

State of Wisconsin



2017 Senate Bill 109

Date of enactment: **November 27, 2017**

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2017 WISCONSIN ACT 82

AN ACT *to repeal* 440.03 (13) (b) 15., 440.03 (13) (b) 19s., 440.08 (2) (a) 7., 440.08 (2) (a) 17., 440.08 (2) (a) 18., 440.08 (2) (a) 24g., 440.08 (2) (a) 24i., 440.08 (2) (a) 32., 440.08 (2) (a) 43., 440.60 (4s), 440.60 (5s), 440.62 (3) (ag) 3., 440.62 (3) (ar) 3., 454.01 (7s), 454.06 (3), 454.08 (1) (a), 454.20 (3), 454.20 (9), 454.20 (12), 454.22 (1) (b), 454.22 (1) (g), 454.23 (3) and 454.25 (1) (a); *to amend* 440.62 (5) (a), 440.63 (1), 440.63 (2), 440.635, 440.64 (3) (b) (intro.), 440.64 (3) (c), 454.04 (1) (a), 454.04 (1) (b), 454.04 (1) (d), 454.04 (2) (a), 454.04 (2) (b), 454.04 (2) (d), 454.06 (4) (b) 2., 454.06 (5) (b) 2., 454.06 (6) (b) 2., 454.06 (7), 454.07 (1), 454.08 (1) (b), 454.08 (4), 454.08 (6), 454.10 (3) (a), 454.13 (1) (intro.), 454.13 (2), 454.22 (2), 454.23 (4), 454.23 (5), 454.23 (6) (a), 454.24 (2), 454.24 (4), 454.25 (1) (b), 454.25 (4), 454.25 (5), 454.26 (3) (a), 454.27 (1) (intro.) and 454.287; and *to create* 440.63 (1m), 454.08 (1) (ag), 454.08 (1) (ar), 454.25 (1) (ag) and 454.25 (1) (ar) of the statutes; **relating to:** practicing barbering and cosmetology outside licensed establishments, regulating barbering and cosmetology managers, instructor certificates for barbering, cosmetology, and related professions, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 3. 440.03 (13) (b) 15. of the statutes is repealed.

SECTION 5. 440.03 (13) (b) 19s. of the statutes is repealed.

SECTION 8. 440.08 (2) (a) 7. of the statutes is repealed.

SECTION 9. 440.08 (2) (a) 17. of the statutes is repealed.

SECTION 10. 440.08 (2) (a) 18. of the statutes is repealed.

SECTION 11. 440.08 (2) (a) 24g. of the statutes is repealed.

SECTION 12. 440.08 (2) (a) 24i. of the statutes is repealed.

SECTION 13. 440.08 (2) (a) 32. of the statutes is repealed.

SECTION 14. 440.08 (2) (a) 43. of the statutes is repealed.

SECTION 15. 440.60 (4s) of the statutes is repealed.

SECTION 16. 440.60 (5s) of the statutes is repealed.

SECTION 17. 440.62 (3) (ag) 3. of the statutes is repealed.

SECTION 18. 440.62 (3) (ar) 3. of the statutes is repealed.

SECTION 19. 440.62 (5) (a) of the statutes is amended to read:

440.62 (5) (a) No specialty school may offer theoretical instruction for ~~managers or~~ apprentices.

SECTION 20g. 440.63 (1) of the statutes is amended to read:

440.63 (1) ~~INSTRUCTOR CERTIFICATION REQUIRED INSTRUCTORS.~~ (a) No person may provide practical instruction in barbering unless the person holds a current ~~barbering instructor or cosmetology instructor certificate~~

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

issued barber license granted by the department or cosmetologist license granted by the cosmetology examining board.

(am) No person may provide practical instruction in cosmetology unless the person holds a current cosmetology instructor certificate issued by the department cosmetologist license granted by the cosmetology examining board.

(b) No person may provide practical instruction in aesthetics unless the person holds a current aesthetics instructor or cosmetology instructor certificate issued by the department aesthetician license or cosmetologist license granted by the cosmetology examining board.

(c) No person may provide practical instruction in electrology unless the person holds a current electrology instructor certificate issued by the department electrologist license granted by the cosmetology examining board.

(d) No person may provide practical instruction in manicuring unless the person holds a current manicuring instructor or cosmetology instructor certificate issued by the department manicurist license or cosmetologist license granted by the cosmetology examining board.

SECTION 20r. 440.63 (1m) of the statutes is created to read:

440.63 (1m) USE OF TITLE. (a) No person may use the title "Wisconsin certified barbering instructor," use any title that implies that he or she is a Wisconsin certified barbering instructor, or represent himself or herself to be a Wisconsin certified barbering instructor unless the person is certified as a barbering instructor under this subchapter.

(b) No person may use the title "Wisconsin certified cosmetology instructor," use any title that implies that he or she is a Wisconsin certified cosmetology instructor, or represent himself or herself to be a Wisconsin certified cosmetology instructor unless the person is certified as a cosmetology instructor under this subchapter.

(c) No person may use the title "Wisconsin certified aesthetics instructor," use any title that implies that he or she is a Wisconsin certified aesthetics instructor, or represent himself or herself to be a Wisconsin certified aesthetics instructor unless the person is certified as an aesthetics instructor under this subchapter.

(d) No person may use the title "Wisconsin certified electrology instructor," use any title that implies that he or she is a Wisconsin certified electrology instructor, or represent himself or herself to be a Wisconsin certified electrology instructor unless the person is certified as an electrology instructor under this subchapter.

(e) No person may use the title "Wisconsin certified manicuring instructor," use any title that implies that he or she is a Wisconsin certified manicuring instructor, or represent himself or herself to be a Wisconsin certified manicuring instructor unless the person is certified as a manicuring instructor under this subchapter.

SECTION 26m. 440.63 (2) of the statutes is amended to read:

440.63 (2) APPLICATIONS; CERTIFICATION PERIOD. An application for ~~initial certification or renewal or reinstatement of a certificate~~ under this section shall be submitted to the department on a form provided by the department. An application for ~~initial certification~~ shall include the ~~initial credential~~ a one-time certification fee determined by the department using the procedures established under s. 440.03 (9) (a). ~~Renewal applications shall be submitted to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a) and shall include the applicable renewal fee determined by the department under s. 440.03 (9) (a), and the applicable penalty for late renewal under s. 440.08 (3) if the application is submitted late, except that no certification fee is required under this section for an individual who is eligible for the veterans fee waiver program under s. 45.44. The department may not require renewal of a certificate issued under this section.~~

SECTION 28. 440.635 of the statutes is amended to read:

440.635 Persons providing practical instruction in specialty schools. (1) No person may provide practical instruction in a specialty school of aesthetics unless the person holds a current ~~cosmetology manager~~ cosmetologist license or aesthetician license issued by the cosmetology examining board ~~or a current cosmetology instructor or aesthetics instructor certificate issued by the department~~.

(2) No person may provide practical instruction in a specialty school of electrology unless the person holds a current electrologist license ~~and a current cosmetology manager license~~ issued by the cosmetology examining board ~~or an electrology instructor certificate issued by the department~~.

(3) No person may provide practical instruction in a specialty school of manicuring unless the person holds a current ~~cosmetology manager~~ cosmetologist license or manicurist license issued by the cosmetology examining board ~~or a current cosmetology instructor or manicuring instructor certificate issued by the department~~.

SECTION 29. 440.64 (3) (b) (intro.) of the statutes is amended to read:

440.64 (3) (b) (intro.) Subject to the rules promulgated under s. 440.03 (1), the department may reprimand a licensee ~~or certified instructor~~ or deny, limit, suspend, or revoke a license ~~or certificate~~ under this subchapter if it finds that the applicant, or licensee or certified instructor has done any of the following:

SECTION 30. 440.64 (3) (c) of the statutes is amended to read:

440.64 (3) (c) In addition to or in lieu of a reprimand or denial, limitation, suspension, or revocation of a license ~~or certificate~~ under par. (b), the department may

assess against a school, ~~or specialty school or instructor~~ a forfeiture of not less than \$100 nor more than \$5,000 for each violation enumerated under par. (b).

SECTION 31. 454.01 (7s) of the statutes is repealed.

SECTION 32. 454.04 (1) (a) of the statutes is amended to read:

454.04 (1) (a) Except as permitted under pars. (b) and (d), sub. (1m), and subch. II, no person may engage in cosmetology unless the person has received training in the areas of service provided and holds a current cosmetologist license ~~or cosmetology manager license~~ issued by the examining board that is not an inactive license or temporary permit issued by the examining board or is an apprentice under s. 454.10 or a student in a cosmetology course of instruction.

SECTION 33. 454.04 (1) (b) of the statutes is amended to read:

454.04 (1) (b) No person may engage in aesthetics unless the person has received training in the areas of service provided and holds a current aesthetician license, ~~or cosmetologist license, or cosmetology manager license~~ issued by the examining board that is not an inactive license or temporary permit or training permit issued by the examining board or is an apprentice under s. 454.10 or a student in an aesthetics or cosmetology course of instruction.

SECTION 34. 454.04 (1) (d) of the statutes is amended to read:

454.04 (1) (d) No person may engage in manicuring unless the person has received training in the areas of service provided and holds a current manicurist license, ~~or cosmetologist license, or cosmetology manager license~~ issued by the examining board that is not an inactive license or temporary permit or training permit issued by the examining board or is an apprentice under s. 454.10 or a student in a manicuring or cosmetology course of instruction.

SECTION 35. 454.04 (2) (a) of the statutes is amended to read:

454.04 (2) (a) No person may use the title “cosmetologist” or any other similar title unless the person holds a current cosmetologist license ~~or cosmetology manager license~~ issued by the examining board that is not an inactive license.

SECTION 36. 454.04 (2) (b) of the statutes is amended to read:

454.04 (2) (b) No person may use the title “aesthetician” or any other similar title unless the person holds a current aesthetician license, ~~or cosmetologist license, or cosmetology manager license~~ issued by the examining board that is not an inactive license.

SECTION 37. 454.04 (2) (d) of the statutes is amended to read:

454.04 (2) (d) No person may use the title “manicurist” or any other similar title unless the person holds a current manicurist license, ~~or cosmetologist license, or~~

~~cosmetology manager license~~ issued by the examining board that is not an inactive license.

SECTION 38. 454.06 (3) of the statutes is repealed.

SECTION 39. 454.06 (4) (b) 2. of the statutes is amended to read:

454.06 (4) (b) 2. At least 450 training hours in not less than 11 weeks and not more than 30 weeks under the supervision of a ~~cosmetology instructor or aesthetics instructor certified under s. 440.63 (3) (am) or (b) or a licensed cosmetology manager,~~ licensed cosmetologist or aesthetician in a licensed establishment that is also licensed as a specialty school of aesthetics under s. 440.62 (4) (a).

SECTION 40. 454.06 (5) (b) 2. of the statutes is amended to read:

454.06 (5) (b) 2. At least 450 training hours in not less than 11 weeks and not more than 30 weeks under the supervision of ~~an electrology instructor certified under s. 440.63 (3) (c), or a licensed electrologist who is also a licensed cosmetology manager,~~ in a licensed establishment that is also licensed as a specialty school of electrology under s. 440.62 (4) (b).

SECTION 41. 454.06 (6) (b) 2. of the statutes is amended to read:

454.06 (6) (b) 2. At least 300 training hours of training in not less than 7 weeks and not more than 20 weeks under the supervision of a ~~cosmetology instructor or manicuring instructor certified under s. 440.63 (3) (am) or (d) or a licensed cosmetology manager,~~ licensed cosmetologist or manicurist in a licensed establishment that is also licensed as a specialty school of manicuring under s. 440.62 (4) (c).

SECTION 42. 454.06 (7) of the statutes is amended to read:

454.06 (7) POSTING OF LICENSE CERTIFICATES. The examining board shall furnish a certificate to each licensee, certifying that the holder is licensed to practice cosmetology, aesthetics, electrology, or manicuring ~~or is a licensed cosmetology manager.~~ The licensee shall post the certificate in a conspicuous place in the licensed establishment. A licensee who holds an inactive license may not post a certificate for that inactive license.

SECTION 43. 454.07 (1) of the statutes is amended to read:

454.07 (1) The examining board shall, in accordance with s. 440.07 (2), conduct examinations for cosmetologist, ~~cosmetology manager,~~ aesthetician, electrologist, and manicurist licenses not less than 8 times annually, at times and places determined by the examining board.

SECTION 44. 454.08 (1) (a) of the statutes is repealed.

SECTION 45g. 454.08 (1) (ag) of the statutes is created to read:

454.08 (1) (ag) 1. The examining board shall promulgate rules permitting the practice of electrology outside of a licensed establishment.

2. The examining board shall promulgate rules permitting the use of a chemical process in the practice of cosmetology, aesthetics, or manicuring outside of a licensed establishment, except that the examining board may not promulgate any rule that restricts the use of a chemical process in cutting or styling hair in the practice of cosmetology or applying cosmetics, oils, lotions, clay, creams, antiseptics, powders, or tonics in the practice of aesthetics.

SECTION 45r. 454.08 (1) (ar) of the statutes is created to read:

454.08 (1) (ar) A person may practice cosmetology, aesthetics, or manicuring outside of a licensed establishment if all of the following apply:

1. The person owns, manages, is employed by, or is affiliated with an establishment that is licensed to provide that service under sub. (2).

2. The person brings the certificate furnished to the person under s. 454.06 (7), or a copy, to the location where cosmetology, aesthetics, or manicuring is practiced.

3. The service provided by the person does not involve the use of a chemical process, except for the use, outside of a licensed establishment, of a chemical process in cutting or styling hair in the practice of cosmetology or applying cosmetics, oils, lotions, clay, creams, antiseptics, powders, or tonics in the practice of aesthetics.

SECTION 46m. 454.08 (1) (b) of the statutes is amended to read:

454.08 (1) (b) Except as permitted by rule promulgated under par. (a) (ag) or (ar), no person may practice cosmetology, aesthetics, electrology, or manicuring in an establishment unless the establishment is licensed to provide that practice under sub. (2).

SECTION 47. 454.08 (4) of the statutes is amended to read:

454.08 (4) The examining board shall, by rule, establish minimum standards concerning the maintenance, equipment, plans, and specifications for licensed establishments as they relate to the public health and safety. The examining board may not promulgate a rule requiring the use of a tuberculocidal disinfectant by ~~a manager of, or a barber or cosmetologist in,~~ an establishment licensed under this section. The examining board may not license an establishment under this section unless it meets the standards established by the examining board. A person proposing to open an establishment in a new location shall apply to the examining board for an inspection and approval of the establishment, submitting an exact description and floor plan of the proposed location of the establishment on a form provided by the department.

SECTION 48. 454.08 (6) of the statutes is amended to read:

454.08 (6) A person who owns a cosmetology establishment shall employ at least one person as a manager

who holds a cosmetology ~~manager~~ license and manages the establishment on a full-time basis. The ~~cosmetology manager of a cosmetology establishment~~ shall ensure that the establishment operates in compliance with this subchapter and rules promulgated by the examining board.

SECTION 49. 454.10 (3) (a) of the statutes is amended to read:

454.10 (3) (a) No apprentice under this section may practice cosmetology except ~~under the supervision of a licensed cosmetology manager, whose cosmetology license is not an inactive license, or under the supervision of a licensed cosmetologist, whose cosmetology license is not an inactive license, and to whom supervisory authority has been delegated by a licensed cosmetology manager. A licensed cosmetology manager may only delegate supervisory authority to a licensed cosmetologist and~~ who has completed at least 2,000 hours of practice as a licensed cosmetologist.

SECTION 50. 454.13 (1) (intro.) of the statutes is amended to read:

454.13 (1) (intro.) Upon application and payment of the fee specified in s. 440.05 (2), the examining board may issue a license to practice cosmetology, aesthetics, electrology, or manicuring ~~or to practice as a cosmetology manager~~ to an applicant who is licensed in another state or territory of the United States or in another country to perform services that are substantially the same as those performed by licensees in this state and to whom either of the following applies:

SECTION 51. 454.13 (2) of the statutes is amended to read:

454.13 (2) The examining board may enter into reciprocal agreements with officials of other states for licensing cosmetologists, aestheticians, electrologists, ~~and~~ manicurists, ~~and cosmetology managers~~ and grant licenses to persons licensed in other states according to the terms of such an agreement.

SECTION 53. 454.20 (3) of the statutes is repealed.

SECTION 54. 454.20 (9) of the statutes is repealed.

SECTION 55. 454.20 (12) of the statutes is repealed.

SECTION 56. 454.22 (1) (b) of the statutes is repealed.

SECTION 57. 454.22 (1) (g) of the statutes is repealed.

SECTION 58. 454.22 (2) of the statutes is amended to read:

454.22 (2) No person may use the title "barber" or "hairstylist" or any other similar title unless the person is a licensed barber, ~~licensed barbering manager, or licensed cosmetologist, or licensed cosmetology manager.~~

SECTION 59. 454.23 (3) of the statutes is repealed.

SECTION 60. 454.23 (4) of the statutes is amended to read:

454.23 (4) POSTING OF LICENSE CERTIFICATE. The department shall issue a certificate to each person licensed under sub. (2) ~~or (3)~~, certifying that the holder

is a licensed barber ~~or licensed barbering manager~~. The licensee shall post the certificate in a conspicuous place in the primary establishment where the licensee practices.

SECTION 61. 454.23 (5) of the statutes is amended to read:

454.23 (5) EXPIRATION AND RENEWAL. The renewal ~~dates~~ date for licenses ~~a license~~ granted under ~~subs. sub. (2) and (3)~~ is specified under s. 440.08 (2) (a), and the renewal fees ~~fee~~ for those licenses ~~are~~ that license is determined by the department under s. 440.03 (9) (a).

SECTION 62. 454.23 (6) (a) of the statutes is amended to read:

454.23 (6) (a) Any person who is issued a license under sub. (2) ~~or (3)~~ may apply to the department to classify that license as inactive. Upon application under this paragraph, the department may classify a license as inactive if the department determines that the person who holds that license is in good standing with the department and intends to refrain from barbering during the period that the license is inactive.

SECTION 63. 454.24 (2) of the statutes is amended to read:

454.24 (2) The examination for a license under s. 454.23 (2) ~~or (3)~~ shall consist of written tests and practical demonstrations requiring applicants to demonstrate minimum competency in services and subjects substantially related to the practice of a barber ~~or barbering manager, as appropriate,~~ and public health and safety.

SECTION 64. 454.24 (4) of the statutes is amended to read:

454.24 (4) An applicant for a license under s. 454.23 (2) ~~or (3)~~ shall file an application for examination in the office of the department at least 3 weeks before the examination. If an applicant fails to file the application within the required time, the department may postpone the applicant's examination to the date of the next available regular examination. The department may require an applicant who fails to appear for or to complete an examination to reapply for examination. An applicant who fails an examination may request reexamination and shall pay a fee for reexamination, according to the procedures and fees established under s. 440.06.

SECTION 65. 454.25 (1) (a) of the statutes is repealed.

SECTION 66g. 454.25 (1) (ag) of the statutes is created to read:

454.25 (1) (ag) The department shall promulgate rules permitting the use of a chemical process in the practice of barbering outside of a licensed establishment, except that the department may not promulgate any rule that restricts the use of a chemical process in cutting or styling hair in the practice of barbering.

SECTION 66r. 454.25 (1) (ar) of the statutes is created to read:

454.25 (1) (ar) A person may practice barbering outside of a licensed establishment if all of the following apply:

1. The person owns, manages, is employed by, or is affiliated with a barbering establishment licensed under sub. (2) or a cosmetology establishment licensed under s. 454.08 (2).

2. The person brings the certificate issued to the person under s. 454.23 (4), or a copy, to the location where barbering is practiced.

3. The service provided by the person does not involve the use of a chemical process, except for the use of a chemical process in cutting or styling hair in the practice of barbering outside of a licensed establishment.

SECTION 67m. 454.25 (1) (b) of the statutes is amended to read:

454.25 (1) (b) Except as permitted by ~~rule promulgated~~ under par. (a) ~~(ag) or (ar)~~, no person may practice barbering in an establishment unless the establishment is a licensed barbering establishment under sub. (2) or licensed cosmetology establishment under s. 454.08 (2).

SECTION 68. 454.25 (4) of the statutes is amended to read:

454.25 (4) A person who is not a licensed barber, ~~licensed barbering manager, or~~ licensed cosmetologist, ~~or licensed cosmetology manager~~ may own or operate a licensed barbering establishment, but may not practice barbering.

SECTION 69. 454.25 (5) of the statutes is amended to read:

454.25 (5) A person who owns a licensed barbering establishment shall employ at least one person as a manager who is a licensed ~~barbering manager~~ barber or licensed ~~cosmetology manager~~ cosmetologist and works full-time in the establishment. The manager of a licensed barbering establishment shall ensure that the establishment operates in compliance with this subchapter and the rules promulgated by the department under this subchapter.

SECTION 70. 454.26 (3) (a) of the statutes is amended to read:

454.26 (3) (a) An apprentice in barbering may not practice barbering except ~~under the supervision of a licensed barbering manager or licensed cosmetology manager or~~ under the supervision of a licensed barber or licensed cosmetologist ~~to whom supervisory authority has been delegated by a licensed barbering manager or licensed cosmetology manager.~~ A licensed barbering manager ~~or licensed cosmetology manager~~ may only delegate supervisory authority to a licensed barber ~~or licensed cosmetologist~~ who has completed at least 2,000 hours of practice as a licensed barber or licensed cosmetologist.

SECTION 71. 454.27 (1) (intro.) of the statutes is amended to read:

454.27 (1) (intro.) Upon application and payment of the fee specified in s. 440.05 (2), the department may grant a license to practice barbering ~~or to practice as a barbering manager~~ to an applicant who is licensed in another state or territory of the United States or in another country to perform services that are substantially the same as those performed by a licensed barber ~~or licensed barbering manager~~ in this state and to whom at least one of the following applies:

SECTION 72. 454.287 of the statutes is amended to read:

454.287 Advisory committee. The secretary shall appoint an advisory committee under s. 440.042 to advise the department on matters relating to the regulation of barbers, ~~barbering managers~~, and barbering establishments under this subchapter and the rules required under s. 440.62 (5) (b) 2.

SECTION 74. Nonstatutory provisions.

(1) TRANSITIONAL PROVISIONS.

(a) *Cosmetology managers.* Notwithstanding sec-

tions 454.06 (2) and 454.13 (1) of the statutes, on the effective date of this paragraph, a person who, immediately prior to the effective date of this paragraph, held a valid cosmetology manager license under section 454.06 (3), 2015 stats., or 454.13 (1), 2015 stats., shall be a licensed cosmetologist under section 454.06 (2) or 454.13 (1) of the statutes. If the person's cosmetology manager license was classified as inactive under section 454.06 (8m) of the statutes, the cosmetologist license under this paragraph shall likewise be classified as inactive.

(b) *Barbering managers.* Notwithstanding sections 454.23 (2) and 454.27 (1) of the statutes, on the effective date of this paragraph, a person who, immediately prior to the effective date of this paragraph, held a valid barbering manager license under section 454.23 (3), 2015 stats., or 454.27 (1), 2015 stats., shall be a licensed barber under section 454.23 (2) or 454.27 (1) of the statutes. If the person's barbering manager license was classified as inactive under section 454.23 (6) of the statutes, the barber license under this paragraph shall likewise be classified as inactive.