

1 Senate BILL NO. 259
 2 INTRODUCED BY Sen. W. J. ...
 3 Sen. Mc Carthy Curtiss

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING LICENSURE FOR TEACHERS OF MANICURING AND
 5 FOR ESTHETICIANS, ESTHETICS INSTRUCTORS, SCHOOLS OF ESTHETICS, AND ESTHETICS SALONS;
 6 AND AMENDING SECTIONS 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-304, 37-31-305,
 7 37-31-308, 37-31-311, 37-31-312, AND 37-31-331, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
 11 **Section 1.** Section 37-31-101, MCA, is amended to read:

12 **"37-31-101. Definitions.** Unless the context requires otherwise, in this chapter, the following
 13 definitions apply:

- 14 (1) "Board" means the board of cosmetologists provided for in 2-15-1857.
- 15 (2) "Booth" means any part of a cosmetology, ~~salon or manicuring, or esthetics~~ salon that is rented
 16 or leased for the performance of cosmetologist, manicuring, or esthetics services, as specified in
 17 39-51-204(1)(I).
- 18 (3) "Cosmetology salon" means the premises, a building, or a part of a building in which is
 19 ~~practiced~~ a branch or combination of branches of cosmetology or the occupation of a hairdresser and
 20 cosmetician or cosmetologist ~~and that must have a manager operator in charge~~ is practiced by a person
 21 licensed under the provisions of this chapter.
- 22 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.
- 23 (5) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.
- 24 (6) "Esthetics" means skin care of the face, neck, and hands involving hot compresses, massage,
 25 or the use of approved electrical appliances or chemical compounds formulated for professional application
 26 only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical
 27 apparatus or appliances on another person.
- 28 (7) "Esthetics salon" means the premises, a building, or a part of a building in which the art of
 29 esthetics is practiced.
- 30 ~~(5)~~(8) "Manicuring" includes nail care of the hands and feet and the application and maintenance

1 of artificial nails.

2 ~~(6)(9)~~ "Manicuring salon" means the premises, a building, or a part of a building in which the art
3 of manicuring is practiced.

4 ~~(7)(10)~~ "Practice and teaching of cosmetology" means work included in the terms "hairdressing",
5 "manicuring", "esthetics", and "beauty culture" and performed in cosmetology salons, in booths, or by
6 itinerant cosmetologists, which work is done for the embellishment, cleanliness, and beautification of the
7 hair, scalp, face, arms, feet, or hands. The practice and teaching of cosmetology may not be construed to
8 include itinerant cosmetologists who perform their services without compensation for demonstration
9 purposes in any regularly established store or place of business holding a license from the state of Montana
10 as a store or place of business."
11

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

13 **"37-31-203. Rulemaking powers.** The board shall prescribe rules for:

- 14 (1) the conduct of its business;
- 15 (2) the qualification, examination, and registration of applicants to practice cosmetology, ~~or~~
16 manicuring, or esthetics or to teach cosmetology, manicuring, or esthetics;
- 17 (3) the qualification and registration of applicants for manager-operator licenses;
- 18 (4) the regulation and instruction of apprentices and students;
- 19 (5) the conduct of schools of cosmetology, ~~and schools of~~ manicuring, and esthetics for
20 apprentices and students;
- 21 (6) the qualification and registration of applicants for booth rental licenses; and
- 22 (7) generally the conduct of the persons, firms, or corporations affected by this chapter."
23

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

25 **"37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is
26 unlawful to:

- 27 (a) practice cosmetology for compensation;
- 28 (b) own, manage, operate, or conduct a school of cosmetology ~~or, school of~~ manicuring, or
29 esthetics;
- 30 (c) manage or operate a cosmetology salon, manicuring salon, esthetics salon, or booth;

1 (d) teach in a school of cosmetology ~~or school of manicuring,~~ manicuring, or esthetics;

2 (e) practice manicuring for compensation;

3 (f) practice as a finger waver; or

4 (g) practice esthetics for compensation.

5 (2) It is unlawful:

6 (a) for a person who owns, manages, or controls a cosmetology salon to employ or use an
7 unlicensed person as a cosmetologist ~~or, a manicurist, or an esthetician;~~

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

9 (c) to practice cosmetology in any place other than in a licensed salon as provided in this chapter,
10 except when a licensed operator is requested:

11 (i) by a customer to go to a place other than a licensed salon and is sent to the customer from a
12 licensed salon; or

13 (ii) by a handicapped or homebound customer to go to the customer's place of residence;

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

16 (e) for a person who owns, manages, or controls an esthetics salon to employ or use an unlicensed
17 person as an esthetician;

18 ~~(f)~~ to operate a manicuring school or a school of esthetics without complying with 37-31-311;

19 ~~(g)~~ to violate any of the provisions of this chapter."
20

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

22 **"37-31-302. License required to practice, teach, or operate salon, booth, or school.** (1) A person
23 may not practice or teach cosmetology, ~~or practice or teach~~ manicuring, or esthetics without a license.

24 (2) A place may not be used or maintained for the teaching of cosmetology, ~~or manicuring, or~~
25 esthetics for compensation except under a certificate of registration.

26 (3) A person may not operate or manage a cosmetology salon, ~~or a manicuring salon, or an~~
27 esthetics salon or practice cosmetology, ~~or manicuring, or esthetics~~ without a ~~manager-operator~~ license.

28 (4) A person may not operate or conduct a school of cosmetology, ~~or a school of manicuring, or~~
29 esthetics ~~and or~~ teach the art of cosmetology, ~~or manicuring, or esthetics~~ without a license to teach
30 cosmetology, manicuring, or esthetics.

1 (5) A person may not manage or operate a booth without a booth rental license.

2 (6) A person, firm, partnership, or corporation desiring to operate a cosmetology salon shall make
3 an application to the department for a certificate of registration and license. The application must be
4 accompanied by the annual registration fee.

5 (7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."
6

7 **Section 5.** Section 37-31-304, MCA, is amended to read:

8 **"37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice
9 cosmetology, the person shall obtain a license to practice cosmetology from the department. Before a
10 person may practice manicuring, the person shall obtain a license to practice manicuring from the
11 department unless the person is licensed to practice cosmetology. Before a person may practice esthetics,
12 the person shall obtain a license to practice esthetics from the department unless the person is already
13 licensed to practice cosmetology.

14 (2) (a) To be eligible to take the examination to practice cosmetology, the applicant may not be
15 less than 18 years of age, must be of good moral character, and must possess a high school diploma or
16 the equivalent of a high school diploma recognized by the superintendent of public instruction. A person
17 may apply to the board for an exception to the educational requirement of a high school diploma or the
18 equivalent of a high school diploma. The board shall adopt by rule procedures for granting an exception.
19 The applicant must have completed a course of study of at least 2,000 hours in a registered cosmetology
20 school and must have received a diploma from the cosmetology school or must have completed the course
21 of study in cosmetology prescribed by the board.

22 (b) A person qualified under subsection (2)(a) shall file with the department a written application
23 to take the examination and shall deposit with the department the required examination fee and pass an
24 examination as to fitness to practice cosmetology.

25 (3) (a) To be eligible to take the examination to practice manicuring, an applicant may not be less
26 than 18 years of age; must be of good moral character; possess a high school diploma, the equivalent of
27 a high school diploma recognized by the superintendent of public instruction, or a certificate of completion
28 from a vocational-technical program; and must have completed a course of study prescribed by the board
29 in a registered school of cosmetology or a registered school of manicuring. A person may apply to the board
30 for an exception to the educational requirement of a high school diploma, the equivalent of a high school

1 diploma, or a vocational-technical program certificate of completion. The board shall adopt by rule
2 procedures for granting an exception.

3 (b) A person qualified under subsection (3)(a) shall file with the department a written application
4 to take the examination and deposit with the department the required examination fee.

5 (4) (a) To be eligible to take the examination to practice esthetics, an applicant:

6 (i) may not be under 18 years of age;

7 (ii) must be of good moral character;

8 (iii) must possess a high school diploma, the equivalent of a high school diploma recognized by the
9 superintendent of public instruction, or a certificate of completion from a vocational-technical program; and

10 (iv) must have completed a course of study prescribed by the board and consisting of not less than
11 650 hours of training and instruction in a registered school of cosmetology or a registered school of
12 esthetics. A person may apply to the board for an exception to the educational requirement of a high school
13 diploma, the equivalent of a high school diploma, or a vocational-technical program certificate of
14 completion. The board shall adopt by rule procedures for granting an exception.

15 (b) A person qualified under subsection (4)(a) shall:

16 (i) file with the department a written application to take the examination;

17 (ii) deposit with the department the required examination fee; and

18 (iii) pass an examination as to fitness to practice esthetics."

19

20 **Section 6.** Section 37-31-305, MCA, is amended to read:

21 **"37-31-305. Qualifications of applicants for license to teach.** (1) Before a person may teach
22 manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics, or to
23 teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

24 (2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

25 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
26 the superintendent of public instruction; and

27 (b) (i) have a license to practice cosmetology issued by the department and have received a
28 diploma from a registered school of cosmetology approved by the board, certifying satisfactory completion
29 of 650 hours of student teacher training; or

30 (ii) have been actively engaged as a cosmetologist for 3 continuous years immediately ~~prior to~~

1 before taking the teachers' teacher's examination.

2 (3) Before a person may teach manicuring to a person seeking only to be licensed to practice
 3 manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the
 4 department to teach manicuring.

5 (4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

6 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
 7 the superintendent of public instruction; and

8 (b) (i) have a license to practice manicuring or cosmetology issued by the department and have
 9 received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory
 10 completion of 650 hours of student teacher training; or

11 (ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years
 12 immediately before taking the teacher's examination.

13 (5) Before a person may teach esthetics to a person seeking only to be licensed to practice
 14 esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the
 15 department to teach esthetics.

16 (6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

17 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
 18 the superintendent of public instruction; and

19 (b) (i) have a license to practice esthetics or cosmetology issued by the department and have
 20 received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory
 21 completion of 650 hours of student teacher training; or

22 (ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years
 23 immediately before taking the teacher's examination."

24

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

26 **"37-31-308. Examination -- reexamination -- exemption for handicapped persons.** (1) Examinations
 27 for a license to practice cosmetology, ~~or~~ manicuring, or esthetics or to teach cosmetology, manicuring, or
 28 esthetics must be held at places and times specified by the board. The examinations must be supervised
 29 by the board. The examinations may not be confined to a specific method or system. The examinations
 30 must be conducted by persons who hold current licenses to practice in the profession for which the

1 applicant is being examined.

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

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

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

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

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

14 (5) Physically handicapped persons trained for cosmetology, ~~or manicuring, or esthetics~~ by the
15 department of public health and human services are, for a period of 1 year immediately following their
16 graduation, exempt from the examination and the fees described in 37-31-323. On certification from the
17 department of public health and human services that a department of public health and human services
18 beneficiary has successfully completed the required training in a cosmetology, ~~school or a~~ manicuring, or
19 an esthetics school, the department shall issue the person the necessary certificate or license to practice
20 the profession in this state."
21

22 **Section 8.** Section 37-31-311, MCA, is amended to read:

23 **"37-31-311. Schools -- certificate of registration -- requirements -- bond -- curriculum.** (1) A
24 person, firm, partnership, or corporation may not operate a school for the purpose of teaching cosmetology,
25 manicuring, or esthetics for compensation ~~or for the purpose of teaching manicuring for compensation~~
26 unless a certificate of registration has been first obtained from the department. Application for the
27 certificate must be filed with the department on a form prescribed by the board.

28 (2) A school for teaching cosmetology may not be granted a certificate of registration unless it
29 complies or can comply with the following requirements:

30 (a) It has in its employ either a licensed teacher who is at all times in the immediate supervision

1 of the work of the school or other teachers who the board determines are necessary for the proper conduct
2 of the school. There may not be more than 25 students to each teacher.

3 (b) It possesses apparatus and equipment the board determines necessary for the ready and full
4 teaching of all subjects or practices of cosmetology.

5 (c) It maintains a school term of not less than 2,000 hours and prescribes a course of practical
6 training and technical instruction equal to the requirements for board examinations, which course of training
7 and technical instruction must be prescribed by the board.

8 (d) It keeps a daily record of the attendance of each student, establishes grades, and holds
9 examinations before issuing diplomas.

10 (e) An owner or person in charge of a school of cosmetology may not permit a person to sleep in
11 or use for residential purposes or for any other purpose that would make the room unsanitary a room used
12 wholly or in part for a school of cosmetology.

13 (3) A school for teaching manicuring may not be granted a certificate of registration unless it
14 complies with subsections (2)(a) and (2)(d) and the following requirements:

15 (a) It possesses apparatus and equipment the board determines necessary for the ready and full
16 teaching of all subjects or practices of manicuring.

17 (b) It maintains a school term and a course of practical training and technical instruction as
18 prescribed by the board.

19 (c) An owner or person in charge of a school of manicuring may not permit a person to sleep in
20 or use for residential purposes or for any other purpose that would make the room unsanitary a room used
21 wholly or in part for a school of manicuring.

22 (4) A school for teaching esthetics may not be granted a certificate of registration unless it
23 complies with subsections (2)(a) and (2)(d) and the following requirements:

24 (a) It possesses apparatus and equipment the board determines necessary for the ready and full
25 teaching of all subjects or practices of esthetics.

26 (b) It maintains a school term and a course consisting of not less than 650 hours of practical
27 training and technical instruction as prescribed by the board.

28 (c) An owner or person in charge of a school of esthetics may not permit a person to sleep in or
29 use for residential purposes or for any other purpose that would make the room unsanitary a room used
30 wholly or in part for a school of esthetics.

1 ~~(4)~~(5) Licenses or certificates of registration for schools of cosmetology, ~~and schools of manicuring,~~
2 or esthetics may be refused, revoked, or suspended, as provided in 37-31-331.

3 ~~(5)~~(6) A teacher or student teacher may not be permitted to practice cosmetology, ~~or manicuring,~~
4 or esthetics on the public in a school of cosmetology, ~~or a school of manicuring, or esthetics.~~ A school that
5 enrolls student teachers for a course of student teacher training may not have, at any one time, more than
6 one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers
7 may not substitute for full-time teachers.

8 ~~(6)~~(7) The board may make further rules necessary for the proper conduct of schools of
9 cosmetology, ~~and schools of manicuring, and esthetics.~~

10 ~~(7)~~(8) The board shall require the person, firm, partnership, or corporation operating a school of
11 cosmetology, ~~or a school of manicuring, or esthetics~~ to furnish a good and sufficient bond in the amount
12 of \$5,000 and in a form and manner prescribed by the board.

13 ~~(8)~~(9) A professional cosmetology, ~~salon or manicuring, or esthetics~~ salon may not be operated in
14 connection with a school of cosmetology, ~~or school of manicuring, or of esthetics.~~

15 ~~(9)~~(10) The board may, by rule, establish a suitable curriculum for teachers' training in registered
16 schools of cosmetology, manicuring, or esthetics."

17
18 **Section 9.** Section 37-31-312, MCA, is amended to read:

19 "**37-31-312. Inspection.** (1) The department shall appoint one or more inspectors, each of whom
20 shall devote time to inspecting cosmetology salons and performing other duties as the department, in
21 cooperation with the board, may direct. The inspectors may enter a cosmetology salon, manicuring salon,
22 esthetics salon, booth, school of cosmetology, ~~or school of manicuring, or school of esthetics~~ during
23 business hours for the purpose of inspection, and the refusal of a licensee to permit the inspection during
24 business hours is cause for revocation of the license.

25 (2) Upon application for a license, a cosmetology, ~~salon or manicuring, or esthetics~~ salon shall pay
26 an initial inspection fee prescribed by the board.

27 (3) The board may authorize the department to grant to a cosmetology, ~~salon or manicuring, or~~
28 esthetics salon, upon payment of the initial inspection fee, a temporary permit authorizing the cosmetology,
29 ~~salon or manicuring, or esthetics~~ salon to operate for a period not to exceed 90 days or until the inspector
30 is able to make the inspection, whichever event occurs first. This temporary permit is not renewable.

1 (4) The department shall cause an inspector, appointed as provided in subsection (1), to conduct
2 an annual inspection of each cosmetology, ~~salon and~~ manicuring, and esthetics salon in the state."
3

4 **Section 10.** Section 37-31-331, MCA, is amended to read:

5 **"37-31-331. Refusal, revocation, or suspension of licenses -- grounds -- notice and hearing. (1)**

6 The board may refuse to issue, may refuse to renew, or may revoke or suspend a license in any one of the
7 following cases:

8 (a) failure of a person, firm, partnership, or corporation operating a cosmetology salon, manicuring
9 salon, esthetics salon, or a school of cosmetology, ~~or school of~~ manicuring, or esthetics to comply with
10 this chapter;

11 (b) failure to comply with the sanitary rules adopted by the board and approved by the department
12 of public health and human services for the regulation of cosmetology salons, manicuring salons, esthetics
13 salons, or schools of cosmetology, ~~or schools of~~ manicuring, or esthetics;

14 (c) gross malpractice;

15 (d) continued practice by a person who knowingly has an infectious or contagious disease;

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

17 (f) permitting a certificate of registration or license to be used when the holder is not personally,
18 actively, and continuously engaged in business; or

19 (g) failure to display the license.

20 (2) The board may not refuse to authorize the department to issue or renew a license or to revoke
21 or suspend a license already issued until after notice and opportunity for a hearing."
22

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0259, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act providing licensure for teachers of manicuring and for estheticians, esthetics instructors, schools of esthetics, and esthetics salons.

ASSUMPTIONS:

1. Projected number of new applications to be received, fees, and proposed revenue for the new categories are listed below:

<u>Categories & Proposed Fee</u>	<u>Estimated Numbers</u>	<u>Proposed Revenue</u>
Esthetician Licensing - \$15	200	\$3,000
Esthetician Instructor - \$25	116	2,900
Manicuring Instructor - \$25	116	2,900
Esthetician Schools - \$125	2	250
Manicuring Schools - \$125	2	250
Teacher/Training Units - \$25	4	100
Esthetician Salons - \$80	30	2,400
Esthetician Booth Rentals - \$20	200	4,000
Esthetician Students - \$20	50	1,000
2. A 0.50 FTE licensing technician, grade 9, will be required to handle the increase in workload for processing applications, tracking student training, issuing and renewing licenses.
3. The number of inspections of salons, booth rentals, and schools will increase but will be absorbed by the existing two cosmetology inspectors.
4. Applicants required to take an examination will pay directly to a contracted testing agency for the costs of administering and grading written and practical examinations.
5. Operating costs for fiscal year 1998 include administrative rules, printing, postage, file cabinet and indirect charges. Operating costs in fiscal year 1999 will be lower after the new licensing programs are implemented.
6. Revenue generated from the new licensing programs adequately covers increased expenditures.

FISCAL IMPACT:

Department of Commerce

POL Bureau:

	FY98	FY99
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.50	0.50
Personal Services	10,982	10,982
Operating Expenses	<u>6,062</u>	<u>3,022</u>
Total	17,044	14,004
 <u>Funding:</u>		
State Special Revenue (02)	17,044	14,004
 <u>Revenue:</u>		
Licensing Fees (02)	16,800	16,800
 <u>Net Impact on Fund Balance:</u> (Revenue minus expense)		
Licensing Fees (02)	(244)	2,796

Dave Lewis 2-6-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

DEBBIE SHEA, PRIMARY SPONSOR DATE

Fiscal Note for SB0259, as introduced
SB 259

1 SENATE BILL NO. 259

2 INTRODUCED BY SHEA, WYATT, PAVLOVICH, ESTRADA, MCCARTHY, CURTISS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING LICENSURE FOR TEACHERS OF MANICURING AND
5 FOR ESTHETICIANS, ESTHETICS INSTRUCTORS, SCHOOLS OF ESTHETICS, AND ESTHETICS SALONS;
6 AND AMENDING SECTIONS 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-304, 37-31-305,
7 37-31-308, 37-31-311, 37-31-312, AND 37-31-331, MCA."

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13 definitions apply:

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

15 (2) "Booth" means any part of a cosmetology, ~~salon or manicuring, or esthetics~~ salon that is rented
16 or leased for the performance of cosmetologist, manicuring, or esthetics services, as specified in
17 39-51-204(1)(l).18 (3) "Cosmetology salon" means the premises, a building, or a part of a building in which is
19 ~~practiced~~ a branch or combination of branches of cosmetology or the occupation of a hairdresser and
20 cosmetician or cosmetologist ~~and that must have a manager operator in charge~~ is practiced by a person
21 licensed under the provisions of this chapter.

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

23 (5) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.24 (6) "Esthetics" means skin care of the face, neck, and hands involving, INCLUDING BUT NOT
25 LIMITED TO hot compresses, ~~massage,~~ or the use of approved electrical appliances or chemical compounds
26 formulated for professional application only and the temporary removal of superfluous hair by means of
27 lotions, creams, or mechanical or electrical apparatus or appliances on another person.28 (7) "Esthetics salon" means the premises, a building, or a part of a building in which the art of
29 esthetics is practiced.30 ~~(5)~~(8) "Manicuring" includes nail care of the hands and feet and the application and maintenance

1 of artificial nails.

2 ~~(6)(9)~~ "Manicuring salon" means the premises, a building, or a part of a building in which the art
3 of manicuring is practiced.

4 ~~(7)(10)~~ "Practice and teaching of cosmetology" means work included in the terms "hairdressing",
5 "manicuring", "esthetics", and "beauty culture" and performed in cosmetology salons, in booths, or by
6 itinerant cosmetologists, which work is done for the embellishment, cleanliness, and beautification of the
7 hair, scalp, face, arms, feet, or hands. The practice and teaching of cosmetology may not be construed to
8 include itinerant cosmetologists who perform their services without compensation for demonstration
9 purposes in any regularly established store or place of business holding a license from the state of Montana
10 as a store or place of business."
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12 **Section 2.** Section 37-31-203, MCA, is amended to read:

13 "**37-31-203. Rulemaking powers.** The board shall prescribe rules for:

14 (1) the conduct of its business;

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

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

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

19 (5) the conduct of schools of cosmetology, ~~and schools of~~ manicuring, and esthetics for
20 apprentices and students;

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

22 (7) generally the conduct of the persons, firms, or corporations affected by this chapter."
23

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

25 "**37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is
26 unlawful to:

27 (a) practice cosmetology for compensation;

28 (b) own, manage, operate, or conduct a school of cosmetology ~~or, school of~~ manicuring, or
29 esthetics;

30 (c) manage or operate a cosmetology salon, manicuring salon, esthetics salon, or booth;

1 (d) teach in a school of cosmetology ~~or school of manicuring,~~ manicuring, or esthetics;

2 (e) practice manicuring for compensation;

3 (f) practice as a finger waver; or

4 (g) practice esthetics for compensation.

5 (2) It is unlawful:

6 (a) for a person who owns, manages, or controls a cosmetology salon to employ or use an
7 unlicensed person as a cosmetologist ~~or a manicurist,~~ or an esthetician;

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

9 (c) to practice cosmetology in any place other than in a licensed salon as provided in this chapter,
10 except when a licensed operator is requested:

11 (i) by a customer to go to a place other than a licensed salon and is sent to the customer from a
12 licensed salon; or

13 (ii) by a handicapped or homebound customer to go to the customer's place of residence;

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

16 (e) for a person who owns, manages, or controls an esthetics salon to employ or use an unlicensed
17 person as an esthetician;

18 ~~(e)(f)~~ to operate a manicuring school or a school of esthetics without complying with 37-31-311;

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

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

22 **"37-31-302. License required to practice, teach, or operate salon, booth, or school.** (1) A person
23 may not practice or teach cosmetology, ~~or practice or teach~~ manicuring, or esthetics without a license.

24 (2) A place may not be used or maintained for the teaching of cosmetology, ~~or~~ manicuring, or
25 esthetics for compensation except under a certificate of registration.

26 (3) A person may not operate or manage a cosmetology salon, ~~or~~ a manicuring salon, or an
27 esthetics salon or practice cosmetology, ~~or~~ manicuring, or esthetics without a ~~manager-operator~~ license.

28 (4) A person may not operate or conduct a school of cosmetology, ~~or a school of~~ manicuring, or
29 esthetics ~~and~~ or teach the art of cosmetology, ~~or~~ manicuring, or esthetics without a license to teach
30 cosmetology, manicuring, or esthetics.

1 (5) A person may not manage or operate a booth without a booth rental license.

2 (6) A person, firm, partnership, or corporation desiring to operate a cosmetology salon shall make
3 an application to the department for a certificate of registration and license. The application must be
4 accompanied by the annual registration fee.

5 (7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."
6

7 **Section 5.** Section 37-31-304, MCA, is amended to read:

8 **"37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice
9 cosmetology, the person shall obtain a license to practice cosmetology from the department. Before a
10 person may practice manicuring, the person shall obtain a license to practice manicuring from the
11 department unless the person is licensed to practice cosmetology. Before a person may practice esthetics,
12 the person shall obtain a license to practice esthetics from the department unless the person is already
13 licensed to practice cosmetology.

14 (2) (a) To be eligible to take the examination to practice cosmetology, the applicant may not be
15 less than 18 years of age, must be of good moral character, and must possess a high school diploma or
16 the equivalent of a high school diploma recognized by the superintendent of public instruction. A person
17 may apply to the board for an exception to the educational requirement of a high school diploma or the
18 equivalent of a high school diploma. The board shall adopt by rule procedures for granting an exception.
19 The applicant must have completed a course of study of at least 2,000 hours in a registered cosmetology
20 school and must have received a diploma from the cosmetology school or must have completed the course
21 of study in cosmetology prescribed by the board.

22 (b) A person qualified under subsection (2)(a) shall file with the department a written application
23 to take the examination and shall deposit with the department the required examination fee and pass an
24 examination as to fitness to practice cosmetology.

25 (3) (a) To be eligible to take the examination to practice manicuring, an applicant may not be less
26 than 18 years of age; must be of good moral character; possess a high school diploma, the equivalent of
27 a high school diploma recognized by the superintendent of public instruction, or a certificate of completion
28 from a vocational-technical program; and must have completed a course of study prescribed by the board
29 in a registered school of cosmetology or a registered school of manicuring. A person may apply to the board
30 for an exception to the educational requirement of a high school diploma, the equivalent of a high school

1 diploma, or a vocational-technical program certificate of completion. The board shall adopt by rule
2 procedures for granting an exception.

3 (b) A person qualified under subsection (3)(a) shall file with the department a written application
4 to take the examination and deposit with the department the required examination fee.

5 (4) (a) To be eligible to take the examination to practice esthetics, an applicant:

6 (i) may not be under 18 years of age;

7 (ii) must be of good moral character;

8 (iii) must possess a high school diploma, the equivalent of a high school diploma recognized by the
9 superintendent of public instruction, or a certificate of completion from a vocational-technical program; and

10 (iv) must have completed a course of study prescribed by the board and consisting of not less than
11 650 hours of training and instruction in a registered school of cosmetology or a registered school of
12 esthetics. A person may apply to the board for an exception to the educational requirement of a high school
13 diploma, the equivalent of a high school diploma, or a vocational-technical program certificate of
14 completion. The board shall adopt by rule procedures for granting an exception.

15 (b) A person qualified under subsection (4)(a) shall:

16 (i) file with the department a written application to take the examination;

17 (ii) deposit with the department the required examination fee; and

18 (iii) pass an examination as to fitness to practice esthetics."

19

20 **Section 6.** Section 37-31-305, MCA, is amended to read:

21 **"37-31-305. Qualifications of applicants for license to teach.** (1) Before a person may teach
22 manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics, or to
23 teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

24 (2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

25 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
26 the superintendent of public instruction; and

27 (b) (i) have a license to practice cosmetology issued by the department and have received a
28 diploma from a registered school of cosmetology approved by the board, certifying satisfactory completion
29 of 650 hours of student teacher training; or

30 (ii) have been actively engaged as a cosmetologist for 3 continuous years immediately ~~prior to~~

1 before taking the teachers' teacher's examination.

2 (3) Before a person may teach manicuring to a person seeking only to be licensed to practice
 3 manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the
 4 department to teach manicuring.

5 (4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

6 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
 7 the superintendent of public instruction; and

8 (b) (i) have a license to practice manicuring or cosmetology issued by the department and have
 9 received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory
 10 completion of 650 hours of student teacher training; or

11 (ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years
 12 immediately before taking the teacher's examination.

13 (5) Before a person may teach esthetics to a person seeking only to be licensed to practice
 14 esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the
 15 department to teach esthetics.

16 (6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

17 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
 18 the superintendent of public instruction; and

19 (b) (i) have a license to practice esthetics or cosmetology issued by the department and have
 20 received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory
 21 completion of 650 hours of student teacher training; or

22 (ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years
 23 immediately before taking the teacher's examination."

24

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

26 **"37-31-308. Examination -- reexamination -- exemption for handicapped persons.** (1) Examinations
 27 for a license to practice cosmetology, ~~or~~ manicuring, or esthetics or to teach cosmetology, ~~manicuring,~~ or
 28 ~~esthetics~~ must be held at places and times specified by the board. The examinations must be supervised
 29 by the board. The examinations may not be confined to a specific method or system. The examinations
 30 must be conducted by persons who hold current licenses to practice in the profession for which the

1 applicant is being examined.

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

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

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

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

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

14 (5) Physically handicapped persons trained for cosmetology, ~~or manicuring,~~ or esthetics by the
15 department of public health and human services are, for a period of 1 year immediately following their
16 graduation, exempt from the examination and the fees described in 37-31-323. On certification from the
17 department of public health and human services that a department of public health and human services
18 beneficiary has successfully completed the required training in a cosmetology, ~~school or a manicuring,~~ or
19 an esthetics school, the department shall issue the person the necessary certificate or license to practice
20 the profession in this state."
21

22 **Section 8.** Section 37-31-311, MCA, is amended to read:

23 **"37-31-311. Schools -- certificate of registration -- requirements -- bond -- curriculum.** (1) A
24 person, firm, partnership, or corporation may not operate a school for the purpose of teaching cosmetology,
25 manicuring, or esthetics for compensation ~~or for the purpose of teaching manicuring for compensation~~
26 unless a certificate of registration has been first obtained from the department. Application for the
27 certificate must be filed with the department on a form prescribed by the board.

28 (2) A school for teaching cosmetology may not be granted a certificate of registration unless it
29 complies or can comply with the following requirements:

30 (a) It has in its employ either a licensed teacher who is at all times in the immediate supervision

1 of the work of the school or other teachers who the board determines are necessary for the proper conduct
2 of the school. There may not be more than 25 students to each teacher.

3 (b) It possesses apparatus and equipment the board determines necessary for the ready and full
4 teaching of all subjects or practices of cosmetology.

5 (c) It maintains a school term of not less than 2,000 hours and prescribes a course of practical
6 training and technical instruction equal to the requirements for board examinations, which course of training
7 and technical instruction must be prescribed by the board.

8 (d) It keeps a daily record of the attendance of each student, establishes grades, and holds
9 examinations before issuing diplomas.

10 (e) An owner or person in charge of a school of cosmetology may not permit a person to sleep in
11 or use for residential purposes or for any other purpose that would make the room unsanitary a room used
12 wholly or in part for a school of cosmetology.

13 (3) A school for teaching manicuring may not be granted a certificate of registration unless it
14 complies with subsections (2)(a) and (2)(d) and the following requirements:

15 (a) It possesses apparatus and equipment the board determines necessary for the ready and full
16 teaching of all subjects or practices of manicuring.

17 (b) It maintains a school term and a course of practical training and technical instruction as
18 prescribed by the board.

19 (c) An owner or person in charge of a school of manicuring may not permit a person to sleep in
20 or use for residential purposes or for any other purpose that would make the room unsanitary a room used
21 wholly or in part for a school of manicuring.

22 (4) A school for teaching esthetics may not be granted a certificate of registration unless it
23 complies with subsections (2)(a) and (2)(d) and the following requirements:

24 (a) It possesses apparatus and equipment the board determines necessary for the ready and full
25 teaching of all subjects or practices of esthetics.

26 (b) It maintains a school term and a course consisting of not less than 650 hours of practical
27 training and technical instruction as prescribed by the board.

28 (c) An owner or person in charge of a school of esthetics may not permit a person to sleep in or
29 use for residential purposes or for any other purpose that would make the room unsanitary a room used
30 wholly or in part for a school of esthetics.

1 ~~(4)(5)~~ Licenses or certificates of registration for schools of cosmetology, ~~and schools of manicuring,~~
2 or esthetics may be refused, revoked, or suspended, as provided in 37-31-331.

3 ~~(5)(6)~~ A teacher or student teacher may not be permitted to practice cosmetology, ~~or manicuring,~~
4 or esthetics on the public in a school of cosmetology, ~~or a school of manicuring, or esthetics.~~ A school that
5 enrolls student teachers for a course of student teacher training may not have, at any one time, more than
6 one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers
7 may not substitute for full-time teachers.

8 ~~(6)(7)~~ The board may make further rules necessary for the proper conduct of schools of
9 cosmetology, ~~and schools of manicuring, and esthetics.~~

10 ~~(7)(8)~~ The board shall require the person, firm, partnership, or corporation operating a school of
11 cosmetology, ~~or a school of manicuring, or esthetics~~ to furnish a good and sufficient bond in the amount
12 of \$5,000 and in a form and manner prescribed by the board.

13 ~~(8)(9)~~ A professional cosmetology, ~~salon or manicuring, or esthetics~~ salon may not be operated in
14 connection with a school of cosmetology, ~~or school of manicuring, or of esthetics.~~

15 ~~(9)(10)~~ The board may, by rule, establish a suitable curriculum for teachers' training in registered
16 schools of cosmetology, manicuring, or esthetics."

17
18 **Section 9.** Section 37-31-312, MCA, is amended to read:

19 "**37-31-312. Inspection.** (1) The department shall appoint one or more inspectors, each of whom
20 shall devote time to inspecting cosmetology salons and performing other duties as the department, in
21 cooperation with the board, may direct. The inspectors may enter a cosmetology salon, manicuring salon,
22 esthetics salon, booth, school of cosmetology, ~~or school of manicuring, or school of esthetics~~ during
23 business hours for the purpose of inspection, and the refusal of a licensee to permit the inspection during
24 business hours is cause for revocation of the license.

25 (2) Upon application for a license, a cosmetology, ~~salon or manicuring, or esthetics~~ salon shall pay
26 an initial inspection fee prescribed by the board.

27 (3) The board may authorize the department to grant to a cosmetology, ~~salon or manicuring, or~~
28 esthetics salon, upon payment of the initial inspection fee, a temporary permit authorizing the cosmetology,
29 ~~salon or manicuring, or esthetics~~ salon to operate for a period not to exceed 90 days or until the inspector
30 is able to make the inspection, whichever event occurs first. This temporary permit is not renewable.

1 (4) The department shall cause an inspector, appointed as provided in subsection (1), to conduct
2 an annual inspection of each cosmetology, ~~salon and~~ manicuring, and esthetics salon in the state."

3
4 **Section 10.** Section 37-31-331, MCA, is amended to read:

5 **"37-31-331. Refusal, revocation, or suspension of licenses -- grounds -- notice and hearing.** (1)

6 The board may refuse to issue, may refuse to renew, or may revoke or suspend a license in any one of the
7 following cases:

8 (a) failure of a person, firm, partnership, or corporation operating a cosmetology salon, manicuring
9 salon, esthetics salon, or a school of cosmetology, or school of manicuring, or esthetics to comply with
10 this chapter;

11 (b) failure to comply with the sanitary rules adopted by the board and approved by the department
12 of public health and human services for the regulation of cosmetology salons, manicuring salons, esthetics
13 salons, or schools of cosmetology, or schools of manicuring, or esthetics;

14 (c) gross malpractice;

15 (d) continued practice by a person who knowingly has an infectious or contagious disease;

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

17 (f) permitting a certificate of registration or license to be used when the holder is not personally,
18 actively, and continuously engaged in business; or

19 (g) failure to display the license.

20 (2) The board may not refuse to authorize the department to issue or renew a license or to revoke
21 or suspend a license already issued until after notice and opportunity for a hearing."

22 -END-

1 SENATE BILL NO. 259
2 INTRODUCED BY SHEA, WYATT, PAVLOVICH, ESTRADA, MCCARTHY, CURTISS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING LICENSURE FOR TEACHERS OF MANICURING AND
5 FOR ESTHETICIANS, ESTHETICS INSTRUCTORS, SCHOOLS OF ESTHETICS, AND ESTHETICS SALONS;
6 AND AMENDING SECTIONS 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-304, 37-31-305,
7 37-31-308, 37-31-311, 37-31-312, AND 37-31-331, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

1 SENATE BILL NO. 259

2 INTRODUCED BY SHEA, WYATT, PAVLOVICH, ESTRADA, MCCARTHY, CURTISS

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING LICENSURE FOR TEACHERS OF MANICURING AND
5 FOR ESTHETICIANS, ESTHETICS INSTRUCTORS, SCHOOLS OF ESTHETICS, AND ESTHETICS SALONS;
6 AND AMENDING SECTIONS 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-304, 37-31-305,
7 37-31-308, 37-31-311, 37-31-312, AND 37-31-331, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

SENATE BILL NO. 259

INTRODUCED BY SHEA, WYATT, PAVLOVICH, ESTRADA, MCCARTHY, CURTISS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING LICENSURE FOR TEACHERS OF MANICURING AND FOR ESTHETICIANS, ESTHETICS INSTRUCTORS, SCHOOLS OF ESTHETICS, AND ESTHETICS SALONS; AND AMENDING SECTIONS 37-31-101, 37-31-203, 37-31-301, 37-31-302, 37-31-304, 37-31-305, 37-31-308, 37-31-311, 37-31-312, AND 37-31-331, MCA."

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

(2) "Booth" means any part of a cosmetology, ~~salon or~~ manicuring, or esthetics salon that is rented or leased for the performance of cosmetologist, manicuring, or esthetics services, as specified in 39-51-204(1)(l).

(3) "Cosmetology salon" means the premises, a building, or a 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 that must have a manager operator in charge is practiced by a person licensed under the provisions of this chapter.

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

(5) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

(6) "Esthetics" means skin care of the face, neck, and hands involving, INCLUDING BUT NOT LIMITED TO hot compresses, ~~massage,~~ or the use of approved electrical appliances or chemical compounds formulated for professional application only and the temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or appliances on another person.

(7) "Esthetics salon" means the premises, a building, or a part of a building in which the art of esthetics is practiced.

~~(5)~~(8) "Manicuring" includes nail care of the hands and feet and the application and maintenance

1 of artificial nails.

2 ~~(6)(9)~~ "Manicuring salon" means the premises, a building, or a part of a building in which the art
3 of manicuring is practiced.

4 ~~(7)(10)~~ "Practice and teaching of cosmetology" means work included in the terms "hairdressing",
5 "manicuring", "esthetics", and "beauty culture" and performed in cosmetology salons, in booths, or by
6 itinerant cosmetologists, which work is done for the embellishment, cleanliness, and beautification of the
7 hair, scalp, face, arms, feet, or hands. The practice and teaching of cosmetology may not be construed to
8 include itinerant cosmetologists who perform their services without compensation for demonstration
9 purposes in any regularly established store or place of business holding a license from the state of Montana
10 as a store or place of business."
11

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

13 **"37-31-203. Rulemaking powers.** The board shall prescribe rules for:

14 (1) the conduct of its business;

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

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

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

19 (5) the conduct of schools of cosmetology, ~~and schools of~~ manicuring, and esthetics for
20 apprentices and students;

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

22 (7) generally the conduct of the persons, firms, or corporations affected by this chapter."
23

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

25 **"37-31-301. Prohibited acts.** (1) Without an appropriate license issued under this chapter, it is
26 unlawful to:

27 (a) practice cosmetology for compensation;

28 (b) own, manage, operate, or conduct a school of cosmetology ~~or, school of~~ manicuring, or
29 esthetics;

30 (c) manage or operate a cosmetology salon, manicuring salon, esthetics salon, or booth;

1 (d) teach in a school of cosmetology ~~or school of manicuring,~~ manicuring, or esthetics;

2 (e) practice manicuring for compensation;

3 (f) practice as a finger waver; or

4 (g) practice esthetics for compensation.

5 (2) It is unlawful:

6 (a) for a person who owns, manages, or controls a cosmetology salon to employ or use an
7 unlicensed person as a cosmetologist ~~or, a manicurist, or an esthetician;~~

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

9 (c) to practice cosmetology in any place other than in a licensed salon as provided in this chapter,
10 except when a licensed operator is requested:

11 (i) by a customer to go to a place other than a licensed salon and is sent to the customer from a
12 licensed salon; or

13 (ii) by a handicapped or homebound customer to go to the customer's place of residence;

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

16 (e) for a person who owns, manages, or controls an esthetics salon to employ or use an unlicensed
17 person as an esthetician;

18 ~~(f)~~ to operate a manicuring school or a school of esthetics without complying with 37-31-311;

19 ~~(g)~~ to violate any of the provisions of this chapter."
20

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

22 **"37-31-302. License required to practice, teach, or operate salon, booth, or school.** (1) A person
23 may not practice or teach cosmetology, ~~or practice or teach~~ manicuring, or esthetics without a license.

24 (2) A place may not be used or maintained for the teaching of cosmetology, ~~or manicuring, or~~
25 esthetics for compensation except under a certificate of registration.

26 (3) A person may not operate or manage a cosmetology salon, ~~or a manicuring salon, or an~~
27 esthetics salon or practice cosmetology, ~~or manicuring, or esthetics~~ without a ~~manager-operator~~ license.

28 (4) A person may not operate or conduct a school of cosmetology, ~~or a school of manicuring, or~~
29 esthetics ~~and~~ or teach the art of cosmetology, ~~or manicuring, or esthetics~~ without a license to teach
30 cosmetology, manicuring, or esthetics.

1 (5) A person may not manage or operate a booth without a booth rental license.

2 (6) A person, firm, partnership, or corporation desiring to operate a cosmetology salon shall make
3 an application to the department for a certificate of registration and license. The application must be
4 accompanied by the annual registration fee.

5 (7) A license may not be issued until the inspection fees required in 37-31-312 have been paid."
6

7 **Section 5.** Section 37-31-304, MCA, is amended to read:

8 **"37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice
9 cosmetology, the person shall obtain a license to practice cosmetology from the department. Before a
10 person may practice manicuring, the person shall obtain a license to practice manicuring from the
11 department unless the person is licensed to practice cosmetology. Before a person may practice esthetics,
12 the person shall obtain a license to practice esthetics from the department unless the person is already
13 licensed to practice cosmetology.

14 (2) (a) To be eligible to take the examination to practice cosmetology, the applicant may not be
15 less than 18 years of age, must be of good moral character, and must possess a high school diploma or
16 the equivalent of a high school diploma recognized by the superintendent of public instruction. A person
17 may apply to the board for an exception to the educational requirement of a high school diploma or the
18 equivalent of a high school diploma. The board shall adopt by rule procedures for granting an exception.
19 The applicant must have completed a course of study of at least 2,000 hours in a registered cosmetology
20 school and must have received a diploma from the cosmetology school or must have completed the course
21 of study in cosmetology prescribed by the board.

22 (b) A person qualified under subsection (2)(a) shall file with the department a written application
23 to take the examination and shall deposit with the department the required examination fee and pass an
24 examination as to fitness to practice cosmetology.

25 (3) (a) To be eligible to take the examination to practice manicuring, an applicant may not be less
26 than 18 years of age; must be of good moral character; possess a high school diploma, the equivalent of
27 a high school diploma recognized by the superintendent of public instruction, or a certificate of completion
28 from a vocational-technical program; and must have completed a course of study prescribed by the board
29 in a registered school of cosmetology or a registered school of manicuring. A person may apply to the board
30 for an exception to the educational requirement of a high school diploma, the equivalent of a high school

1 diploma, or a vocational-technical program certificate of completion. The board shall adopt by rule
2 procedures for granting an exception.

3 (b) A person qualified under subsection (3)(a) shall file with the department a written application
4 to take the examination and deposit with the department the required examination fee.

5 (4) (a) To be eligible to take the examination to practice esthetics, an applicant:

6 (i) may not be under 18 years of age;

7 (ii) must be of good moral character;

8 (iii) must possess a high school diploma, the equivalent of a high school diploma recognized by the
9 superintendent of public instruction, or a certificate of completion from a vocational-technical program; and

10 (iv) must have completed a course of study prescribed by the board and consisting of not less than
11 650 hours of training and instruction in a registered school of cosmetology or a registered school of
12 esthetics. A person may apply to the board for an exception to the educational requirement of a high school
13 diploma, the equivalent of a high school diploma, or a vocational-technical program certificate of
14 completion. The board shall adopt by rule procedures for granting an exception.

15 (b) A person qualified under subsection (4)(a) shall:

16 (i) file with the department a written application to take the examination;

17 (ii) deposit with the department the required examination fee; and

18 (iii) pass an examination as to fitness to practice esthetics."

19

20 **Section 6.** Section 37-31-305, MCA, is amended to read:

21 **"37-31-305. Qualifications of applicants for license to teach.** (1) Before a person may teach
22 manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics, or to
23 teach cosmetology, the person shall obtain from the department a license to teach cosmetology.

24 (2) To be eligible to take an examination to obtain a license to teach cosmetology, a person must:

25 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
26 the superintendent of public instruction; and

27 (b) (i) have a license to practice cosmetology issued by the department and have received a
28 diploma from a registered school of cosmetology approved by the board, certifying satisfactory completion
29 of 650 hours of student teacher training; or

30 (ii) have been actively engaged as a cosmetologist for 3 continuous years immediately prior to

1 before taking the teachers' teacher's examination.

2 (3) Before a person may teach manicuring to a person seeking only to be licensed to practice
 3 manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the
 4 department to teach manicuring.

5 (4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:

6 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
 7 the superintendent of public instruction; and

8 (b) (i) have a license to practice manicuring or cosmetology issued by the department and have
 9 received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory
 10 completion of 650 hours of student teacher training; or

11 (ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years
 12 immediately before taking the teacher's examination.

13 (5) Before a person may teach esthetics to a person seeking only to be licensed to practice
 14 esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the
 15 department to teach esthetics.

16 (6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:

17 (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by
 18 the superintendent of public instruction; and

19 (b) (i) have a license to practice esthetics or cosmetology issued by the department and have
 20 received a diploma from a registered school licensed as a teacher-training unit certifying satisfactory
 21 completion of 650 hours of student teacher training; or

22 (ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years
 23 immediately before taking the teacher's examination."

24
 25 **Section 7.** Section 37-31-308, MCA, is amended to read:

26 **"37-31-308. Examination -- reexamination -- exemption for handicapped persons.** (1) Examinations
 27 for a license to practice cosmetology, ~~or~~ manicuring, or esthetics or to teach cosmetology, manicuring, or
 28 esthetics must be held at places and times specified by the board. The examinations must be supervised
 29 by the board. The examinations may not be confined to a specific method or system. The examinations
 30 must be conducted by persons who hold current licenses to practice in the profession for which the

1 applicant is being examined.

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

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

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

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

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

14 (5) Physically handicapped persons trained for cosmetology, ~~or manicuring,~~ or esthetics by the
15 department of public health and human services are, for a period of 1 year immediately following their
16 graduation, exempt from the examination and the fees described in 37-31-323. On certification from the
17 department of public health and human services that a department of public health and human services
18 beneficiary has successfully completed the required training in a cosmetology, ~~school or a~~ manicuring, or
19 an esthetics school, the department shall issue the person the necessary certificate or license to practice
20 the profession in this state."
21

22 **Section 8.** Section 37-31-311, MCA, is amended to read:

23 **"37-31-311. Schools -- certificate of registration -- requirements -- bond -- curriculum.** (1) A
24 person, firm, partnership, or corporation may not operate a school for the purpose of teaching cosmetology,
25 manicuring, or esthetics for compensation ~~or for the purpose of teaching manicuring for compensation~~
26 unless a certificate of registration has been first obtained from the department. Application for the
27 certificate must be filed with the department on a form prescribed by the board.

28 (2) A school for teaching cosmetology may not be granted a certificate of registration unless it
29 complies or can comply with the following requirements:

30 (a) It has in its employ either a licensed teacher who is at all times in the immediate supervision

1 of the work of the school or other teachers who the board determines are necessary for the proper conduct
2 of the school. There may not be more than 25 students to each teacher.

3 (b) It possesses apparatus and equipment the board determines necessary for the ready and full
4 teaching of all subjects or practices of cosmetology.

5 (c) It maintains a school term of not less than 2,000 hours and prescribes a course of practical
6 training and technical instruction equal to the requirements for board examinations, which course of training
7 and technical instruction must be prescribed by the board.

8 (d) It keeps a daily record of the attendance of each student, establishes grades, and holds
9 examinations before issuing diplomas.

10 (e) An owner or person in charge of a school of cosmetology may not permit a person to sleep in
11 or use for residential purposes or for any other purpose that would make the room unsanitary a room used
12 wholly or in part for a school of cosmetology.

13 (3) A school for teaching manicuring may not be granted a certificate of registration unless it
14 complies with subsections (2)(a) and (2)(d) and the following requirements:

15 (a) It possesses apparatus and equipment the board determines necessary for the ready and full
16 teaching of all subjects or practices of manicuring.

17 (b) It maintains a school term and a course of practical training and technical instruction as
18 prescribed by the board.

19 (c) An owner or person in charge of a school of manicuring may not permit a person to sleep in
20 or use for residential purposes or for any other purpose that would make the room unsanitary a room used
21 wholly or in part for a school of manicuring.

22 (4) A school for teaching esthetics may not be granted a certificate of registration unless it
23 complies with subsections (2)(a) and (2)(d) and the following requirements:

24 (a) It possesses apparatus and equipment the board determines necessary for the ready and full
25 teaching of all subjects or practices of esthetics.

26 (b) It maintains a school term and a course consisting of not less than 650 hours of practical
27 training and technical instruction as prescribed by the board.

28 (c) An owner or person in charge of a school of esthetics may not permit a person to sleep in or
29 use for residential purposes or for any other purpose that would make the room unsanitary a room used
30 wholly or in part for a school of esthetics.

1 ~~(4)(5)~~ Licenses or certificates of registration for schools of cosmetology, ~~and schools of manicuring,~~
2 or esthetics may be refused, revoked, or suspended, as provided in 37-31-331.

3 ~~(5)(6)~~ A teacher or student teacher may not be permitted to practice cosmetology, ~~or manicuring,~~
4 or esthetics on the public in a school of cosmetology, ~~or a school of manicuring, or esthetics.~~ A school that
5 enrolls student teachers for a course of student teacher training may not have, at any one time, more than
6 one student teacher for each full-time licensed teacher actively engaged at the school. The student teachers
7 may not substitute for full-time teachers.

8 ~~(6)(7)~~ The board may make further rules necessary for the proper conduct of schools of
9 cosmetology, ~~and schools of manicuring, and esthetics.~~

10 ~~(7)(8)~~ The board shall require the person, firm, partnership, or corporation operating a school of
11 cosmetology, ~~or a school of manicuring, or esthetics~~ to furnish a good and sufficient bond in the amount
12 of \$5,000 and in a form and manner prescribed by the board.

13 ~~(8)(9)~~ A professional cosmetology, ~~salon or manicuring, or esthetics~~ salon may not be operated in
14 connection with a school of cosmetology, ~~or school of manicuring, or of esthetics.~~

15 ~~(9)(10)~~ The board may, by rule, establish a suitable curriculum for teachers' training in registered
16 schools of cosmetology, manicuring, or esthetics."

17
18 **Section 9.** Section 37-31-312, MCA, is amended to read:

19 "**37-31-312. Inspection.** (1) The department shall appoint one or more inspectors, each of whom
20 shall devote time to inspecting cosmetology salons and performing other duties as the department, in
21 cooperation with the board, may direct. The inspectors may enter a cosmetology salon, manicuring salon,
22 esthetics salon, booth, school of cosmetology, ~~or school of manicuring, or school of esthetics~~ during
23 business hours for the purpose of inspection, and the refusal of a licensee to permit the inspection during
24 business hours is cause for revocation of the license.

25 (2) Upon application for a license, a cosmetology, ~~salon or manicuring, or esthetics~~ salon shall pay
26 an initial inspection fee prescribed by the board.

27 (3) The board may authorize the department to grant to a cosmetology, ~~salon or manicuring, or~~
28 esthetics salon, upon payment of the initial inspection fee, a temporary permit authorizing the cosmetology,
29 ~~salon or manicuring, or esthetics~~ salon to operate for a period not to exceed 90 days or until the inspector
30 is able to make the inspection, whichever event occurs first. This temporary permit is not renewable.