

ASSEMBLY BILL NO. 238—ASSEMBLYMEN KOIVISTO, PARKS,
ANDERSON, ATKINSON, CLABORN, CONKLIN, DENIS,
HOGAN, HORNE, KIRKPATRICK, LESLIE, MCCLAIN,
MORTENSON, PIERCE, SEGERBLOM, SMITH AND WOMACK

MARCH 2, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the regulation of tanning establishments
by the State Board of Cosmetology. (BDR 54-969)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to tanning establishments; providing for the
regulation of tanning establishments by the State Board of
Cosmetology; prohibiting a person from operating a
tanning establishment unless he is licensed with the
Board; prescribing the requirements for licensure;
providing standards for the operation of tanning
establishments and tanning equipment; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the State Board of Cosmetology regulates aestheticians,
2 cosmetologists, electrologists, hair designers and manicurists. (Chapter 644 of
3 NRS) This bill requires the Board to regulate operators of tanning establishments
4 and tanning equipment. **Section 8** of this bill creates the Tanning Establishment
5 Advisory Committee to advise and assist the Board on matters relating to tanning
6 establishments. **Section 9** of this bill requires that an operator of a tanning
7 establishment ensure that an operator of tanning equipment has sufficient
8 knowledge and expertise regarding the operation of tanning equipment. **Section 10**
9 of this bill requires a person using a tanning establishment to sign a consent form
10 before using a tanning establishment for the first time. **Sections 11 and 12** of this
11 bill place restrictions on the use of tanning establishments by minors. **Section 13** of
12 this bill requires an operator of a tanning establishment to maintain a record on a
13 person who uses tanning equipment at the tanning establishment. **Section 14** of this
14 bill requires an operator of a tanning establishment to provide information on the
15 procedure to file a complaint with the Board.

16 **Section 16** of this bill expands the membership of the Board to include an
17 operator of a tanning establishment. (NRS 644.030) **Sections 17-20** of this bill



* A B 2 3 8 *

expand the duties of the Board to include the regulation of tanning establishments. (NRS 644.090, 644.110-644.130) **Section 21** of this bill prohibits a person from operating a tanning establishment without being licensed by the Board. (NRS 644.190) **Sections 22, 23 and 25** of this bill provide for the licensure of a tanning establishment, including application, renewal and expiration. (NRS 644.325, 644.340, 644.350) **Section 24** of this bill requires that a licensee to operate a tanning establishment notify the Board of any change in ownership, name or location of the tanning establishment. (NRS 644.345) **Section 26** of this bill requires that a licensee display his license in plain view in the tanning establishment for which the license was issued. (NRS 644.360) **Section 27** of this bill authorizes the sale of food and beverages in tanning establishments. (NRS 644.375) **Section 28** of this bill authorizes the Board to take disciplinary action against tanning establishment licensees for failure to comply with the provisions of chapter 644 of NRS as amended. (NRS 644.430)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *“Operator of tanning equipment” means a person who engages in the practice of operating tanning equipment.*

Sec. 3. *“Practice of operating tanning equipment” means:*

1. Controlling the amount of and duration of exposure to ultraviolet radiation emitted by tanning equipment; or

2. Providing instruction on the proper use of tanning equipment and other related equipment, including, without limitation, protective eyewear, a timer or handrails.

Sec. 4. *“Sunburn and tanning history scale” means the following scale for the classification of skin types based on the skin’s reaction to the first 10 to 45 minutes of sun exposure after winter:*

1. Type 1: Always burns easily and never tans.

2. Type 2: Always burns easily and tans minimally.

3. Type 3: Burns moderately and tans gradually.

4. Type 4: Burns minimally and always tans well.

5. Type 5: Rarely burns and tans profusely.

6. Type 6: Never burns.

Sec. 5. *“Tanning equipment” means any device that emits ultraviolet radiation for the purpose of tanning of human skin, including, without limitation, sunlamps, tanning booths and tanning beds.*

Sec. 6. *“Tanning establishment” means any premises, mobile unit, building or part of a building where access to tanning equipment is provided for a fee, membership dues or any other compensation.*



1 **Sec. 7.** *“Ultraviolet radiation” means electromagnetic*
2 *radiation with a wavelength between 200 and 400 nanometers.*

3 **Sec. 8.** 1. *The Tanning Establishment Advisory Committee*
4 *to the Board consisting of five members is hereby created.*

5 2. *The Committee must consist of:*

6 (a) *Two physicians licensed to practice medicine in this State,*
7 *appointed by the Governor;*

8 (b) *Two operators of tanning establishments licensed pursuant*
9 *to NRS 644.340, appointed by the Governor; and*

10 (c) *One member of the Board, appointed by the President of*
11 *the Board.*

12 3. *The Committee shall:*

13 (a) *Advise the Board on matters relating to tanning equipment,*
14 *tanning establishments and operators of tanning equipment;*

15 (b) *Advise and assist the Board in drafting regulations for*
16 *carrying out the provisions of this chapter relating to tanning*
17 *equipment, tanning establishments and operators of tanning*
18 *equipment;*

19 (c) *Make recommendations to the Board on methods for the*
20 *appropriate inspection of tanning establishments and methods to*
21 *monitor compliance with state and federal laws relating to tanning*
22 *establishments; and*

23 (d) *Advise and assist the Board in identifying educational*
24 *courses available in the State for the training of operators of*
25 *tanning equipment and developing standards for the approval of*
26 *such courses.*

27 **Sec. 9.** 1. *An operator of a tanning establishment shall*
28 *ensure that each operator of tanning equipment employed at the*
29 *establishment:*

30 (a) *Is at least 18 years of age; and*

31 (b) *Has sufficient knowledge and expertise in the operation of*
32 *tanning equipment, including, without limitation, knowledge of:*

33 (1) *The provisions of this chapter relating to tanning*
34 *equipment, tanning establishments and operators of tanning*
35 *equipment, any regulations adopted pursuant thereto, and 21*
36 *C.F.R. § 1040.20;*

37 (2) *Any ultraviolet radiation exposure schedules*
38 *recommended by the United States Food and Drug*
39 *Administration;*

40 (3) *The procedures for the correct operation of the tanning*
41 *establishment and all tanning equipment at the establishment;*

42 (4) *Possible injuries from overexposure to ultraviolet*
43 *radiation and the procedures of the establishment in the event of*
44 *emergency and nonemergency injuries from overexposure to*
45 *ultraviolet radiation;*



(5) *The procedures recommended by the manufacturer of all tanning equipment used in the establishment, including the operation and maintenance of each such piece of equipment;*

(6) *The proper use of protective eyewear by users of tanning equipment;*

(7) *The biological effects and health risks of acute or chronic exposure to ultraviolet radiation;*

(8) *Photosensitizing agents; and*

(9) *The sunburn and tanning history scale.*

2. *The Board shall approve programs or courses used to train operators of tanning equipment in the requirements of subsection 1.*

3. *An operator of a tanning establishment shall maintain at the establishment a list of the operators of tanning equipment employed by the operator of the tanning establishment that:*

(a) *Includes the date on which each operator of tanning equipment satisfied the requirements of subsection 1; and*

(b) *Is available for inspection by the Board.*

Sec. 10. 1. *An operator of a tanning establishment shall not allow a person to use tanning equipment for the first time unless:*

(a) *The warning described in subsection 2 has been read aloud to the person by an operator of tanning equipment; and*

(b) *A form containing the warning described in subsection 3 has been signed by the person.*

2. *The form required pursuant to subsection 1 must contain the sunburn and tanning history scale and a warning in substantially the following form in at least 12-point font:*

DANGER: ULTRAVIOLET RADIATION

Follow instructions.

Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injuries and allergic reactions.

Repeated overexposure can cause skin cancer and premature aging of the skin.

Wear protective eyewear. Failure to wear protective eyewear may result in severe burns or long-term injury to the eyes.

Medication or cosmetics may increase your sensitivity to the ultraviolet radiation.

Consult a physician before using sunlamp or tanning equipment if you are using medications, have a history of skin problems or believe yourself to be especially sensitive to sunlight.



* A B 2 3 8 *

Sec. 11. 1. *An operator of a tanning establishment shall not allow a person who is less than 18 years of age to use tanning equipment unless a parent or guardian of the person:*

(a) Provides written consent to the operator of the tanning establishment for the person to use tanning equipment;

(b) Signs the form required pursuant to section 10 of this act; and

(c) Is present at the tanning establishment the first time that the person uses tanning equipment.

2. *The written consent of a parent or guardian provided to an operator of a tanning establishment pursuant to subsection 1 shall expire after the person who is less than 18 years of age uses tanning equipment at the tanning establishment a total of 12 times.*

3. *A parent or guardian of a person who is less than 18 years of age may renew the written consent for a person who is less than 18 years of age to use tanning equipment at a tanning establishment.*

4. *An operator of tanning equipment must be present for the entire time while a person who is less than 18 years of age uses the tanning equipment.*

Sec. 12. *In addition to the requirements of section 11 of this act, an operator of a tanning establishment shall not allow a person who is less than 14 years of age to use tanning equipment unless a physician licensed to practice medicine in this State has provided written authorization for the person to use tanning equipment.*

Sec. 13. 1. *The operator of a tanning establishment shall maintain a record of each person who uses tanning equipment at that establishment.*

2. *The record required pursuant to subsection 1 must include, without limitation:*

(a) Each date that the person uses tanning equipment at the tanning establishment;

(b) The amount and duration of each exposure of the person to ultraviolet radiation from tanning equipment;

(c) The form required to be signed by the person pursuant to section 10 of this act;

(d) If the person is less than 18 years of age, the written consent signed by the parent or guardian of the person required pursuant to section 11 of this act; and

(e) If the person is less than 14 years of age, a copy of the written authorization of a physician for the person to use tanning equipment required pursuant to section 12 of this act.



1 **3. The record required pursuant to this section must be**
2 ***maintained for at least 3 years after the most recent use by the***
3 ***person of tanning equipment at the tanning establishment.***

4 **Sec. 14. If a person files a complaint with the operator of a**
5 ***tanning establishment regarding the tanning establishment, an***
6 ***operator of tanning equipment or an injury from overexposure to***
7 ***ultraviolet radiation, the operator of the tanning establishment***
8 ***shall notify the person of the procedures for filing a complaint***
9 ***with the Board pursuant to this chapter.***

10 **Sec. 15.** NRS 644.020 is hereby amended to read as follows:
11 644.020 As used in this chapter, unless the context otherwise
12 requires, the words and terms defined in NRS 644.0205 to 644.029,
13 inclusive, ***and sections 2 to 7, inclusive, of this act*** have the
14 meanings ascribed to them in those sections.

15 **Sec. 16.** NRS 644.030 is hereby amended to read as follows:
16 644.030 1. The State Board of Cosmetology consisting of
17 ~~seven~~ ***eight*** members appointed by the Governor is hereby created.
18 2. The Board must consist of four cosmetologists, one
19 manicurist, one aesthetician , ***one operator of a tanning***
20 ***establishment*** and one member representing customers of
21 cosmetology.

22 **Sec. 17.** NRS 644.090 is hereby amended to read as follows:
23 644.090 The Board shall:

24 1. Hold examinations to determine the qualifications of all
25 applicants for a license, except as otherwise provided in this chapter,
26 whose applications have been submitted to it in proper form.

27 2. Issue licenses to such applicants as may be entitled thereto.

28 3. License cosmetological establishments , ~~and~~ schools of
29 cosmetology ~~and~~ ***and tanning establishments.***

30 4. Report to the proper prosecuting officers all violations of
31 this chapter coming within its knowledge.

32 5. Inspect schools of cosmetology , ~~and~~ cosmetological
33 establishments ***and tanning establishments*** to ensure compliance
34 with the statutory requirements and adopted regulations of the
35 Board. This authority extends to any member of the Board or its
36 authorized employees.

37 **Sec. 18.** NRS 644.110 is hereby amended to read as follows:
38 644.110 The Board shall adopt reasonable regulations:

39 1. For carrying out the provisions of this chapter.

40 2. For conducting examinations of applicants for licenses.

41 3. For governing the recognition of, and the credits to be given
42 to, the study of cosmetology under a licensed electrologist or in a
43 school of cosmetology licensed pursuant to the laws of another state
44 or territory of the United States or the District of Columbia.



4. For governing the conduct of schools of cosmetology. The regulations must include, but need not be limited to, provisions:

(a) Prohibiting schools from requiring that students purchase beauty supplies for use in the course of study;

(b) Prohibiting schools from deducting earned hours of school credit or any other compensation earned by a student as a punishment for misbehavior of the student;

(c) Providing for lunch and coffee recesses for students during school hours; and

(d) Allowing a member or an authorized employee of the Board to review the records of a student's training and attendance.

5. Governing the courses of study and practical training required of persons for treating the skin of the human body, except the scalp.

6. For governing the conduct of cosmetological establishments.

7. *For governing the conduct of tanning establishments.*

Sec. 19. NRS 644.120 is hereby amended to read as follows:

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases in cosmetological establishments, *tanning establishments* or schools of cosmetology, or in the practice of a cosmetologist ~~or~~ *or the practice of operating tanning equipment.*

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, *tanning establishment*, school of cosmetology or practice of cosmetology.

Sec. 20. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every manicurist, electrologist, aesthetician, hair designer, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all cosmetological establishments, *tanning establishments* and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.



(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 21. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, *tanning establishment*, school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless he is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in subsection 4, it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless he is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

(f) An operator of tanning equipment from operating tanning equipment in accordance with section 9 of this act.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

Sec. 22. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;



(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For manicurists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than \$50 and not more than \$100.

(b) For instructors, not less than \$60 and not more than \$100.

(c) For cosmetological establishments ~~and~~ *and tanning establishments*, not less than \$100 and not more than \$200.

(d) For schools of cosmetology, not less than \$500 and not more than \$800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for a cosmetological establishment *or tanning establishment* and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, aesthetician, electrologist, manicurist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

Sec. 23. NRS 644.340 is hereby amended to read as follows:

644.340 1. Any person wishing to operate a cosmetological establishment in which any one or a combination of the occupations of cosmetology are practiced *or wishing to operate a tanning establishment* must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed cosmetological establishment *or tanning establishment* and proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the cosmetological establishment *or tanning establishment* complies with the requirements of this chapter and the regulations adopted by the Board. If, based on the verbal review, the Board determines that the cosmetological establishment *or tanning*



1 *establishment* meets those requirements, the Board shall issue to the
2 applicant the required license. Upon receipt of the license,
3 the applicant must contact the Board to request the activation of the
4 license. A license issued pursuant to this subsection is not valid until
5 it is activated. The Board shall conduct an on-site inspection of the
6 cosmetological establishment *or tanning establishment* not later
7 than 90 days after the date on which the license is activated.

8 3. The fee for a license for a cosmetological establishment *or*
9 *tanning establishment* is \$200. The fee for the initial inspection is
10 \$15. If an additional inspection is necessary, the fee is \$25.

11 **Sec. 24.** NRS 644.345 is hereby amended to read as follows:

12 644.345 1. The Board must be notified of any change of
13 ownership, name, services offered or location of a cosmetological
14 establishment ~~or~~ *or tanning establishment*. The establishment may
15 not be operated after the change until a new license is issued. The
16 owner of the establishment must apply to the Board for the license
17 and pay the fees established pursuant to subsection 3 *or 4* of NRS
18 644.340 ~~or~~ *, as applicable.*

19 2. After a license has been issued for the operation of a
20 cosmetological establishment ~~or~~ *or tanning establishment*, any
21 changes in the physical structure of the establishment must be
22 approved by the Board.

23 **Sec. 25.** NRS 644.350 is hereby amended to read as follows:

24 644.350 1. The license of every cosmetological establishment
25 *or tanning establishment* expires on July 1 of the next succeeding
26 odd-numbered year.

27 2. If a cosmetological establishment *or tanning establishment*
28 fails to pay the required fee by October 1 of the year in which
29 renewal of the license is required, the establishment must be
30 immediately closed.

31 **Sec. 26.** NRS 644.360 is hereby amended to read as follows:

32 644.360 1. Every holder of a license issued by the Board to
33 operate a cosmetological establishment shall display the license in
34 plain view of members of the general public in the principal office
35 or place of business of the holder.

36 2. *Every holder of a license issued by the Board to operate a*
37 *tanning establishment shall display the license in plain view of*
38 *members of the general public in the tanning establishment for*
39 *which the license was issued.*

40 3. Except as otherwise provided in this section, the operator of
41 a cosmetological establishment may lease space to or employ only
42 licensed manicurists, electrologists, aestheticians, hair designers,
43 demonstrators of cosmetics and cosmetologists at his establishment
44 to provide cosmetological services. This subsection does not
45 prohibit an operator of a cosmetological establishment from:



(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection ~~3-4~~ 4. Each such professional remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

~~3-4~~ 4. The operator of a cosmetological establishment may lease space at his cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his business or profession and remains subject to the laws and regulations of this State applicable to his business or profession.

~~4-4~~ 5. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 27. NRS 644.375 is hereby amended to read as follows:

644.375 Food or beverages for immediate consumption may be sold in a cosmetological *or tanning* establishment.

Sec. 28. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of a cosmetological establishment, *an operator of a tanning establishment*, a licensed aesthetician, cosmetologist, hair designer, electrologist, instructor, manicurist, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.



(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology ~~or~~ *or the practice of operating tanning equipment.*

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological *or tanning* establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 29. As soon as is practicable after the passage and approval of this act, the Governor shall appoint one operator of a tanning establishment, whose term begins on October 1, 2007, to the State Board of Cosmetology in accordance with the provisions of NRS 644.030, as amended by section 16 of this act.

Sec. 30. 1. This section and section 29 of this act become effective upon passage and approval for the purpose of appointing the member to the State Board of Cosmetology and on October 1, 2007, for all other purposes.

2. Sections 1 to 28, inclusive, of this act become effective on October 1, 2007.

