

STATE OF WISCONSIN
COSMETOLOGY EXAMINING BOARD

IN THE MATTER OF RULEMAKING	:	ORDER OF THE
PROCEEDINGS BEFORE THE	:	COSMETOLOGY
COSMETOLOGY	:	EXAMINING BOARD
EXAMINING BOARD	:	ADOPTING RULES
	:	(CLEARINGHOUSE RULE 24-088)

ORDER

An order of the Cosmetology Examining Board to create Cos 1.01 (7r) and (11t), 3.01 (15), and 4.11; to amend Cos 3.01 (11) and 3.06 (2); and repeal and recreate Cos 3.04 (2), relating to Mobile Establishments.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: Sections 454.08 (2), (3) and (4), Stats.

Statutory authority: Sections 15.08 (5) (b), 227.11 (2) (a), 454.08 (3), and 454.08 (4), Stats.

Explanation of agency authority:

Section 15.08 (5) (b), Stats., provides that each examining board “[s]hall promulgate rules for its own guidance and for the guidance of the trade or profession to which it pertains, and define and enforce professional conduct and unethical practices not inconsistent with the law relating to the particular trade or profession.”

Section 227.11 (2) (a), Stats., provides that “[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.”

Section 454.08 (4), Stats., states that “[t]he 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.”

Related statute or rule: None.

Plain language analysis:

The proposed rule creates new regulations to allow mobile cosmetology establishments in the state of Wisconsin. It creates a definition for mobile establishments and specifies that mobile establishments are held to the same standards of licensing, inspections, sanitation, and safety as fixed establishments. All services provided through a mobile establishment are held to the same standards of practice and professional conduct in chapter Cos 2. It also sets additional regulations for mobile establishments specifically. The mobile establishment's name must be displayed on the vehicle or structure. Services may not be provided unless the mobile establishment is parked, with the engine off, stable, and level. All services must be provided inside the interior of the vehicle or structure. Additional information and photographs are needed to apply for a license for a mobile establishment.

Summary of, and comparison with, existing or proposed federal regulation: None.

Comparison with rules in adjacent states:

Illinois: Rules of the Illinois Department of Financial and Professional Regulation allow for mobile establishments in Illinois [68 Ill. Adm. Code 1175.1300]. Cosmetology, nail technology, hair braiding or esthetics salons and barber shops are allowed to be in the form of a mobile salon or shop, and are subject to the same regulations as those in buildings.

Iowa: Iowa statute allows for mobile cosmetology establishments [Chapter 157, Iowa Code]. "Establishment" is defined as a fixed location or a location that is readily movable where one or more persons engage in the practice of barbering and cosmetology arts and sciences, including but not limited to a retail establishment. All establishments are subject to the same regulations for licensure, safety, and sanitation. Rules of Iowa's Public Health Department, Professional Licensure Division further specify licensing and sanitation requirements [645 IAC 61].

Michigan: Michigan statutes allow for mobile salons and the performance of cosmetology services in mobile salons [MCL 339.1203]. Rules of the Michigan Department of Licensing and Regulatory Affairs require an establishment license for mobile salons in the same way as those in a building [Mich Admin Code, R 338.2126a]. One additional application requirement for mobile salons is that they provide photographs demonstrating compliance with safety and sanitation requirements upon application for an establishment license.

Minnesota: Minnesota statutes allow for mobile salons to provide cosmetology services [Minnesota Statutes, Chapter 155A.29]. They are subject to the same minimum requirements as other salons in Minnesota. Minnesota rules provide for further regulations on mobile salons [Minnesota Rules, Chapter 2105.0395]. They specify that a license can only apply to one vehicle or mobile structure and cannot be transferred. All services must be provided inside the interior of the vehicle or structure. The mobile salon must be equipped with a functioning cell phone or Voice over Internet Protocol. The mobile salon must have working alarms for carbon monoxide, smoke, and combustible gas, either as single alarms or combined alarms. The mobile salon must have a self-contained, potable water supply in holding tanks, a wastewater tank or gray water tank, and a restroom. Services may not be provided unless the mobile salon is parked with the engine off, stable, and leveled. The mobile salon must have a ventilation system sufficient to provide fresh air in the salon.

Summary of factual data and analytical methodologies:

The proposed rules were developed by the board conducting a review of the provisions of chs. Cos 1, 2, 3, and 4, reviewing regulations on mobile establishments from other states, and determining how best to regulate mobile establishments in Wisconsin.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis are attached.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Jennifer.Garrett@wisconsin.gov or phone at 608-266-2112.

Agency contact person:

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TEXT OF RULE

SECTION 1. Cos 1.01 (7r) and (11t) are created to read:

Cos 1.01 (7r) “Hazardous substances” has the meaning given in s. 299.01 (6), Stats.

Note: Section 299.01 (6), Stats., reads as follows: “‘Hazardous substance’ means any substance or combination of substances including any waste of a solid, semisolid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives as determined by the department.”

(11t) “Mobile establishment” means an establishment providing cosmetology, aesthetics, electrology, or manicuring services located in a mobile vehicle or mobile structure and, where applicable, any tow vehicle attached to the mobile establishment.

SECTION 2. Cos 3.01 (11) is amended to read:

Cos 3.01 (11) Where an establishment is located in the same building as a residence, the business and living quarters shall be separate. A mobile establishment may not be located in a vehicle or mobile structure that also contains a residence.

SECTION 3. Cos 3.01 (15) is created to read:

Cos 3.01 (15) A mobile establishment shall be licensed as an establishment under the requirements of this chapter. A mobile establishment is subject to all of the following requirements:

- (a)** The establishment shall meet the requirements of this chapter and ch. Cos 4, including requirements related to establishments, inspections, sanitation, and safety. All services provided through a mobile establishment shall meet the standards of practice and professional conduct under ch. Cos 2.
- (b)** A mobile establishment license is valid for a specific vehicle or mobile structure and may not be transferred to a different vehicle or mobile structure.
- (c)** The mobile establishment’s name as shown on the license shall be visibly displayed and clearly legible on at least one exterior side of the mobile establishment.

SECTION 4. Cos 3.04 (2) is repealed and recreated to read:

Cos 3.04 (2) The application required under sub. (1) shall include all of the following:

- (a)** The identity of the owner,
- (b)** A mailing address where board correspondence may be received.

- (c) The physical address of the establishment, or, for a mobile establishment, the physical address where the mobile establishment is parked when not in service.
- (d) The name of the cosmetology manager required under s. 454.08 (6), Stats.
- (e) The type of business.
- (f) A copy of the floor plan showing dimensions and required equipment.
- (g) For a mobile establishment, a description of the vehicle or mobile structure to be used as the mobile establishment, photographs of the interior and exterior, and the vehicle registration of the mobile establishment.
- (h) Any other information which may be needed to approve the issuance of a license.

SECTION 5. Cos 3.06 (2) is amended to read:

Cos 3.06 (2) Change of location of any establishment constitutes the creation of a new establishment and requires submission of an application for a new establishment license. ~~Relocation~~ A change to the parking location or mailing address of a mobile establishment or the relocation of a leased chair or booth which is licensed as an establishment and housed within a lessor establishment requires only written notification to the department identifying the change of parking location, mailing address, chair, or booth.

SECTION 6. Cos 4.11 is created to read:

Cos 4.11 Mobile Establishments. In addition to the requirements of this chapter, a mobile establishment shall comply with the following requirements:

- (1) Services shall not be provided unless a mobile establishment is parked, with the engine off, stable, and level.
- (2) All services shall be provided inside the interior of the vehicle or structure.
- (3) Carpeting is permitted only within driving or cab areas.
- (4) All hazardous substances in a mobile establishment shall be stored upright in secured cabinets when the mobile establishment is moving. Regulations in s. Cos 3.01 (6) also apply to a mobile establishment.
- (5) All moving parts, including slide outs and steps, shall be in good working order.

SECTION 7. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated 08/06/2025

Agency Megan Jackson
Chairperson
Cosmetology Examining Board