

Amendment No. 754

Senate Amendment to Assembly Bill No. 409 First Reprint (BDR 54-1050)

Proposed by: Senate Committee on Commerce, Labor and Energy

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of A.B. 409 R1 (§ 3.3).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DY/BAW



Date: 5/21/2015

A.B. No. 409—Revises provisions relating to cosmetology. (BDR 54-1050)



ASSEMBLY BILL NO. 409—ASSEMBLYMEN SEAMAN,
SHELTON, FIORE; HICKEY, MOORE AND NELSON

MARCH 17, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to cosmetology. (BDR 54-1050)

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

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

AN ACT relating to cosmetology; requiring a makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment in this State to register with the State Board of Cosmetology; ~~exempting certain other makeup artists from the licensing and regulation provisions governing cosmetology; deleting~~ **removing** the requirement for certain applicants for a license to complete a nationally recognized written examination; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in the practice of cosmetology or any branch of cosmetology unless the person is licensed by the State Board of Cosmetology. (NRS 644.190) Existing law requires the Board to determine the qualifications of applicants for various licenses and to adopt regulations governing the sanitary conditions in cosmetological establishments. (NRS 644.090, 644.120)

Section 3.3 of this bill requires a makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment to register with the Board and sets forth the requirements that must be met before the Board is authorized to issue a certificate of registration to such a makeup artist. ~~Section 3.7~~ **3.5** of this bill ~~requires the Board to prepare and administer a written examination on sanitation to makeup artists who are required to register with the Board.~~ **establishes certain requirements that a makeup artist, other than a makeup artist required to be registered, must meet to practice makeup artistry in this State.** **Section 7.3** of this bill authorizes the Board to take certain disciplinary action against ~~any~~ **any** makeup artist ~~who fails to comply with the requirements set forth in applicable statutory provisions or regulations adopted by the Board.~~ **Section 5** of this bill exempts ~~these~~ **the occupation of a** makeup ~~artists who are not required to register with the Board.~~ **artist** from the ~~licensing and regulation provisions governing~~ **definition of the term "cosmetology."**

Section 7 of this bill eliminates passing a nationally recognized written examination as a requirement for certain applicants who are licensed in a branch of cosmetology in another state or jurisdiction to obtain a license to practice that branch of cosmetology in this State.

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 3.7, inclusive, of this act.

Sec. 2. *"Makeup artist" means a natural person who:*

1. *Engages in the practice of makeup artistry; or*
2. *Instructs other persons in the practice of makeup artistry,*
↗ regardless of whether the person is licensed by the Board in any branch of cosmetology.

Sec. 3. 1. *"Makeup artistry" means the practice of applying makeup ~~and~~ or prosthetics for:*

- (a) *Theatrical, television, film and other similar productions;*
- (b) *All aspects of the modeling and fashion industry, including, without limitation photography for magazines; and*
- (c) *Weddings.*

2. *The term includes the practice of applying makeup and prosthetics at licensed cosmetological establishments and retail establishments.*

Sec. 3.3. 1. *Each makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment shall, on or before January 1 of each year, register with the Board on a form prescribed by the Board. The registration must:*

(a) *Include:*

(1) *The name, address, electronic mail address and telephone number of the makeup artist; and*

(2) *The name and license number of each cosmetological establishment in which the makeup artist will be practicing makeup artistry.*

(b) *Be accompanied by:*

(1) *A notarized statement indicating that the makeup artist ~~is~~ is not:*

(I) *~~Not~~ Is not less than 18 years of age;*

(II) *~~Of~~ Is of good moral character; ~~and~~*

(III) *~~Is~~ Is a citizen of the United States or is lawfully entitled to remain and work in the United States; and*

(IV) *Has completed at least 2 years of high school; and*

(2) *~~Proof that the makeup artist has received a score of not less than 75 percent on the written examination administered by the Board pursuant to section 3.7 of this act; and~~*

~~(3)~~ *Two current photographs of the makeup artist which are 2 by 2 inches.*

2. *The Board shall ~~not~~ charge a fee of not more than \$25 for registering a makeup artist pursuant to this section.*

3. *A makeup artist shall not practice makeup artistry in a licensed cosmetological establishment without first obtaining a certificate of registration.*

Sec. 3.5. *A makeup artist, other than a makeup artist required to be registered pursuant to section 3.3 of this act, shall not engage in the practice of makeup artistry in this State unless he or she:*

1. Is not less than 18 years of age;

2. Is of good moral character;

3. Is a citizen of the United States or is lawfully entitled to remain and work in the United States; and

4. Has completed at least 2 years of high school.

1 Sec. 3.7. ~~1. The Board shall prepare and administer a written~~
2 ~~examination on sanitation for makeup artists who are required to register with~~
3 ~~the Board pursuant to section 3.3 of this act.~~

4 ~~2. The Board shall not charge a makeup artist a fee for administering or~~
5 ~~scoring the examination described in subsection 1.~~ **(Deleted by amendment.)**

6 Sec. 4. NRS 644.020 is hereby amended to read as follows:

7 644.020 As used in this chapter, unless the context otherwise requires, the
8 words and terms defined in NRS 644.0205 to 644.0295, inclusive, **and sections 2**
9 **and 3 of this act** have the meanings ascribed to them in those sections.

10 Sec. 5. NRS 644.024 is hereby amended to read as follows:

11 644.024 "Cosmetology" includes the occupations of a cosmetologist,
12 aesthetician, electrologist, hair designer, hair braider, demonstrator of cosmetics
13 and nail technologist. **The term does not include the occupation of a makeup**
14 **artist.**

15 Sec. 5.3. NRS 644.090 is hereby amended to read as follows:

16 644.090 The Board shall:

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

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

21 3. **Issue certificates of registration to such applicants as may be entitled**
22 **thereto.**

23 4. License establishments for hair braiding, cosmetological establishments
24 and schools of cosmetology.

25 ~~5.~~ **5.** Report to the proper prosecuting officer or law enforcement agency
26 each violation of this chapter coming within its knowledge.

27 ~~6.~~ **6.** Inspect schools of cosmetology, establishments for hair braiding and
28 cosmetological establishments to ensure compliance with the statutory requirements
29 and adopted regulations of the Board. This authority extends to any member of the
30 Board or its authorized employees.

31 Sec. 5.7. NRS 644.130 is hereby amended to read as follows:

32 644.130 1. The Board shall keep a record containing the name, known place
33 of business, and the date and number of the license **or certificate of registration** of
34 every nail technologist, electrologist, aesthetician, hair designer, hair braider,
35 demonstrator of cosmetics, **makeup artist registered pursuant to section 3.3 of**
36 **this act** and cosmetologist, together with the names and addresses of all
37 establishments for hair braiding, cosmetological establishments and schools of
38 cosmetology licensed pursuant to this chapter. The record must also contain the
39 facts which the applicants claimed in their applications to justify their licensure ~~or~~
40 **or registration.**

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

43 (a) Any other licensing board or agency that is investigating a licensee ~~or~~ **or**
44 **registrant.**

45 (b) A member of the general public, except information concerning the home
46 and work address and telephone number of a licensee ~~or~~ **or registrant.**

47 Sec. 6. NRS 644.190 is hereby amended to read as follows:

48 644.190 1. It is unlawful for any person to conduct or operate a
49 cosmetological establishment, an establishment for hair braiding, a school of
50 cosmetology or any other place of business in which any one or any combination of
51 the occupations of cosmetology are taught or practiced unless the person is licensed
52 in accordance with the provisions of this chapter.

2. Except as otherwise provided in subsections 4 and 5, 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 the person 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) A makeup artist registered pursuant to section 3.3 of this act from engaging in the practice of makeup artistry for compensation or otherwise in a licensed cosmetological establishment.

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 or she renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 6.5. NRS 644.214 is hereby amended to read as follows:

644.214 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, *and sections 3.3 and 3.7 of this act* shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, *and sections 3.3 and 3.7 of this act* shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license or evidence of registration; or

(b) A separate form prescribed by the Board.

3. A license or evidence of registration may not be issued or renewed by the Board pursuant to NRS 644.190 to 644.330, inclusive, *and sections 3.3 and 3.7 of this act* if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in

1 compliance with the order or a plan approved by the district attorney or other public
2 agency enforcing the order for the repayment of the amount owed pursuant to the
3 order.

4 4. If an applicant indicates on the statement submitted pursuant to subsection
5 1 that the applicant is subject to a court order for the support of a child and is not in
6 compliance with the order or a plan approved by the district attorney or other public
7 agency enforcing the order for the repayment of the amount owed pursuant to the
8 order, the Board shall advise the applicant to contact the district attorney or other
9 public agency enforcing the order to determine the actions that the applicant may
10 take to satisfy the arrearage.

11 **Sec. 7.** NRS 644.310 is hereby amended to read as follows:

12 644.310 Except as otherwise provided in NRS 644.209, upon application to
13 the Board, accompanied by a fee of \$200, a person currently licensed in any branch
14 of cosmetology under the laws of another state or territory of the United States or
15 the District of Columbia may, without examination, unless the Board sees fit to
16 require an examination, be granted a license to practice the occupation in which the
17 applicant was previously licensed upon proof satisfactory to the Board that the
18 applicant:

19 1. Is not less than 18 years of age.

20 2. Is of good moral character.

21 3. Is a citizen of the United States or is lawfully entitled to remain and work
22 in the United States.

23 4. ~~Has successfully completed a nationally recognized written examination in~~
24 ~~this State or in the state or territory or the District of Columbia in which he or she is~~
25 ~~licensed.~~

26 ~~—5—~~ 5. Is currently licensed in another state or territory or the District of
27 Columbia.

28 **Sec. 7.3.** NRS 644.430 is hereby amended to read as follows:

29 644.430 1. The following are grounds for disciplinary action by the Board:

30 (a) Failure of an owner of an establishment for hair braiding, a cosmetological
31 establishment, a licensed aesthetician, cosmetologist, hair designer, hair braider,
32 electrologist, instructor, nail technologist, demonstrator of cosmetics or school of
33 cosmetology, ~~for a registered makeup artist or~~ a cosmetologist's apprentice or
34 any makeup artist to comply with the requirements of this chapter or the applicable
35 regulations adopted by the Board.

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

38 (c) Gross malpractice.

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

41 (e) Drunkenness or the use or possession, or both, of a controlled substance or
42 dangerous drug without a prescription, while engaged in the practice of
43 cosmetology.

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

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

47 (h) Failure to display the license or a duplicate of the license as provided in
48 NRS 644.290, 644.360, 644.3774 and 644.410.

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

51 (j) Continued practice of cosmetology or operation of a cosmetological
52 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 ~~or~~ or certificate of registration;

(b) Revoke or suspend a license ~~or~~ or certificate of registration;

(c) Place the licensee or registrant 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. 7.7. NRS 644.435 is hereby amended to read as follows:

644.435 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a license or been registered pursuant to NRS 644.190 to 644.330, inclusive, and sections 3.3 and 3.7 of this act, the Board shall deem the license or registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the license or registration stating that the holder of the license or registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or registration issued pursuant to NRS 644.190 to 644.330, inclusive, and sections 3.3 and 3.7 of this act, that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or registration was suspended stating that the person whose license or registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.9. NRS 644.440 is hereby amended to read as follows:

644.440 1. The Board may refuse to issue or renew any license or registration only upon 20 days' notice in writing to the interested parties. The notice must contain a brief statement of the reasons for the contemplated action of the Board and designate a proper time and place for the hearing of all interested parties before any final action is taken.

2. Notice, within the provisions of subsection 1, shall be deemed to have been given when the Board deposits with the United States Postal Service a copy of the notice, addressed to the designated or last known residence of the applicant, ~~to~~ licensee ~~or~~ or registrant.

3. Notwithstanding the provisions of chapter 622A of NRS, violations of any regulation of the Board for sanitation or of any statute or regulation of the State Board of Health or any county regulation concerning health may be corrected by any inspector of the Board by giving notice in the form of a citation. Any licensee or registrant receiving a citation shall immediately correct the violation or shall show that corrections have commenced. Failure to correct or to commence corrections within 72 hours after receipt of the citation subjects the license or registration to immediate suspension. The Board may then give 20 days' notice for hearing to show cause why the license or registration should not be permanently revoked.

4. Notwithstanding the provisions of chapter 622A of NRS, the closure of any establishment or school by the State Board of Health acts as an automatic revocation of the license ~~or~~ or registration.

1 **Sec. 8.** NRS 644.460 is hereby amended to read as follows:

2 644.460 1. The following persons are exempt from the provisions of this
3 chapter:

4 (a) All persons authorized by the laws of this State to practice medicine,
5 dentistry, osteopathic medicine, chiropractic or podiatry.

6 (b) Commissioned medical officers of the United States Army, Navy, or
7 Marine Hospital Service when engaged in the actual performance of their official
8 duties, and attendants attached to those services.

9 (c) Barbers, insofar as their usual and ordinary vocation and profession is
10 concerned, when engaged in any of the following practices:

11 (1) Cleansing or singeing the hair of any person.

12 (2) Massaging, cleansing, stimulating, exercising or similar work upon the
13 scalp, face or neck of any person, with the hands or with mechanical or electrical
14 apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics,
15 lotions or creams.

16 (d) Retailers, at a retail establishment, insofar as their usual and ordinary
17 vocation and profession is concerned, when engaged in the demonstration of
18 cosmetics if:

19 (1) The demonstration is without charge to the person to whom the
20 demonstration is given; and

21 (2) The retailer does not advertise or provide a cosmetological service
22 except cosmetics and fragrances.

23 (e) Photographers or their employees, insofar as their usual and ordinary
24 vocation and profession is concerned, if the photographer or his or her employee
25 does not advertise cosmetological services *or the practice of makeup artistry* and
26 provides cosmetics without charge to the customer.

27 ~~f. (f) Makeup artists other than makeup artists who are required to register~~
28 ~~pursuant to section 3.3 of this act.~~

29 2. Any school of cosmetology conducted as part of the vocational
30 rehabilitation training program of the Department of Corrections or the Caliente
31 Youth Center:

32 (a) Is exempt from the requirements of paragraph (c) of subsection 2 of NRS
33 644.400.

34 (b) Notwithstanding the provisions of NRS 644.395, shall maintain a staff of at
35 least one licensed instructor.

36 **Sec. 9.** (Deleted by amendment.)

37 **Sec. 10.** This act becomes effective upon passage and approval.