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All laws and parts of laws in conflict herewith are hereby repealed.

APPROVED: March 25, 1937.

ACT 313.

AN ACT Regulating the Practice of Barbering, Prescribing the Terms Upon Which Licenses or Certificates of Registration May Be Issued to Practitioners of Barbering, Regulating Barber Schools, Creating and Providing for the Appointment of a State Board of Barber Examiners, Defining the Duties of Said Board, Prescribing Fees, Sanitary Rules and Regulations, Defining Misdemeanors, Providing Penalties for Violation Thereof, and Repealing All Laws and Parts of Laws in Conflict Therewith.

Be It Enacted by the General Assembly of the State of Arkansas:

SECTION 1. On and after the passage and effective date of this act, it shall be unlawful:

(1) To practice barbering in this state without a certificate of registration as a registered barber, issued pursuant to the provisions of this act by the Board of Barber Examiners as hereinafter established.

(2) To act or attempt to act as a barber apprentice without a certificate of registration as a registered apprentice, duly issued by the Board of Barber Examiners.

(3) For any person, firm or corporation to operate a barber shop or barber school, unless it is at all times operated under the personal supervision and management of a registered barber.

SECTION 2. Any one or any combination of the following practices, when performed upon the head, face and neck for cosmetic purposes and done for the public generally for pay, either directly or indirectly, shall constitute the practice of barbering:

Shaving or trimming the beard.

Cutting hair.

Giving facial and scalp massage or application of oils, creams, lotions or other preparations, either by hand or mechanical appliances.

Singeing, shampooing or dyeing the hair or applying hair tonic.

Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face or neck. Provided, however, That such practices when done for the treatment of physical or mental ailments or diseases shall not constitute barbering.

SECTION 3. Any person, firm or corporation desiring to conduct or operate a Barber School or college in this State shall first obtain from the Board of Barber Examiners its written approval. No school of barbering shall be approved by the Board unless it requires as a prerequisite to graduation a course of instruction of not less than one thousand (1,000) hours to be completed within a period of not less than (6) months of continuous instruction of not more than eight (8) hours in any one working day and unless said school or college requires, as a prerequisite to the admission thereto, applicant to furnish a diploma showing graduation from a seventh (7) grade grammar school or its equivalent as determined by an examination conducted by the Board; such course of instruction to include the following subjects: Scientific fundamentals for barbering, hygiene and bacteriology;

histology of the hair, skin, muscles and nerves; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; diseases of the skin, hair and glands; massaging and manipulating of the muscles; and cutting, shaving, arranging, dressing, coloring, bleaching and tinting of the hair.

SECTION 4. Any person shall be qualified to receive a certificate of registration as a registered apprentice:

(1) Who is at least sixteen and one-half (16½) years of age and who is of good moral character and temperate habits, and

(2) Who passes a satisfactory examination conducted by the Board to determine his or her fitness to practice as a registered apprentice.

An applicant for a certificate of registration to practice as an apprentice who fails to pass a satisfactory examination may apply for another examination at any future meeting of the Board, Provided, any person enrolled as a student in any barber school in this State, on the effective date of this Act, shall be given credit for all time spent therein.

No registered apprentice may independently practice barbering, but may, as an apprentice, do any and all of the acts constituting the practice of barbering under the immediate personal supervision of a registered barber.

SECTION 5. Any person shall be qualified to receive a certificate of registration to practice as a registered barber:

(1) Who is qualified under the provisions of this Act.

(2) Who is at least eighteen (18) years of age.

(3) Who is of good moral character and temperate habits.

(4) Who has practiced as a registered apprentice for a period of eighteen (18) months under the immediate personal supervision of a registered barber, and

(5) Who has passed a satisfactory examination conducted by the Board to determine his or her fitness to practice barbering, and who shall furnish a diploma showing graduation from a seventh (7th) grade grammar school or its equivalent as determined by an examination conducted by the Board.

An applicant for a certificate of registration to practice as a registered barber who fails to pass a satisfactory examination conducted by the Board may apply for one other examination at any future meeting of the Board within six (6) months; should applicant fail the second examination he or she must file a new application and pay the required fees.

SECTION 6. The State Board of Barber Examiners, herein provided for, shall hold a meeting in the City of Little Rock, Arkansas, once every month, or at such other places where, in the discretion of the Board, there are a sufficient number of applicants to warrant holding an examination outside of the City of Little Rock, Arkansas, from and after the effective date of this Act, for the purpose of passing upon barbers' applications and apprentices' applications, and for the purpose of conducting an examination to determine applicants' ability to receive a license and shall issue or refuse to issue a license thereon, and shall transact any other business which may properly come before it.

Such examinations shall include both a practical demonstration and a written and oral test, and shall em-

brace the subject usually taught in schools of barbering approved by the Board.

Certificate of registered barbers or of registered apprentices shall be issued by the Board to any applicant who shall pass a satisfactory examination, making a grade of not less than 75% in all subjects upon which they are examined, and who shall possess the qualifications required herein.

SECTION 7. Any person who desires to practice barbering, or to practice as an apprentice barber, shall file with the Secretary of the Board of Barber Examiners a written application, under oath, on a form prescribed by the Board, together with two five (5) inch by three (3) inch signed photographs, and satisfactory proof that applicant is of good moral character, and shall also furnish the Board with a certificate from an Arkansas licensed physician who shall have been selected from a list of physicians of the county of the applicant, furnished by the Board of Examiners, showing that the applicant is free from any contagious disease, which shall include Tubercular and Wassermann tests, which certificate shall not be dated more than ten (10) days prior to date of examination and registration.

SECTION 8. Any present resident of this State who has for six (6) months immediately preceding the passage of this Act continuously engaged in the practice of barbering at one or more established places of business in this State and who, if he or she have recently come into this State, has been continuously engaged in the practice of barbering for a period of not less than one and one-half (1½) years in another State, shall be granted a certificate of registration as a registered barber without examination by making application to the Board at one of its meetings hereinbefore provided for and paying the

required fee and meeting other requirements set out herein; it being the intent herein to relieve any present resident applicant from the necessity of taking an examination.

SECTION 9. Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his work chair.

SECTION 10. The State Board of Barber Examiners shall charge and collect the following annual fees; For each shop of two (2) chairs or less, \$1.00; and for each shop of three (3) chairs or more, \$2.00.

For the examination of an applicant for a certificate to practice as a barber, three dollars (\$3.00).

For issuance of the certificate, two dollars (\$2.00).

For renewal of the certificate to practice as a barber, two dollars (\$2.00).

For restoration of an expired certificate, three dollars (\$3.00).

For the examination of an applicant for a certificate to practice as an apprentice, two dollars (\$2.00).

For the issuance of an apprentice certificate, two dollars (\$2.00).

For renewal of a certificate to practice as an apprentice, two dollars (\$2.00).

For restoration of an expired apprentice's certificate, three dollars (\$3.00).

A duplicate certificate will be issued upon the filing of a statement covering the loss of a certificate, verified by the oath of the applicant, and by submitting one signed photograph, and the payment of a fee of one dollar

(\$1.00) for the issuance of same. Each duplicate certificate shall have the word "Duplicate" stamped across the face thereof, and will bear the same number as the certificate that it was issued in lieu of.

SECTION 11. Every registered barber and every registered apprentice who continues in active practice or service, shall annually, on or before the first day of September of each year, renew his or her certificate of registration by paying the required fee and furnishing health certificate as required in Section 7 of this Act. Every certificate of registration which has not been renewed, as herein required, in any year, shall expire on the first day of September in that year. A registered barber or registered apprentice whose certificate of registration has expired for not to exceed sixty (60) days, may have his certificate restored immediately upon payment of the required restoration fee, and upon furnishing a health certificate as required in Section 7 of this Act. Any registered barber who retires from the practice of barbering for not more than three (3) years may renew his certificate of registration upon payment of the required restoration fee and upon furnishing proper health certificate as required in Section 7 of this Act.

SECTION 12. The Board shall either refuse to issue to renew or shall suspend or revoke any certificate of registration for any one or combination of the following causes:

1. Conviction of a felony shown by a certified copy of the record of the court of conviction.
2. Malpractice or gross incompetency.
3. When applicant or registered barber or registered apprentice barber is or becomes afflicted with an infectious or communicable disease.

4. Advertising by means of knowingly false or deceptive statements.

5. Advertising, practicing or attempting to practice under a trade name or name other than one's own.

6. Habitual drunkenness or habitual addiction to the use of morphine, cocaine or other habit-forming drugs.

7. Immoral or unprofessional conduct.

8. The violation of any of the sanitary regulations promulgated by either the Board of Barber Examiners or State Department of Health for the regulation of barber shops and barber schools.

9. To continue to be employed in a barber shop wherein the sanitary regulations of the Board of Barber Examiners or State Department of Health promulgated for the regulation of barber shops or barber schools are known by the registered barber or registered apprentice to be violated.

SECTION 13. No action in refusing to issue or renew or in suspending or revoking a certificate of registration for any of these causes shall be taken until the accused has been furnished with a statement of the specific charges against him, and notice of the time and place of hearing thereof. The accused may be present at the hearing in person or by counsel or both. The statement of charges and notice must be served personally upon such person, or mailed to his last known address at least twenty (20) days prior to the hearing. If upon such hearing the Board finds the charges are true, it may refuse to issue or renew a certificate of registration, or may revoke or suspend such certificate if the same has been issued.

Upon the hearing of any such proceeding the Board may administer oaths and may procure, by its subpoena, the attendance of witnesses and the production of relevant books and papers.

Any circuit court, or any judge of a circuit court, either in term time or in vacation, upon application either of the accused or of the Board or member thereof, may, by order duly entered, require the attendance of witnesses and the production of relevant books and papers before the Board in any hearing relating to the refusal, suspension or revocation of certificates of registration.

Any person aggrieved by the action of such Board, as provided in this section, may appeal from such action to the circuit court of the district of which he is a resident, and to the Supreme Court of the State of Arkansas as in other cases made and provided.

SECTION 14. Any person, firm or corporation which shall operate as a barber, barber shop, barber corporation, or barber school without a certificate of registration duly and legally issued by the State Board of Barber Examiners shall be guilty of a misdemeanor, punishable upon conviction by a fine of not less than twenty-five (\$25.00) dollars or more than one hundred dollars (\$100.00). The wilful making of any false statement to a material matter in any oath or affidavit which is required by the provisions of this Act shall be perjury and punishable as such.

SECTION 15. There is hereby created a Board of Barber Examiners, consisting of the Secretary of the State Board of Health who shall be ex-officio member of said board and chairman thereof, and three (3) members to be appointed by the Governor, one member to be chosen from a city of the first class, one member to be chosen

from a city of the second class and one member to be chosen from an incorporated town, which board shall be known as "State Board of Barber Examiners". Each member of the Board so appointed by the Governor shall be a practical barber who has followed the occupation of barber in this State for at least five (5) years immediately prior to his or her appointment.

Thirty (30) days after the effective date of this Act, the members of the first Board shall be appointed, one for a term of two (2) years, one for a term of four (4) years, and one for a term of six (6) years. Thereafter, one member of said Board shall be appointed every two (2) years for a term of six (6) years, and shall hold office until his successor is appointed and qualified.

The Governor shall have the power to remove any member of said Board for gross incompetency, gross immorality, or disability; for any abuse of his official power or for other good cause, and shall fill any vacancy thus occasioned by appointment within thirty (30) days after such vacancy occurs. Members appointed to fill vacancies caused by death, resignation or removal, shall serve only for the unexpired term of their predecessors.

SECTION 16. The Board shall organize by electing a president, vice-president, and secretary from its members.

A majority of the Board shall constitute a quorum and may perform and exercise all the duties and powers devolving upon it.

The Board may be furnished suitable quarters for the conduct of its business and shall adopt and use a common seal for the authentication of its orders and records.

The Secretary of the Board shall keep a record of its proceedings, a register of persons registered as barbers and apprentices; showing the name, place of busi-

ness and residence of each and the date and number of his or her certificate, and a record of all certificates issued, refused, renewed, suspended or revoked. Its records shall be open to public inspection at all reasonable times.

The Board shall annually, on or before the first day of January, make a report to the Governor of all its official acts during the preceding year, and of its receipts and disbursements and such recommendations as it may deem expedient.

SECTION 17. Before entering upon the discharge of the duties of his office, the Secretary shall give a bond to the State, to be approved by the Governor and filed with the Auditor of State, in the sum of five thousand dollars (\$5,000.00), conditioned for the faithful performance of the duties of his office.

SECTION 18. All moneys received by the Board under this Act shall be paid to the Secretary of the Board, who shall give a proper receipt for the same, and shall at the end of each month, report to the Auditor of State the total amount received by him under the provisions of this Act, from all sources, and shall at the same time, deposit the entire amount of such receipts with the State Treasurer, who shall place them to the credit of a special fund to be created and known as "State Board of Barber Examiners Fund". The State Board shall, by its president and secretary, from time to time, certify to the Auditor of State the necessary expenses incurred by said Board, including the salaries and the per diem of the members, and the Auditor shall issue his warrant for the same, which shall be paid out of the funds so established for the maintenance of said Board; provided, that no order shall be drawn by the Auditor of State on any fund other than the above named fund for any salaries

or expenses of the Board incident to the administration of this Act. All funds so paid to the Treasurer of State shall remain and be a separate and permanent fund for the maintenance of the Board and the administration of this Act.

SECTION 19. The Secretary of the State Board of Barber Examiners shall receive for his services not to exceed the sum of eighteen hundred dollars (\$1,800.00) per year, payable monthly or semi-monthly in equal installments; said amount to be fixed by the other two members of the Board.

Each member of the Board shall receive ten dollars (\$10.00) for each day actually employed in the discharge of his official duties, and necessary expenses incurred.

The Board shall have authority to employ not to exceed four (4) registered barber inspectors, not to exceed two (2) stenographers, and fix their compensation, to be paid from the barber fund, as it may deem necessary to carry out the provisions of this act; provided, that all employees shall work under the direct supervision of the Board.

SECTION 20. The Board shall have authority to make and promulgate reasonable rules and regulations for the administration of the provisions of this Act and for the purpose of carrying out the intent hereof. It shall prescribe sanitary requirements for barber shops and barber schools, subject to the approval of the State Board of Health. Any member of the Board, or its inspectors shall have authority to enter upon and to inspect any barber shop or barber school at any time during business hours. A copy of the rules and regulations and sanitary requirements adopted by the Board shall be furnished by the Board to the owner or manager of each barber

shop and barber school, and such copy shall be posted in a conspicuous place in such barber shop or barber school; provided, the Board may correct any conflicts contained herein by promulgation of rules and regulations, subject to the approval of the Attorney General.

SECTION 21. The following persons, firms or corporations are exempt from the provisions of this act while in the proper discharge of their professional duties:

1. Persons licensed by the law of this State to practice medicine and surgery, osteopathy or chiropractic.
2. Commissioned medical or surgical officers of the United States Army, Navy or Marine Hospital Service.
3. Registered nurses.
4. Undertakers and morticians.

Provided, further, nothing contained in this act shall be construed to conflict in any manner with Act 158 of the General Acts of the General Assembly of the State of Arkansas for the year 1925, approved March 11, 1925, and Act 143 of the General Acts of the General Assembly of the State of Arkansas for the year 1935, approved March 20, 1935, and amendatory thereof, which are the Acts regulating the vocation of Cosmetic Therapy or Beauty Culture.

SECTION 22. Each section, sub-section, sentence, clause and phrase of this act are declared to be independent sections, sub-sections, sentences, clauses and phrases, and the finding or holding of any section, sub-section, sentence, phrase or clause to be unconstitutional, void or ineffective for any cause, shall not affect any other section, sub-section, sentence, or part hereof.

SECTION 23. All laws and parts of laws in conflict herewith are hereby repealed.

SECTION 24. This act shall be known and may be cited as the Arkansas Barber Law.

SECTION 25. *Emergency Clause.* It is hereby ascertained and declared that the barbering profession in this State is utterly without regulation, that public health and general well-being demands that this profession be regulated both as to those who form a part of the profession and as to the sanitary conditions under which they labor. It is further declared that forty one (41) states of the Union now have uniform barber laws and that those who cannot comply with the health and sanitary features of said laws have migrated to the State of Arkansas and are following the profession in this State to the detriment of the general public, and because of all of these conditions, which exist; the immediate operation of this Act is essential. An emergency is, therefore, declared to exist, and it being necessary for the immediate preservation of the public peace, health and safety; this Act shall take effect and be in full force from and after the date of its passage and approval.

APPROVED: March 25, 1937.

ACT 314.

AN ACT Levying a Sales Tax on the Sale of Cigars and for Other Purposes.

Be It Enacted by the General Assembly of the State of Arkansas:

SECTION 1. The sales tax now or hereafter levied upon the sale of tangible personal property at retail shall apply to the sale of cigars and shall be in lieu of all excise and privilege taxes now imposed upon those engaged in selling cigars at retail.