20 booths, or by itinerant cosmetologists, which work is done  
 21 for the embellishment, cleanliness, and beautification of  
 22 the hair, scalp, face, arms, feet, or hands. The practice  
 23 and teaching of cosmetology shall not be construed to  
 24 include itinerant cosmetologists who perform their services  
 25 without compensation for demonstration purposes in any

1 regularly established store or place of business holding a  
2 license from the state of Montana as such store or place of  
3 business.

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

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

11 (4) "Booth" means any part of a cosmetological  
12 establishment or manicuring shop that is rented or leased  
13 for the performance of cosmetologist services, as specified  
14 in 39-51-204(1)(1).

15 ~~(4)~~(5) "Department" means the department of commerce  
16 provided for in Title 2, chapter 15, part 18.

17 ~~(5)~~(6) "Manicuring" includes nail care of the hands  
18 and feet and the application and maintenance of artificial  
19 nails.

20 ~~(6)~~(7) "Manicuring shop" means premises, a building,  
21 or part of a building in which the art of manicuring is  
22 practiced."

23 **Section 3.** Section 37-31-203, MCA, is amended to read:

24 **"37-31-203. Rulemaking powers.** The board shall  
25 prescribe rules for:

1 (1) the conduct of its business;

2 (2) the qualification, examination, and registration  
3 of applicants to practice cosmetology or manicuring or to  
4 teach cosmetology;

5 (3) the qualification and registration of applicants  
6 for manager-operator licenses;

7 (4) the regulation and instruction of apprentices and  
8 students;

9 (5) the conduct of schools of cosmetology and schools  
10 of manicuring for apprentices and students; and

11 (6) the qualification and registration of applicants  
12 for booth rental licenses; and

13 ~~(6)~~(7) generally the conduct of the persons, firms, or  
14 corporations affected by this chapter."

15 **Section 4.** Section 37-31-301, MCA, is amended to read:

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

19 (a) practice cosmetology for compensation;

20 (b) own, manage, operate, or conduct a school of  
21 cosmetology or school of manicuring;

22 (c) manage or operate a cosmetology shop, manicuring  
23 shop, booth, or beauty parlor;

24 (d) teach in a school of cosmetology or school of  
25 manicuring;

(e) practice manicuring for compensation;

(f) practice as a finger waver.

(2) It is unlawful:

(a) for any person who owns, manages, or controls a cosmetology shop to employ or use an unlicensed person as a cosmetologist or manicurist;

(b) to operate a cosmetology school without complying with all of the regulations of 37-31-311;

(c) to practice cosmetology in any place other than in a licensed establishment as provided in this chapter, except when a licensed operator is requested by a customer to go to a place other than a licensed establishment and is sent to such customer from a licensed establishment;

(d) for any person who owns, manages, or controls a manicuring shop to employ or use an unlicensed person as a manicurist;

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

(f) to violate any of the provisions of this chapter."

**Section 5.** Section 37-31-302, MCA, is amended to read:

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

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

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

(3) No person may operate or manage a beauty shop or a manicuring shop or practice cosmetology or manicuring without a manager-operator license.

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

(5) No person may manage or operate a booth without a booth rental license.

~~(5)~~(6) A person, firm, partnership, or corporation desiring to operate a cosmetological establishment shall make an application to the department for a certificate of registration and license. The application shall be accompanied by the annual registration fee.

~~(6)~~(7) No license may be issued until the inspection fees required in 37-31-312 have been paid."

**Section 6.** Section 37-31-303, MCA, is amended to read:

"37-31-303. Application for license to practice or teach. An applicant for a license to practice or teach cosmetology or for a license to practice manicuring must qualify by filing an application prescribed by the board and by taking and passing the examination prescribed and given by the board ~~and--given--by--the--department,--subject-to~~

1 37-1-101. The license must be renewed annually under  
2 37-31-322."

3 **Section 7.** Section 37-31-308, MCA, is amended to read:

4 "37-31-308. Examination -- reexamination -- exemption  
5 for handicapped persons. (1) Examinations for a license to  
6 practice cosmetology or manicuring or to teach cosmetology  
7 shall be held at places and times specified by the board.  
8 The examinations shall be conducted by the department,  
9 ~~subject to 37-1-101 board.~~ The examinations may not be  
10 confined to a specific method or system. The examinations  
11 shall be conducted by persons who hold a current license to  
12 practice in the profession for which the applicant is being  
13 examined.

14 (2) Anyone failing twice to pass the examination for a  
15 license to practice cosmetology may not apply to retake the  
16 examination:

17 (a) sooner than 6 months after the date of the second  
18 failure; or

19 (b) until he has taken 200 hours additional training  
20 at a registered school of cosmetology approved by the board.

21 (3) Anyone failing twice to pass the examination for a  
22 license to practice manicuring must meet the additional  
23 requirements prescribed by the board before applying to  
24 retake the examination.

25 (4) Anyone failing twice to pass the examination for a

1 license to teach cosmetology must wait 1 year before  
2 reapplying to take the examination. Upon reapplying, the  
3 applicant must provide certification of completion of 50  
4 hours of teacher training during that year in a registered  
5 school licensed as a teacher training unit.

6 (5) Physically handicapped persons trained for  
7 cosmetology or manicuring by the department of social and  
8 rehabilitation services shall, for a period of 1 year  
9 immediately following their graduation, be exempt from the  
10 examination and the fees described in 37-31-323. On  
11 certification from the department of social and  
12 rehabilitation services that a department of social and  
13 rehabilitation services beneficiary has successfully  
14 completed the required training in a beauty school or  
15 manicuring school, the department shall issue the person the  
16 necessary certificate or license to practice the profession  
17 in this state."

18 **Section 8.** Section 37-31-312, MCA, is amended to read:

19 "37-31-312. Inspection. (1) The department shall  
20 appoint one or more inspectors, each of whom shall devote  
21 his time to inspecting beauty parlors and performing other  
22 duties as the department may direct. The inspectors may  
23 enter a beauty parlor, manicuring shop, booth, school of  
24 cosmetology, or school of manicuring during business hours  
25 for the purpose of inspection, and the refusal of a licensee

to permit the inspection during business hours is cause for revocation of the license.

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

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

(4) The board shall conduct an annual inspection of each cosmetological establishment and manicuring shop in the state."

**NEW SECTION. Section 9. Booth rental license.** No person may receive a booth rental license under 37-31-302 without proving to the satisfaction of the board that the booth will be used and maintained in compliance with the rules and regulations promulgated by the board, including sanitary rules prescribed under 37-31-204.

**NEW SECTION. Section 10. Extension of authority.** Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of

[this act].

**NEW SECTION. Section 11. Codification instruction.**  
[Section 9] is intended to be codified as an integral part of Title 37, chapter 31, part 3, and the provisions of Title 37, chapter 31, part 3, apply to [section 9].

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB151, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

SB151 would revise the laws relating to the practice of cosmetology, expanding membership on the Board of Cosmetologists membership, regulating the practice of booth rental and providing that licensing examinations be administered by the board.

ASSUMPTIONS:

1. There will be three additional board members attending four meetings per year, with an average cost of \$445 per board member for each meeting.
2. The other items in the bill will have no or minimal fiscal impact.
3. The budget used is that recommended in the executive budget for current law and the proposed law makes additions thereto.
4. The Professional and Occupational Licensing Bureau overhead and supportive services charges equal 41% of the board's budget. It will be necessary for the board to have increased authority to pay for the bureau's supportive services and for the bureau to have increased spending authority.

FISCAL IMPACT:

	Current Law	FY90 Proposed Law	Difference	Current Law	FY91 Proposed Law	Difference
<u>Expenditures:</u>						
Dept. of Commerce POL						
Personal Services	\$ 27,957	\$ 29,157	\$1,200	\$ 28,113	\$ 29,313	\$1,200
Operating Expenses	95,248	101,543	6,295	95,443	101,738	6,295
Total	\$123,205	\$130,700	\$7,495	\$123,556	\$131,051	\$7,495

Funding:

State Special Revenue						
License Fees	\$123,205	\$130,700	\$7,495	\$123,556	\$131,051	\$7,495

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The increased costs for three additional board members will continue and licensees' fees will pay for these costs.

*Ray Shackelford*

1/23/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

*Judy H. Jacobson* 1-24-89

JUDY H. JACOBSON, PRIMARY SPONSOR

DATE

Fiscal Note for SB151, as introduced

SB 151



APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

## SENATE BILL NO. 151

INTRODUCED BY JACOBSON, HANSEN, WALKER, PAVLOVICH,  
NORMAN, RASMUSSEN, HARPER, GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
RELATING TO THE PRACTICE OF COSMETOLOGY; EXPANDING THE  
MEMBERSHIP OF THE BOARD OF COSMETOLOGISTS; REGULATING THE  
PRACTICE OF BOOTH RENTAL; PROVIDING THAT LICENSING  
EXAMINATIONS BE ADMINISTERED BY THE BOARD OF COSMETOLOGISTS;  
AND AMENDING SECTIONS 2-15-1857, 37-31-101, 37-31-203,  
37-31-301 THROUGH 37-31-303, 37-31-308, AND 37-31-312, MCA."

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board of cosmetologists.

(2) (a) The board consists of seven members and may  
include:

(i) three licensed cosmetologists;

(ii) one licensed manicurist or licensed electrologist;

(iii) two persons who are members of or affiliated with  
a school of cosmetology; and

(iv) one public member who is not engaged in the  
practice of cosmetology, or electrology, or manicuring.

(b) Members are appointed by the governor with the

consent of the senate.

(3) Each licensed ~~cosmetologist~~ member appointed shall  
have actively engaged in the profession of cosmetology,  
manicuring, or electrology for at least 5 years before his  
appointment and have been a resident of this state for at  
least 5 years immediately before his appointment. Each  
member shall be at least 18 years old and a graduate of a  
high school or its equivalent. No more than two members of  
the board may be members of or affiliated with a school of  
cosmetology.

~~(3)~~(4) Each member shall serve for a term of 4 years.

~~(4)~~(5) The board is allocated to the department for  
administrative purposes only as prescribed in 2-15-121."

**Section 2.** 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,  
booths, 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 itinerant cosmetologists who perform their services

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

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

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

12 (4) "Booth" means any part of a cosmetological  
13 establishment or manicuring shop that is rented or leased  
14 for the performance of cosmetologist services, as specified  
15 in 39-51-204(1)(1).

16 {4}{5} "Department" means the department of commerce  
17 provided for in Title 2, chapter 15, part 18.

18 {5}{6} "Manicuring" includes nail care of the hands  
19 and feet and the application and maintenance of artificial  
20 nails.

21 {6}{7} "Manicuring shop" means premises, a building,  
22 or part of a building in which the art of manicuring is  
23 practiced."

24 **Section 3.** 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) the qualification and registration of applicants  
13 for booth rental licenses; and

14 {6}{7} generally the conduct of the persons, firms, or  
15 corporations affected by this chapter."

16 **Section 4.** Section 37-31-301, MCA, is amended to read:

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

20 (a) practice cosmetology for compensation;

21 (b) own, manage, operate, or conduct a school of  
22 cosmetology or school of manicuring;

23 (c) manage or operate a cosmetology shop, manicuring  
24 shop, booth, or beauty parlor;

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

1 manicuring;

2 (e) practice manicuring for compensation;

3 (f) practice as a finger waver.

4 (2) It is unlawful:

5 (a) for any person who owns, manages, or controls a  
6 cosmetology shop to employ or use an unlicensed person as a  
7 cosmetologist or manicurist;

8 (b) to operate a cosmetology school without complying  
9 with all of the regulations of 37-31-311;

10 (c) to practice cosmetology in any place other than in  
11 a licensed establishment as provided in this chapter, except  
12 when a licensed operator is requested by a customer to go to  
13 a place other than a licensed establishment and is sent to  
14 such customer from a licensed establishment;

15 (d) for any person who owns, manages, or controls a  
16 manicuring shop to employ or use an unlicensed person as a  
17 manicurist;

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

20 (f) to violate any of the provisions of this chapter."

21 **Section 5.** Section 37-31-302, MCA, is amended to read:

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

1 (2) No place may be used or maintained for the  
2 teaching of cosmetology or manicuring for compensation  
3 except under a certificate of registration.

4 (3) No person may operate or manage a beauty shop or a  
5 manicuring shop or practice cosmetology or manicuring  
6 without a 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 (5) No person may manage or operate a booth without a  
12 booth rental license.

13 ~~(5)~~(6) A person, firm, partnership, or corporation  
14 desiring to operate a cosmetological establishment shall  
15 make an application to the department for a certificate of  
16 registration and license. The application shall be  
17 accompanied by the annual registration fee.

18 ~~(6)~~(7) No license may be issued until the inspection  
19 fees required in 37-31-312 have been paid."

20 **Section 6.** Section 37-31-303, MCA, is amended to read:

21 "37-31-303. Application for license to practice or  
22 teach. An applicant for a license to practice or teach  
23 cosmetology or for a license to practice manicuring must  
24 qualify by filing an application prescribed by the board and  
25 by taking and passing the examination prescribed and--given

1 by the board ~~and--given--by--the--department,--subject-to~~  
 2 ~~37-1-101~~. The license must be renewed annually under  
 3 37-31-322."

4 **Section 7.** Section 37-31-308, MCA, is amended to read:

5 "37-31-308. **Examination -- reexamination -- exemption**  
 6 for handicapped persons. (1) Examinations for a license to  
 7 practice cosmetology or manicuring or to teach cosmetology  
 8 shall be held at places and times specified by the board.  
 9 The examinations shall be conducted SUPERVISED by the  
 10 ~~department,--subject-to-37-1-101~~ board. The examinations may  
 11 not be confined to a specific method or system. The  
 12 examinations shall be conducted by persons who hold a  
 13 current license to practice in the profession for which the  
 14 applicant is being examined.

15 (2) Anyone failing twice to pass the examination for a  
 16 license to practice cosmetology may not apply to retake the  
 17 examination:

18 (a) sooner than 6 months after the date of the second  
 19 failure; or

20 (b) until he has taken 200 hours additional training  
 21 at a registered school of cosmetology approved by the board.

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 23 license to practice manicuring must meet the additional  
 24 requirements prescribed by the board before applying to  
 25 retake the examination.

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 2 license to teach cosmetology must wait 1 year before  
 3 reapplying to take the examination. Upon reapplying, the  
 4 applicant must provide certification of completion of 500  
 5 hours of teacher training during that year in a registered  
 6 school licensed as a teacher training unit.

7 (5) Physically handicapped persons trained for  
 8 cosmetology or manicuring by the department of social and  
 9 rehabilitation services shall, for a period of 1 year  
 10 immediately following their graduation, be exempt from the  
 11 examination and the fees described in 37-31-323. On  
 12 certification from the department of social and  
 13 rehabilitation services that a department of social and  
 14 rehabilitation services beneficiary has successfully  
 15 completed the required training in a beauty school or  
 16 manicuring school, the department shall issue the person the  
 17 necessary certificate or license to practice the profession  
 18 in this state."

19 **Section 8.** Section 37-31-312, MCA, is amended to read:

20 "37-31-312. **Inspection.** (1) The department shall  
 21 appoint one or more inspectors, each of whom shall devote  
 22 his time to inspecting beauty parlors and performing other  
 23 duties as the department may direct. The inspectors may  
 24 enter a beauty parlor, manicuring shop, booth, school of  
 25 cosmetology, or school of manicuring during business hours

1 for the purpose of inspection, and the refusal of a licensee  
2 to permit the inspection during business hours is cause for  
3 revocation of the license.

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

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8 a cosmetological establishment or manicuring shop, upon  
9 payment of the initial inspection fee, a temporary permit  
10 authorizing the cosmetological establishment or manicuring  
11 shop to operate for a period of not to exceed 90 days or  
12 until the inspector is able to make the inspection,  
13 whichever event occurs first. This temporary permit is not  
14 renewable.

15 (4) The board shall conduct an annual inspection of  
16 each cosmetological establishment and manicuring shop in the  
17 state."

18 NEW SECTION. **Section 9.** Booth rental license. No  
19 person may receive a booth rental license under 37-31-302  
20 without proving to the satisfaction of the board that the  
21 booth will be used and maintained in compliance with the  
22 rules and regulations promulgated by the board, including  
23 sanitary rules prescribed under 37-31-204.

24 NEW SECTION. **Section 10.** Extension of authority. Any  
25 existing authority to make rules on the subject of the

1 provisions of [this act] is extended to the provisions of  
2 [this act].

3 NEW SECTION. **Section 11.** Codification instruction.  
4 [Section 9] is intended to be codified as an integral part  
5 of Title 37, chapter 31, part 3, and the provisions of Title  
6 37, chapter 31, part 3, apply to [section 9].

-End-

## SENATE BILL NO. 151

INTRODUCED BY JACOBSON, HANSEN, WALKER, PAVLOVICH,

NORMAN, RASMUSSEN, HARPER, GRADY

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(b) Members are appointed by the governor with the

consent of the senate.

(3) Each licensed ~~cosmetologist~~ member appointed shall have actively engaged in the profession of cosmetology, manicuring, or electrology for at least 5 years before his appointment and have been a resident of this state for at least 5 years immediately before his appointment. Each member shall be at least 18 years old and a graduate of a high school or its equivalent. No more than two members of the board may be members of or affiliated with a school of cosmetology.

~~†3†~~(4) Each member shall serve for a term of 4 years.

~~†4†~~(5) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

**Section 2.** 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, booths, 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 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.

(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) "Booth" means any part of a cosmetological establishment or manicuring shop that is rented or leased for the performance of cosmetologist services, as specified in 39-51-204(1)(1).

~~(4)~~(5) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

~~(5)~~(6) "Manicuring" includes nail care of the hands and feet and the application and maintenance of artificial nails.

~~(6)~~(7) "Manicuring shop" means premises, a building, or part of a building in which the art of manicuring is practiced."

**Section 3.** Section 37-31-203, MCA, is amended to read:

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

prescribe rules for:

(1) the conduct of its business;

(2) the qualification, examination, and registration of applicants to practice cosmetology or manicuring or to teach cosmetology;

(3) the qualification and registration of applicants for manager-operator licenses;

(4) the regulation and instruction of apprentices and students;

(5) the conduct of schools of cosmetology and schools of manicuring for apprentices and students; and

(6) the qualification and registration of applicants for booth rental licenses; and

~~(6)~~(7) generally the conduct of the persons, firms, or corporations affected by this chapter."

**Section 4.** Section 37-31-301, MCA, is amended to read:

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

(a) practice cosmetology for compensation;

(b) own, manage, operate, or conduct a school of cosmetology or school of manicuring;

(c) ~~manage or operate a cosmetology shop, manicuring shop, booth, or beauty parlor;~~

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

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

21 **Section 5.** Section 37-31-302, MCA, is amended to read:

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

1 (2) No place may be used or maintained for the  
 2 teaching of cosmetology or manicuring for compensation  
 3 except under a certificate of registration.

4 (3) No person may operate or manage a beauty shop or a  
 5 manicuring shop or practice cosmetology or manicuring  
 6 without a 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 ~~(5) No person may manage or operate a booth without a~~  
 12 ~~booth rental license.~~

13 ~~(6)~~ (6) A person, firm, partnership, or corporation  
 14 desiring to operate a cosmetological establishment shall  
 15 make an application to the department for a certificate of  
 16 registration and license. The application shall be  
 17 accompanied by the annual registration fee.

18 ~~(6)~~ (7) No license may be issued until the inspection  
 19 fees required in 37-31-312 have been paid."

20 **Section 6.** Section 37-31-303, MCA, is amended to read:

21 "37-31-303. Application for license to practice or  
 22 teach. An applicant for a license to practice or teach  
 23 cosmetology or for a license to practice manicuring must  
 24 qualify by filing an application prescribed by the board and  
 25 by taking and passing the examination prescribed ~~and given~~



by the board ~~and--given--by--the--department--subject-to~~  
 37-1-101. The license must be renewed annually under  
 37-31-322."

**Section 7.** Section 37-31-308, MCA, is amended to read:

"37-31-308. Examination -- reexamination -- exemption  
 for handicapped persons. (1) Examinations for a license to  
 practice cosmetology or manicuring or to teach cosmetology  
 shall be held at places and times specified by the board.  
 The examinations shall be conducted SUPERVISED by the  
~~department--subject-to-37-1-101~~ board. The examinations may  
 not be confined to a specific method or system. The  
examinations shall be conducted by persons who hold a  
current license to practice in the profession for which the  
applicant is being examined.

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

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

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

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

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

(5) Physically handicapped persons trained for  
 cosmetology or manicuring by the department of social and  
 rehabilitation services shall, for a period of 1 year  
 immediately following their graduation, be exempt from the  
 examination and the fees described in 37-31-323. On  
 certification from the department of social and  
 rehabilitation services that a department of social and  
 rehabilitation services beneficiary has successfully  
 completed the required training in a beauty school or  
 manicuring school, the department shall issue the person the  
 necessary certificate or license to practice the profession  
 in this state."

**Section 8.** Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection. (1) The department shall  
 appoint one or more inspectors, each of whom shall devote  
 his time to inspecting beauty parlors and performing other  
 duties as the department may direct. The inspectors may  
 enter a beauty parlor, manicuring shop, booth, school of  
 cosmetology, or school of manicuring during business hours

1 for the purpose of inspection, and the refusal of a licensee  
2 to permit the inspection during business hours is cause for  
3 revocation of the license.

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

7 (3) The board may authorize the department to grant to  
8 a cosmetological establishment or manicuring shop, upon  
9 payment of the initial inspection fee, a temporary permit  
10 authorizing the cosmetological establishment or manicuring  
11 shop to operate for a period of not to exceed 90 days or  
12 until the inspector is able to make the inspection,  
13 whichever event occurs first. This temporary permit is not  
14 renewable.

15 (4) The board shall conduct an annual inspection of  
16 each cosmetological establishment and manicuring shop in the  
17 state."

18 NEW SECTION. Section 9. Booth rental license. No  
19 person may receive a booth rental license under 37-31-302  
20 without proving to the satisfaction of the board that the  
21 booth will be used and maintained in compliance with the  
22 rules and regulations promulgated by the board, including  
23 sanitary rules prescribed under 37-31-204.

24 NEW SECTION. Section 10. Extension of authority. Any  
25 existing authority to make rules on the subject of the

1 provisions of [this act] is extended to the provisions of  
2 [this act].

3 NEW SECTION. Section 11. Codification instruction.  
4 [Section 9] is intended to be codified as an integral part  
5 of Title 37, chapter 31, part 3, and the provisions of Title  
6 37, chapter 31, part 3, apply to [section 9].

-End-

## SENATE BILL NO. 151

INTRODUCED BY JACOBSON, HANSEN, WALKER, PAVLOVICH,  
NORMAN, RASMUSSEN, HARPER, GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
RELATING TO THE PRACTICE OF COSMETOLOGY; EXPANDING THE  
MEMBERSHIP OF THE BOARD OF COSMETOLOGISTS; REGULATING THE  
PRACTICE OF BOOTH RENTAL; PROVIDING THAT LICENSING  
EXAMINATIONS BE ADMINISTERED BY THE BOARD OF COSMETOLOGISTS;  
AND AMENDING SECTIONS 2-15-1857, 37-31-101, 37-31-203,  
37-31-301 THROUGH 37-31-303, 37-31-308, AND 37-31-312, MCA."

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

**Section 1.** Section 2-15-1857, MCA, is amended to read:

"2-15-1857. Board of cosmetologists. (1) There is a  
board of cosmetologists.

(2) (a) The board consists of seven members and may  
include:

(i) three licensed cosmetologists;

(ii) one licensed manicurist or licensed electrologist;

(iii) two persons who are members of or affiliated with  
a school of cosmetology; and

(iv) one public member who is not engaged in the  
practice of cosmetology, or electrology, or manicuring.

(b) Members are appointed by the governor with the

consent of the senate.

(3) Each licensed cosmetologist member appointed shall  
have actively engaged in the profession of cosmetology,  
manicuring, or electrology for at least 5 years before his  
appointment and have been a resident of this state for at  
least 5 years immediately before his appointment. Each  
member shall be at least 18 years old and a graduate of a  
high school or its equivalent. No more than two members of  
the board may be members of or affiliated with a school of  
cosmetology.

(4) Each member shall serve for a term of 4 years.

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

**Section 2.** 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,  
booths, 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 itinerant cosmetologists who perform their services

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

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

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

12 (4) "Booth" means any part of a cosmetological  
13 establishment or manicuring shop that is rented or leased  
14 for the performance of cosmetologist services, as specified  
15 in 39-51-204(1)(1).

16 (4)(5) "Department" means the department of commerce  
17 provided for in Title 2, chapter 15, part 18.

18 (5)(6) "Manicuring" includes nail care of the hands  
19 and feet and the application and maintenance of artificial  
20 nails.

21 (6)(7) "Manicuring shop" means premises, a building,  
22 or part of a building in which the art of manicuring is  
23 practiced."

24 **Section 3.** 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) the qualification and registration of applicants  
13 for booth rental licenses; and

14 (6)(7) generally the conduct of the persons, firms, or  
15 corporations affected by this chapter."

16 **Section 4.** Section 37-31-301, MCA, is amended to read:

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

20 (a) practice cosmetology for compensation;

21 (b) own, manage, operate, or conduct a school of  
22 cosmetology or school of manicuring;

23 (c) manage or operate a cosmetology shop, manicuring  
24 shop, booth, or beauty parlor;

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

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

21 **Section 5.** Section 37-31-302, MCA, is amended to read:

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

1 (2) No place may be used or maintained for the  
 2 teaching of cosmetology or manicuring for compensation  
 3 except under a certificate of registration.

4 (3) No person may operate or manage a beauty shop or a  
 5 manicuring shop or practice cosmetology or manicuring  
 6 without a 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 (5) No person may manage or operate a booth without a  
 12 booth rental license.

13 ~~(5)~~(6) A person, firm, partnership, or corporation  
 14 desiring to operate a cosmetological establishment shall  
 15 make an application to the department for a certificate or  
 16 registration and license. The application shall be  
 17 accompanied by the annual registration fee.

18 ~~(6)~~(7) No license may be issued until the inspection  
 19 fees required in 37-31-312 have been paid."

20 **Section 6.** Section 37-31-303, MCA, is amended to read:

21 "37-31-303. Application for license to practice or  
 22 teach. An applicant for a license to practice or teach  
 23 cosmetology or for a license to practice manicuring must  
 24 qualify by filing an application prescribed by the board and  
 25 by taking and passing the examination prescribed ~~and given~~

1 by the board and--given--by--the--department,--subject-to  
2 37-1-101. The license must be renewed annually under  
3 37-31-322."

4 **Section 7.** Section 37-31-308, MCA, is amended to read:

5 **"37-31-308. Examination -- reexamination -- exemption**  
6 **for handicapped persons.** (1) Examinations for a license to  
7 practice cosmetology or manicuring or to teach cosmetology  
8 shall be held at places and times specified by the board.  
9 The examinations shall be conducted SUPERVISED by the  
10 department,--subject-to-37-1-101 board. The examinations may  
11 not be confined to a specific method or system. The  
12 examinations shall be conducted by persons who hold a  
13 current license to practice in the profession for which the  
14 applicant is being examined.

15 (2) Anyone failing twice to pass the examination for a  
16 license to practice cosmetology may not apply to retake the  
17 examination:

18 (a) sooner than 6 months after the date of the second  
19 failure; or

20 (b) until he has taken 200 hours additional training  
21 at a registered school of cosmetology approved by the board.

22 (3) Anyone failing twice to pass the examination for a  
23 license to practice manicuring must meet the additional  
24 requirements prescribed by the board before applying to  
25 retake the examination.

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

7 (5) Physically handicapped persons trained for  
8 cosmetology or manicuring by the department of social and  
9 rehabilitation services shall, for a period of 1 year  
10 immediately following their graduation, be exempt from the  
11 examination and the fees described in 37-31-323. On  
12 certification from the department of social and  
13 rehabilitation services that a department of social and  
14 rehabilitation services beneficiary has successfully  
15 completed the required training in a beauty school or  
16 manicuring school, the department shall issue the person the  
17 necessary certificate or license to practice the profession  
18 in this state."

19 **Section 8.** Section 37-31-312, MCA, is amended to read:

20 **"37-31-312. Inspection.** (1) The department shall  
21 appoint one or more inspectors, each of whom shall devote  
22 his time to inspecting beauty parlors and performing other  
23 duties as the department may direct. The inspectors may  
24 enter a beauty parlor, manicuring shop, booth, school of  
25 cosmetology, or school of manicuring during business hours

1 for the purpose of inspection, and the refusal of a licensee  
2 to permit the inspection during business hours is cause for  
3 revocation of the license.

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

7 (3) The board may authorize the department to grant to  
8 a cosmetological establishment or manicuring shop, upon  
9 payment of the initial inspection fee, a temporary permit  
10 authorizing the cosmetological establishment or manicuring  
11 shop to operate for a period of not to exceed 90 days or  
12 until the inspector is able to make the inspection,  
13 whichever event occurs first. This temporary permit is not  
14 renewable.

15 (4) The board shall conduct an annual inspection of  
16 each cosmetological establishment and manicuring shop in the  
17 state."

18 NEW SECTION. Section 9. Booth rental license. No  
19 person may receive a booth rental license under 37-31-302  
20 without proving to the satisfaction of the board that the  
21 booth will be used and maintained in compliance with the  
22 rules and regulations promulgated by the board, including  
23 sanitary rules prescribed under 37-31-204.

24 NEW SECTION. Section 10. Extension of authority. Any  
25 existing authority to make rules on the subject of the

1 provisions of [this act] is extended to the provisions of  
2 [this act].

3 NEW SECTION. Section 11. Codification instruction.  
4 [Section 9] is intended to be codified as an integral part  
5 of Title 37, chapter 31, part 3, and the provisions of Title  
6 37, chapter 31, part 3, apply to [section 9].

-End-