

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 762

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO BARBER AND COSMETOLOGY SERVICES; AMENDING SECTION 54-5802,
2 IDAHO CODE, TO REVISE A DEFINITION AND TO DEFINE A TERM; AMENDING SEC-
3 TION 54-5805, IDAHO CODE, TO PROVIDE FOR NATURAL HAIR BRAIDING AS AN
4 EXEMPTION FROM LICENSURE; AND DECLARING AN EMERGENCY.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 54-5802, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 54-5802. DEFINITIONS. As used in this chapter:

10 (1) "Apprentice" means a person registered with the barber and cosme-
11 tology services licensing board to learn an occupation in a licensed estab-
12 lishment who, while so learning, performs or assists in performing any prac-
13 tices of barbering, barber-styling, cosmetology, or electrology.

14 (2) "Barber" means a person licensed to practice barbering as defined
15 in this section.

16 (3) "Barbering" means any one (1) or any combination of the following
17 practices when performed on the upper part of the human body for cosmetic
18 purposes and not for the treatment of disease or physical or mental ailments:

19 (a) Shaving the face or cutting, trimming, arranging, dressing, curl-
20 ing, cleansing, singeing or performing similar work on the hair;

21 (b) Fitting, cutting or dressing hairpieces or toupees;

22 (c) Giving facial and scalp massages or treatments with oils, creams,
23 lotions or other preparations, either by hand or by a mechanical appli-
24 ance; and

25 (d) Applying cosmetic preparations, antiseptics, powders, oils, clays
26 or lotions to the scalp, face, and neck.

27 (4) "Barber-styling" means any one (1) or any combination of the fol-
28 lowing practices when performed on the upper part of the human body for cos-
29 metic purposes and not for the treatment of disease or physical or mental
30 ailments:

31 (a) Shaving the face or cutting, trimming, arranging, dressing, curl-
32 ing, waving by any method, straightening, cleansing, singeing, bleach-
33 ing, coloring or performing similar work on the hair;

34 (b) Fitting, cutting or dressing hairpieces or toupees;

35 (c) Giving facial and scalp massages or treatments with oils, creams,
36 lotions or other preparations, either by hand or by a mechanical appli-
37 ance; and

38 (d) Applying cosmetic preparations, antiseptics, powders, oils, clays
39 or lotions to the scalp, face, and neck.

40 (5) "Barber-stylist" means a person licensed to practice bar-
41 ber-styling as defined in this section.

1 (6) "Board" means the barber and cosmetology services licensing board
2 established by section 54-5806, Idaho Code.

3 (7) "Bureau" means the bureau of occupational licenses.

4 (8) "Cosmetologist" means a person licensed to practice cosmetology as
5 defined in this section.

6 (9) "Cosmetology" means any one (1) or any combination of the following
7 practices when performed on the human body for cosmetic purposes and not for
8 the treatment of disease or physical or mental ailments:

9 (a) Cutting, trimming, arranging, dressing, curling, waving by any
10 method, cleansing, singeing, bleaching, coloring or performing similar
11 work on the hair, except as provided for in subsection (24) of this sec-
12 tion;

13 (b) Fitting, cutting or dressing hairpieces or toupees;

14 (c) Noninvasive care of the skin by application of cosmetic prepa-
15 rations, antiseptics, tonics, lotions, creams and essential oils
16 to cleanse, massage, exfoliate, hydrate and stimulate; makeup ap-
17 plication; pore extraction; use of chemical exfoliants approved for
18 professional esthetic use; particle exfoliation; use of any class I
19 medical device, as classified by the United States food and drug admin-
20 istration, designed for care of the skin, except that a class II medical
21 device designed for care of the skin may be used as directed and super-
22 vised by an authorized and licensed health care practitioner; temporary
23 removal of superfluous hair by lotions, creams, waxing, tweezing, de-
24 pilatories or other means; and tinting or perming the eyebrows and
25 eyelashes; and

26 (d) Manicuring and pedicuring nails and applying artificial nails.

27 (10) "Electrologist" means a person licensed to practice electrology,
28 as defined in this section, and skilled in the permanent removal of unwanted
29 hair.

30 (11) "Electrology" or "electrolysis" means the permanent removal of
31 hair by destroying the hair-producing cells of the skin and vascular system
32 through the use of equipment and devices approved by and registered with the
33 United States food and drug administration.

34 (12) "Establishment" means a place licensed under this chapter, other
35 than a licensed school, where barbering, barber-styling, cosmetology or
36 electrology is practiced.

37 (13) "Esthetician" means a person licensed to practice esthetics as de-
38 fined in this section.

39 (14) "Esthetics" means noninvasive care of the skin by application of
40 cosmetic preparations, antiseptics, tonics, lotions, creams and essential
41 oils to cleanse, massage, exfoliate, hydrate and stimulate; makeup applica-
42 tion; pore extraction; use of chemical exfoliants approved for professional
43 esthetic use; particle exfoliation; use of any class I medical device, as
44 classified by the United States food and drug administration, designed for
45 care of the skin, except that a class II medical device designed for care
46 of the skin may be used as directed and supervised by an authorized and li-
47 censed health care practitioner; temporary removal of superfluous hair by
48 lotions, creams, waxing, tweezing, depilatories or other means; and tinting
49 or perming the eyebrows and eyelashes.

1 (15) "Haircutting" means cutting, trimming, arranging, dressing, curl-
2 ing, cleansing, singeing or performing similar work on the hair and fitting,
3 cutting or dressing hairpieces or toupees.

4 (16) "Instructor" means a person licensed under this chapter to prac-
5 tice and teach any practice defined in this section.

6 (17) "Instructor trainee" means a barber, barber-stylist or cosmetol-
7 ogist attending a licensed school to receive training to teach barbering,
8 barber-styling or cosmetology.

9 (18) "Licensed school" means a postsecondary barber, cosmetology, or
10 electrology school that:

11 (a) Is licensed under its official name by the barber and cosmetology
12 services licensing board; and

13 (b) Admits as students only those individuals who meet the requirements
14 of paragraphs (a) and (b) of section 54-5810(1), Idaho Code.

15 (19) "Makeover or glamour photography business" means a business offer-
16 ing photographic services to the general public in which the business's em-
17 ployees apply cosmetic products to customers' faces or arrange the hair of
18 customers in connection with the sale or attempted sale of photographic ser-
19 vices.

20 (20) "Makeup artist" means a person certificated to practice makeup
21 artistry as defined in this section.

22 (21) "Makeup artistry" means noninvasive care of the skin by applica-
23 tion of cosmetic preparations for cleansing and the application of makeup,
24 which includes the application of cosmetics or any pigment product that is
25 used to cover, camouflage or decorate the skin.

26 (22) "Nail technician" means a person licensed to practice nail tech-
27 nology as defined in this section.

28 (23) "Nail technology" means any one (1) or more of the following prac-
29 tices when performed on the human body:

30 (a) Manicuring and pedicuring nails;

31 (b) Applying artificial nails; and

32 (c) Massaging the hands and feet.

33 (24) "Natural hair braiding" means the service of twisting, wrapping,
34 weaving, extending, locking, or braiding hair by hand or with a mechanical
35 device.

36 (a) "Natural hair braiding" includes:

37 (i) The use of natural or synthetic hair extensions, natural or
38 synthetic hair and fibers, and decorative beads and other hair ac-
39 cessories;

40 (ii) Minor trimming of natural hair or hair extensions incidental
41 to twisting, wrapping, weaving, extending, locking, or braiding
42 hair;

43 (iii) The making of wigs from natural hair, natural fibers, syn-
44 thetic fibers, and hair extensions; and

45 (iv) The use of topical agents, such as conditioners, gels,
46 moisturizers, oils, pomades, and shampoos, in conjunction with
47 performing services under subparagraphs (i) or (ii) of this para-
48 graph.

49 (b) "Natural hair braiding" does not include:

1 (i) The application of dyes, reactive chemicals, or other prepara-
 2 tions to alter the color of the hair or to straighten, curl, or
 3 alter the structure of the hair; or

4 (ii) The use of chemical hair joining agents, such as synthetic
 5 tape, keratin bonds, or fusion bonds.

6 (25) "Retail cosmetics dealer" means a stationary business offering
 7 cosmetic products for sale at retail to the general public, in which the
 8 business's employees apply cosmetic products to customers' faces in connec-
 9 tion with the sale or attempted sale of the products without compensation
 10 from the customer other than the regular price of the products.

11 (256) "Retail thermal styling equipment dealer" means a retail business
 12 that offers thermal styling equipment, such as curling irons, curling wands,
 13 flat irons, heated hair rollers, blow-dryers or other devices using heat to
 14 style hair, for sale at retail to members of the general public and whose em-
 15 ployees engage in the limited use of thermal styling equipment on customers
 16 in connection with the sale or attempted sale of the equipment without com-
 17 pensation from the customer other than the regular price of the equipment.

18 (267) "Student" means a person learning barbering, barber-styling,
 19 cosmetology or electrology at a licensed school who, while so learning, per-
 20 forms or assists in performing any practices of barbering, barber-styling,
 21 cosmetology or electrology.

22 SECTION 2. That Section 54-5805, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 54-5805. EXEMPTIONS FROM LICENSURE. The licensing, certification and
 25 registration provisions of this chapter shall not apply to the following:

26 (1) Persons authorized by the laws of this state to practice as a nurse
 27 or to practice any of the healing arts while in the proper discharge or dele-
 28 gation of their professional duties.

29 (2) Persons who provide on-site personal care or hygiene services in-
 30 cluding shaving, trimming of hair, beard or mustache, washing, brushing, or
 31 combing hair, and basic skin care and nail care to residents at facilities
 32 licensed under the department of health and welfare division of licensing
 33 and certification.

34 (3) Persons practicing in their own home without compensation who are
 35 not practicing on the public in general.

36 (4) Persons practicing on a relative without compensation.

37 (5) Persons whose practice is limited to the facial application of cos-
 38 metic products to customers in connection with the sale or attempted sale of
 39 cosmetic products on the premises of a retail cosmetics dealer without com-
 40 pensation from the customer other than the price of the products.

41 (6) Persons whose practice is limited to the demonstration of thermal
 42 styling equipment on customers in connection with the sale or attempted sale
 43 of thermal styling equipment on the premises of a registered thermal styling
 44 equipment dealer without compensation from the customer other than the price
 45 of the equipment.

46 (7) Currently enrolled students or actively registered apprentices
 47 practicing or demonstrating outside of a licensed school or establishment
 48 when that practice or demonstration is under the direct supervision of a
 49 licensed instructor. Members of the public may not be charged for any ser-

1 vices performed by a student or an apprentice practicing pursuant to this
2 subsection.

3 (8) Persons who are licensed or qualified through proper documentation
4 to practice or teach barbering, barber-styling or cosmetology in a state,
5 territory or possession of the United States or in a foreign country and
6 whose practice and activities are limited to education or demonstration
7 of no more than fourteen (14) consecutive days, provided that such persons
8 shall observe and comply with sanitation requirements established by rule.
9 Members of the public may not be charged for any services performed as part of
10 the demonstration or education.

11 (9) Persons who are employed, participating in, or contracted to per-
12 form barber-styling or cosmetology services in the course of and incidental
13 to the production of a theatrical or other visual arts production including,
14 but not limited to, stage productions, television and motion pictures.

15 (10) Persons whose practice is limited to natural hair braiding as de-
16 defined in section 54-5802(24), Idaho Code.

17 SECTION 3. An emergency existing therefor, which emergency is hereby
18 declared to exist, this act shall be in full force and effect on and after its
19 passage and approval.