

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: CS/SB 996

INTRODUCER: Regulated Industries Committee and Senator Wise

SUBJECT: Cosmetology

DATE: March 5, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			HE	
3.			GA	
4.			HA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill redefines the practice of cosmetology to include hair stylist services, esthetician services, and nail technician services. The term “esthetician” relates to non-medical, cosmetic facial services. The bill permits a person to obtain a license as a hair stylist, esthetician, or nail technician. A cosmetologist may provide all three of these specialty services. The bill defines the services that each class of license may perform. Persons licensed as a cosmetologist or as a specialist under current law may continue to hold their current license or registration.

The bill increases minimum education requirements. It increases the minimum required education hours for licensure as a cosmetologist from 1,200 to 1,500 hours, composed of training from the hair stylist, esthetician, and nail technician curricula.

The bill requires 1,000 minimum hours of education for a hair stylist. It increases the minimum number of hours from 260 to 600 required for an esthetician and from 240 to 350 for a nail technician. The bill permits a student who has enrolled and begun his or her education before July 1, 2008, to take the exam to be licensed as a cosmetologist upon completion of 1,200 hours of training.

The bill re-defines the term “salon.” It requires that applicants be at least 16 years of age, and have a high school degree, a general equivalency diploma, or have passed an ability-to-benefit test approved by the United States Secretary of Education, and it permits licensure by endorsement. The bill permits cosmetology and cosmetology specialty services to be performed outside of a licensed salon under certain circumstances. It also permits persons holding a valid cosmetology license in any state to conduct department store demonstrations.

The bill appropriates \$60,149 in nonrecurring funds for Fiscal Year 2008-2009 from the Department of Business and Professional Regulation’s Administrative Trust Fund to begin implementation of the licensure provisions of the bill.

The bill provides an effective date of July 1, 2009, except as otherwise provided.

This bill substantially amends the following sections of the Florida Statutes: 477.013, 477.0132, 477.014, 477.016, 477.019, 477.0212, 477.023, 477.025, 477.026, 477.0263, 477.0265, 477.028, and 477.029. This bill creates section 477.0131, Florida Statutes. This bill repeals section 477.0201, Florida Statutes. This bill creates unnumbered sections of the Florida Statutes.

II. Present Situation:

The Board of Cosmetology (board) within the Department of Business and Professional Regulation (department) is the agency charged with the regulation of cosmetology under ch. 477, F.S.

Section 477.014, F.S., provides that no person other than a duly licensed cosmetologist shall practice cosmetology or use the name or title of a cosmetologist.

Section 477.013, F.S., defines “cosmetology” as:

the mechanical or chemical treatment of the head, face, and scalp for aesthetic rather than medical purposes, including, but not limited to, hair shampooing, hair cutting, hair arranging, hair coloring, permanent waving, and hair relaxing for compensation. This term also includes performing hair removal, including wax treatments, manicures, pedicures, and skin care services.

Licensure of Cosmetologists

Section 477.019, F.S., requires that an applicant for licensure as a cosmetologist must be at least 16 years of age or have received a high school diploma, and must pay the required application fee.

An applicant for licensure as a cosmetologist must satisfy an experience requirement or education requirement. The experience requirement consists of being authorized to practice cosmetology in another state or country for at least a year. The education requirement consists of receiving a minimum of 1,200 hours of training from a school of cosmetology licensed pursuant to ch. 1005, F.S., a cosmetology program within the public school system, the Cosmetology

Division of the Florida School for the Deaf and the Blind, or a government-operated cosmetology program in this state.

An applicant for a cosmetology license is required to achieve a passing score on a licensure examination, which the applicant is qualified to take after completing a minimum of 1,000 actual school hours of the required training. The applicant may retake the examination once, but must complete the full requirements for license qualification before retaking the examination.

Following the completion of the first licensing examination and pending the results of the examination, a graduate of a licensed cosmetology school or program may practice cosmetology under the supervision of a licensed cosmetologist. A graduate who fails the first examination may continue to practice under supervision if the graduate applies for the next available examination and until the graduate receives the second examination results. The graduate may not practice if he or she fails the second examination.

Section 477.025, F.S., provides that no cosmetology salon or specialty salon shall operate without a license issued by the department. Section 477.0263(1), F.S., also requires that cosmetology services may only be performed in a licensed salon. However, s. 477.0263(2), F.S., provides an exception for cosmetology services performed by a licensed cosmetologist in a location other than a licensed salon, including, but not limited to, a nursing home, hospital, or residence, when the client for medical reasons is unable to go to a licensed salon. Section 477.025, F.S., also exempts nursing homes and assisted living facilities licensed under parts II and III, respectively, of ch. 400, F.S., from the licensed salon requirement when a licensed cosmetologist provides salon services exclusively to facility residents.

Section 477.0263(3), F.S., also permits a person who holds a valid cosmetology license in any country, territory, or jurisdiction of the United States to perform cosmetology services in a location other than a licensed salon when the services are performed in connection with the motion picture, fashion photography, theatrical, or television industry, a photography studio salon, a manufacturer trade show demonstration, or an educational seminar.

Cosmetology Specialties

Section 477.013(6), F.S., provides that a cosmetology “specialty” means the following:

- (a) Manicuring, or the cutting, polishing, tinting, coloring, cleansing, adding, or extending of the nails, and massaging of the hands. This term includes any procedure or process for the affixing of artificial nails, except those nails which may be applied solely by use of a simple adhesive.
- (b) Pedicuring, or the shaping, polishing, tinting, or cleansing of the nails of the feet, and massaging or beautifying of the feet.
- (c) Facials, or the massaging or treating of the face or scalp with oils, creams, lotions, or other preparations, and skin care services.

Cosmetologists may also provide body wrapping and skin care services. Section 477.013(12), F.S., defines the term “body wrapping” to mean:

a treatment program that uses herbal wraps for the purposes of cleansing and beautifying the skin of the body, but does not include:

- (a) The application of oils, lotions, or other fluids to the body, except fluids contained in presoaked materials used in the wraps; or
- (b) Manipulation of the body's superficial tissue, other than that arising from compression emanating from the wrap materials.

Section 477.013(13), F.S., defines the term “skin care services” to mean:

the treatment of the skin of the body, other than the head, face, and scalp, by the use of a sponge, brush, cloth, or similar device to apply or remove a chemical preparation or other substance, except that chemical peels may be removed by peeling an applied preparation from the skin by hand. Skin care services must be performed by a licensed cosmetologist or facial specialist within a licensed cosmetology or specialty salon, and such services may not involve massage, as defined in s. 480.033(3), through manipulation of the superficial tissue.

Section 477.013(8), F.S., defines the term “specialty salon” to mean “any place of business wherein the practice of one or all of the specialties as defined in subsection (6) [as a specialty] are engaged in or carried on.”

Section 477.0132, F.S., requires registration for persons whose occupation is solely confined to hair braiding, hair wrapping, and body wrapping. These occupations must meet an educational requirement related to HIV/AIDS education, but no additional training is required.

Nail specialists and facial specialists may register without an examination. A full specialist registration, which combines the facial and nail specialties, is currently offered without examination, but is not provided in ch. 477, F.S., or rule of the board.

The current educational hour requirements for cosmetology specialties are as follows:

Nail Specialist:	240 hours ¹
Facial Specialist:	260 hours ²
Full Specialist:	500 hours

The body wrapping specialty requires a two-day, 12-hour course with three hours of instruction in HIV/AIDS and other communicable diseases.³

The following chart represents the number of active and inactive licensees per licensee class based on information provided by the department:

	Active	Inactive
Cosmetologist	86,203	1,027

¹ See Rule 61G5-22.016, F.A.C.

² See Rule 61G5-22.015(2), F.A.C.

³ See s. 477.0132, F.S., and Rule 61G5-31.004, F.A.C.

Nail Specialist	35,122	297
Facial Specialist	16,776	135
Full Specialist	13,957	56
Body Wrapper	2,199	2
Hair Wrapper	317	0
Hair Braider	1,507	1

According to the department, there are 19,804 active cosmetology salons, and 12 active mobile cosmetology salons.

Three state agencies provide technical support, instructional assistance to the institutions and instructor for cosmetology education programs. The Florida Department of Education, Commission for Independent Education, is responsible for the private schools. The Florida Department of Education (DOE), Division of Community Colleges has jurisdiction over cosmetology programs in the community colleges. The Division of Workforce Education (DWE), within the DOE, collaborates with other education programs, including the community colleges, technical centers and other educational institutions, to establish education standards for the programs, including the cosmetology programs.

According to the DOE, there are 113 private cosmetology schools in Florida that can provide the full 1,200-hour cosmetology education requirement. There are also 36 private schools for private facial specialist schools, and eight private full specialist schools. Also according to the DOE, there are 32 cosmetology programs in technical schools and ten community colleges. There are 27 nail and facial specialist schools in the technical centers and nine in the community colleges. The DWE also advises that there are 46 full cosmetology programs in the secondary schools. The secondary schools also have 18 nail specialist and 13 facial specialist programs.

Salon Safety and Sanitary Requirements

Section 477.025, F.S., requires that the board adopt rules governing safety and sanitary requirements for salons and specialty salons and their facilities. Rule 61G5-20.002, F.A.C., sets forth the board’s safety and sanitary requirements. Rule 61G5-20.002(2), F.A.C., requires the sterilization and disinfection of brushes, combs and other articles. It requires that all salons must be equipped with and utilize wet sanitation with hospital level disinfectant or EPA approved disinfectant, sufficient to allow for disinfecting practices. Rule 61G5-20.002(2)(d)3., F.A.C., defines a wet sanitizer as any receptacle containing a disinfectant solution and large enough to allow complete immersion of the articles. It defines a “hospital level disinfectant or EPA approved disinfectant” to mean:

- a. For all combs, brushes, metallic instruments, instruments with a cutting edge, and implements that have not come into contact with blood or body fluids, a disinfectant that indicates on its label that it has been registered with the EPA as a hospital grade bacterial, virucidal and fungicidal disinfectant;
- b. For all combs, brushes, metallic instruments with a cutting edge, and implements that have come into contact with blood or body fluids, a disinfectant that indicates on its label that it has been registered with the EPA as a tuberculocidal disinfectant, in accordance with 29 C.F.R. 1910.1030.

Rule 61G5-20.002(2)(g), F.A.C., provides the following requirements for the sterilization and disinfection of pedicure equipment:

(g) Pedicure Equipment Sterilization and Disinfection:

The following cleaning and disinfection procedures must be used for any pedicure equipment that holds water, including sinks, bowls, basins, pipe-less spas, and whirlpool spas:

1. After each client, all pedicure units must be cleaned with a low-foaming soap or detergent with water to remove all visible debris, then disinfected with an EPA registered hospital grade bactericidal, fungicidal, virucidal, and pseudomonacidal disinfectant used according to manufacturers instructions for at least ten (10) minutes. If the pipe-free foot spa has a foot plate, it should be removed and the area beneath it cleaned, rinsed, and wiped dry.

2. At the end of each day of use, the following procedures shall be used:

a. All filter screens in whirlpool pedicure spas or basins for all types of foot spas must be sanitized. All visible debris in the screen and the inlet must be removed and cleaned with a low-foaming soap or detergent and water. For pipe-free systems, the jet components or foot plate must be removed and cleaned and any debris removed. The screen, jet, or foot plate must be completely immersed in an EPA registered, hospital grade bactericidal, fungicidal, virucidal, and pseudomonacidal disinfectant that is used according to manufacturer's instructions. The screen, jet, or foot plate must be replaced after disinfection is completed and the system is flushed with warm water and low-foaming soap for 5 minutes, rinsed, and drained.

b. After the above procedures are completed, the basin should be filled with clean water and the correct amount of EPA registered disinfectant. The solution must be circulated through foot spa system for 10 minutes and the unit then turned off. The solution should remain in the basin for at least 6 to 10 hours. Before using the equipment again, the basin system must be drained and flushed with clean water.

3. Once each week, subsequent to completing the required end-of-day cleaning procedures, the basin must be filled with a solution of water containing one teaspoon of 5.25% bleach for each gallon of water. The solution must be circulated through the spa system for 5 to 10 minutes and then the solution must sit in the basin for at least 6 hours. Before use, the system must be drained and flushed.

4. A record or log book containing the dates and times of all pedicure cleaning and disinfection procedures must be documented and kept in the pedicure area by the salon and made available for review upon request by a consumer or a Department inspector.

According to the department, a total of 18,368 cosmetology salons were inspected during fiscal year 2006-2007.

Board of Cosmetology Fees

Section 477.026, F.S., establishes the following schedule of fee caps:

- \$25 for cosmetologists, fees for original licensing, license renewal, and delinquent renewal.
- \$50 for cosmetologists, fees for endorsement application, examination, and reexamination.
- \$50 for cosmetology and specialty salons, fees for license application, original licensing, license renewal, and delinquent renewal.
- \$30 for specialists, fees for application and endorsement registration.
- \$50 for specialists, fees for initial registration, registration renewal, and delinquent renewal.
- \$25 for hair braiders, hair wrappers, and body wrappers, fees for registration.

The current \$25 cosmetology fee cap for a cosmetology license, license renewal, and delinquent renewal was established in 1978.⁴ The fee cap for endorsement applications (reciprocity applications) was set at the current level of \$50 in 1982.⁵

According to the department, the Board of Cosmetology had operated with a deficit for the previous four years, but the board approved a special assessment fee of \$30 for license renewals in 2006. Consequently, the board is not currently operating with a deficit.

III. Effect of Proposed Changes:

Definitions and License Classifications

The bill amends s. 477.013(3), F.S., to redefine the term “cosmetologist” to include all the services licensed under ch. 477, F.S.

The bill also amends s. 477.013(4), F.S., to redefine the term cosmetology to mean the practice of performing or offering to perform for compensation any of the listed services for aesthetic rather than medical services.

The bill defines the term “hair stylist” in s. 477.013(6), F.S. Hair stylist services include treating a person’s hair by coloring and other methods as a primary service, hair weaving, shampooing, servicing an artificial hairpiece and coloring and styling a mustache or beard. Hair stylist services also include providing basic hair removal by waxing or tweezing of the eyebrows and upper and lower lip.

The term “esthetician” relates to non-medical, cosmetic facial services. Esthetician services include cleansing, exfoliating, applying oils and creams, beautifying the skin, facials, hair removal, tinting eyebrows and lashes, body wrapping and skin baths.⁶ Nail technician services include treating a person’s nails by manicuring and pedicuring, affixing artificial nails, acrylic nails, gel nails, extensions, or capping. The services also include cleansing a person’s forearms, hands, legs below the knee, or the feet.⁷

⁴ See ch. 78-253, L.O.F.

⁵ See ch. 82-179, L.O.F.

⁶ Section 477.013(5), F.S.

⁷ Section 477.013(7), F.S.

The bill includes the body wrapping service within the esthetician license classification. The bill includes a definition for “body wrapping” under the definition for “esthetician services” in s. 477.013(5)(f), F.S. “Body wrapping” by an esthetician includes “the application of oils, lotions, or other fluids to the body using wraps.” However, the bill also maintains the current “body wrapping” specialty and the current definition for the term in s. 477.013(14), F.S.,

The bill deletes the current definition for the term “specialty salon.” It defines the term “salon” to mean a place of business where the practice of one or more of the cosmetology, hair stylist, esthetician, nail technician, or specialty services are offered or performed for compensation.

The bill deletes the term “specialty” and includes the current definition for that term within the meaning of the term “specialist.” In addition, the bill deletes the current definition for the term “skin care services” and redefines those terms within the meaning of “specialist.”

The bill amends the definition of “specialist” in s. 477.013(9), F.S., to provide that a specialist’s services include the massaging of the hands. It also provides that a specialist’s services include “skin care services” without involving massage, as defined in s. 480.033(3), F.S.

The bill amends the definition for the term “shampooing” to mean “cleansing” of the hair rather than “washing” of the hair. It also deletes the reference to “applying hair tonics” from the definition.

The bill amends the definition of “hair braiding” to mean “the weaving or interweaving of a person’s own natural hair,” rather than “the weaving or interweaving of natural human hair.” It deletes the current definition of “skin care services.”

Scope of Cosmetologist License

The bill creates s. 477.0131, F.S., to provide that a person who is otherwise qualified to practice the specific services listed in s. 477.013, F.S., shall be licensed as a hair stylist, esthetician, nail technician, and cosmetologist, respectively.

Hair Braiding, Hair Wrapping, and Body Wrapping Registration

The bill amends s. 477.0132, F.S., to increase the required course hours for body wrapping from 12 to 40 hours. It also requires that the course include, but not be limited to, body systems and contraindications. The bill requires a person whose occupation or practice is confined solely to body wrapping to register with the department, unless otherwise licensed or exempt from licensure under ch. 477, F.S. It allows the board to also review the text in a course for hair braiding, hair wrapping, or body wrapping.

Qualifications for Licensees and Registrants

The bill amends s. 477.014, F.S., to prohibit persons from practicing, holding themselves out as qualified to practice, or using the name or title of a cosmetologist, hair technician, esthetician, or nail technician unless duly licensed or registered to provide such services on or after July 1, 2009.

The bill provides that a cosmetologist licensed before July 1, 2009, to perform all of the services of a licensed cosmetologist may continue to practice his or her profession. It permits facial specialists and manicure, pedicure, and nail extension specialists who are registered or enrolled in school before July 1, 2008, to take the examination for licensure.

The bill permits specialists registered before July 1, 2009, including full specialty registrants, to continue to practice under the name of their respective specialty registration without taking the respective licensure exam. It also authorizes the board to adopt rules for renewal of registrations existing before July 1, 2009. This would include the nail, facial, and full cosmetology specialties listed in s. 477.013(5), F.S.

Rulemaking

The bill amends s. 477.016, F.S., to require that the board adopt rules to require and enforce health protection standards for the performance of natural or artificial nail services. The rules must provide for the maintenance of a clean and safe work area through pedicure equipment disinfection requirements.⁸ These requirements include the use of hospital grade bactericidal, fungicidal, and pseudomonacidal disinfectant of at least ten minutes. The requirements relate to the maintenance of the equipment. It also requires the provision of notice to education of clients with visible skin diseases, fungal or other types of infections, or contagious conditions that the services cannot be provided without a signed statement by a physician that there is no public health problem to the client, the technicians, or other clients. The bill also provides these health maintenance and notice requirements for basic facials and advanced skin treatment services involving chemicals.

Education Requirements

The bill creates s. 477.019(3), F.S., to permit cosmetology students to apply for the licensure examination for any cosmetology license during the last 100 hours of training. Upon approval of the application, the applicant may schedule the examination for a date when the training hours are completed. The applicant has six months from the date of approval to take the examination. The applicant must reapply if he or she fails to take the examination after six month of the approval. The bill authorizes the board to establish by rule the procedures for the pregraduate application process.

The bill amends s. 477.019, F.S., to provide that the education requirements for an application for examination for cosmetologists, hair stylists, estheticians, and nail technicians may include a general equivalency diploma or the passing of an ability-to-benefit test approved by the United States Secretary of Education as provided in 20 U.S.C. s. 1091(d).⁹ The requirements in the

⁸ The United States Environmental Protection Agency's "Recommended Cleaning and Disinfection Procedures for Foot Spa Basins in Salons

⁹ The federal law under 20 U.S.C. s. 1091(d) provides for the standards that a student can meet to receive federal educational assistance if that student does not have a high school graduation certificate. The section requires that "[t]he student shall take an independently administered examination and shall achieve a score, specified by the Secretary [of Education], demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations."

current law that the applicant must be at least 16 years of age or have received a high school diploma are maintained.

The bill increases from 1,200 to 1,500 the minimum number of required hours or training for a full cosmetology license, composed of training from the hair technician, esthetician, and nail technician curricula.

The bill requires 1,000 minimum hours of education for a hair technician. It increases from 260 to 600 hours the minimum number of required hours for an esthetician (currently the 260 hours is only applicable to the facial specialty), and from 240 to 350 the minimum number of required hours for a nail technician.

The bill would increase the required education hours for persons providing the current services of a facial specialist from 260 to 600 hours.

The bill authorizes the Board of Cosmetology to adopt rules to prevent an applicant from having to repeat curricula components. It also provides that a person who holds one or more licenses may obtain an additional license by completing training as determined by board rule. The bill requires the board consult with the Department of Education and the Commission for Independent Education on the development of these rules.

The bill permits a student who has enrolled and begun his or her education before July 1, 2009, to take the exam to be licensed as a cosmetologist upon completion of 1,200 hours of training. It requires that a student who begins his or her education on or after July 1, 2008, to comply with the new minimum required hours of training before taking the examination.

The bill delays until July 1, 2009 the repeal of the right of students of a licensed cosmetology school or program to apply for the examination after completing a minimum of 1,000 educational hours. This delayed effective date would permit currently enrolled cosmetology students to take the cosmetology examination after completing a minimum of 1,000 educational hours.

The bill permits an applicant who passes all parts of the licensure examination for a cosmetologist, hair stylist, esthetician, or nail technician on their first attempt, to practice until receipt of his or her license. The applicant must practice under the supervision of an individual who holds the same active license or a cosmetologist licensed before July 1, 2009. If an applicant fails any part of the examination the first time he or she takes the examination, the applicant may immediately reapply for reexamination. The bill deletes the comparable provision in current law that does not provide time periods for practice as a student applicant.

The bill permits licensure by endorsement of current active out-of-country cosmetology licenses, in addition to practice in another state, provided that the out-of-country qualifications are substantially similar to, equivalent to, or greater than the qualifications required of Florida licensees. It provides that work experience may be substituted for the education hours in an amount and manner determined by board rule.

The bill deletes the 48-hour cap for a continuing education refresher course. The number of hours would be set by board rule.

Inactive Status

The bill amends s. 477.0212(2), F.S., to require that the board adopt rules for the continuing education requirements prior to license renewal or reactivation.

Schools of Cosmetology

The bill amends s. 477.023, F.S., to provide that ch. 477, F.S., does not prevent certification by the Department of Education of the grooming and salon services within the public school system.

Salons

The bill amends s. 477.025, F.S., relating to cosmetology salons and specialty salons, to eliminate the distinction between a cosmetology salon and a specialty salon.

License and Registration Fees

The bill amends s. 477.026, F.S., to include hair technicians, estheticians, and nail technicians in the fee structure while maintaining the current fee cap of \$25 for original licensing and renewal, and \$50 for an endorsement application, examination, and reexamination. The current cap for specialists is \$30. Registration fees for hair braiders and hair wrappers remain unchanged at \$25, and body wrappers are included in the fees for the estheticians.

Cosmetology Services Outside of a Licensed Salon

The bill amends s. 477.0263, F.S., to provide that cosmetology and specialty services shall be performed only by a licensed cosmetologist, hair technician, esthetician, nail technician, or a registered specialist in licensed salons. The bill permits hair technicians, estheticians, nail technicians, or registered specialists to perform services outside of a licensed salon when the client for health reasons is unable to go to a licensed salon. The services must be provided pursuant to rules established by the board.

The bill would permit persons holding a valid cosmetology license in any state or is authorized to practice in any country, territory, or jurisdiction of the United States, to conduct department store demonstrations.

The bill also permits, pursuant to board rule, licensed cosmetologists, hair technicians, estheticians, nail technicians, or registered specialists to provide cosmetology services outside of a license salon and for special events. The person providing the service must be employed by a licensed salon and appointments for the services must be made through a licensed salon.

Prohibited Acts

The bill amends s. 477.0265(1), F.S., to prohibit the use of a device containing a razor blade, commonly referred to as a credo, to remove, scrape, and cut calluses from the hands or feet.

Conforming Provisions

The bill amends s. 477.0265, F.S., to conform to the new licensing terminology of cosmetologist, hair stylist, esthetician, and nail technician.

The bill amends s. 477.028, F.S., relating to disciplinary proceeding, to reference “hair technician, esthetician, or nail technician” and to change the term “cosmetology” to “in the field of cosmetology.”

The bill amends s. 477.029, F.S., relating to penalties, to include “hair technician, esthetician, or nail technician.”

The bill repeals s. 477.0201, F.S., relating to specialty registration, qualifications, registration renewal, and endorsement.

Evaluation of Reciprocity

Effective July 1, 2009, the bill requires that the department in conjunction with the board evaluate the feasibility, processes, and associated costs of using a national examination for cosmetology, hair stylist, esthetician, and nail technician services licenses that would improve reciprocity with other states. The bill requires that the findings of this evaluation must be made available to the Legislature and the public no later than January 1, 2009.

Appropriation

The bill appropriates \$60,149 in nonrecurring funds for Fiscal Year 2008-2009 from the Department of Business and Professional Regulation’s Administrative Trust Fund to begin implementation of the licensure provisions of the bill.

Effective Date

The act takes effect on July 1, 2009, except as otherwise provided.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill amends s. 477.026, F.S., to include hair technicians, estheticians, and nail technicians in the fee structure while maintaining the current fee cap of \$25 for original licensing and renewal, and \$50 for an endorsement application, examination, and reexamination. The current cap for specialists is \$30. Registration fees for hair braiders and hair wrappers remain unchanged at \$25, and body wrappers are included in the fees for the estheticians.

B. Private Sector Impact:

Persons who seek a full cosmetology license may also experience an increase in the cost of their education of approximately one-third based on the increase from 1,200 to 1,500 in the minimum number of hours of training required for a full cosmetology license.

The cost of 1,200 hours in cosmetology education is dependent on the institution attended. On the low end of expense, a community college education costs approximately \$2,000 for tuition and fees, plus the costs of books and supplies. Other public and private institutions may be more expensive. For example, in Leon County, a 1,200 hour cosmetology education at Lively Technical Center is approximate \$4,000 to \$5,000 for tuition, books, and supplies. The cost of a 1,200 hour private school cosmetology education, also in Leon County, is approximately \$9,000, for tuition, books, and supplies. However, the cost of a cosmetology education in a private school can range as high as \$11,000 to \$15,000.

A representative for the community colleges has represented that students who opt for the hair stylist license, which requires 1,000 minimum hours of training, may save in education expenses because of the lower required hours. According to some cosmetologists, most cosmetology students intend to provide only hair related services and would seek the hair stylist education.

A student who does not pursue a full 1,500 cosmetology education and intends to perform a combination of specialty services may also experience increased education expenses, e.g., a person who intends to provide hair stylist and esthetician services or hair stylist and nail technician services.

C. Government Sector Impact:

The Department of Business and Professional Regulation (department) anticipates increased regulatory costs. According to the department, the bill would increase number of applicants and licensees and that this increase would generate additional revenue. It estimates that this increase in revenue would be sufficient to support the additional cost

of regulation. However, the department also notes that current fees for this profession do not support the overall cost of regulation.

According to the department, it would need a total recurring and non-recurring appropriation of \$147,163 for FY 2008-2009. It also advised that it would need a total recurring appropriation of \$70,543 for FY 2009-2010.

The bill appropriates \$60,149 in nonrecurring funds for Fiscal Year 2007-2008 from the Department of Business and Professional Regulation's Administrative Trust Fund to begin implementation of the licensure provisions of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The provisions of this bill were contained in SB 920 by the Higher Education Committee, Regulated Industries Committee, and Senators Wise and Lynn, which passed both houses during the 2007 Regular Session, but was vetoed by the Governor.

In his veto message, the Governor expressed the concern that the bill provides too much regulation without a justifiable need. The Governor's veto message noted that the "bill dramatically increases the educational requirements that a person must meet before entering the workplace – in some cases, it more than doubles the current requirements."

The Governor expressed the concern that the bill "is overly burdensome and would have negative impacts on peoples' livelihoods." He also noted that "regulation should protect the public, but not limit the competition or act [as] state sponsored protectionism against free enterprise."

Proponents of the bill argue that Florida's minimum educational requirements for cosmetology professionals are less than what is required in other states, and that the current educational requirements, particularly in regard to health safety training, are insufficient to adequately train these professionals and to protect the public. The Governor's veto message did not indicate whether a lesser increase to the current educational requirements would be acceptable.

Opponents of the bill were concerned about the sizable increase in the number of educational hours required for estheticians and nail technicians to be licensed.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The committee substitute (CS) does not amend the term "cosmetology" in s. 477.013(3), F.S., to include with the meaning of the term the specialty services of a hair technician, esthetician, and nail technician. The CS also does not reference the definition of a

“cosmetologist” any person licensed before July 1, 2008 to engage in the practice of cosmetology.

The CS amends the definition of the term “cosmetology” in s. 477.013(4), F.S., to specify that the term includes all of the services of a hair stylist, including hair removal services by waxing and tweezing; nail services for the natural nails for pedicure and manicure (excluding artificial nails); and facials (excluding expanded skin care treatments with chemical peels and other skin treatments). The CS does not include the terms “hair technician services,” “esthetician services,” and “nail technician services” within the meaning of the term cosmetology.

The CS replaces the term “hair technician” with the term “hair stylist.” The CS provides that the services of a hair stylist include providing basic hair removal by use of waxing or tweezing of the eyebrows and upper and lower lip.

The CS also defines the terms “esthetician,” “hair stylist,” and “nail technician.” The CS provides that the services of a “nail technician” include the affixing of acrylic nails and gel nails.

The CS does not repeal the definition for “body wrapping” in s. 477.013, F.S., and retains the body wrapping specialty.

The CS amends the definition of the term “salon” in s. 477.013(8), F.S., to reference hair stylist, esthetician, and nail technician.

The CS amends the definition of “specialist” in s. 477.013(9), F.S., to provide that a specialist’s services include the massaging of the hands. It also provides that a specialist’s services include “skin care services” without involving message, as defined in s. 480.033(3), F.S. The CS does not provide a definition for the term “skin care services.” that references “the treatment of the skin of a person's body, in addition to a person's head, face, and scalp, by the use of a sponge, brush, cloth, or similar device to apply or remove a chemical preparation or other substance without involving massage, as defined in s. 480.033(3), except that chemical peels may be removed by peeling an applied preparation from the skin by hand.”

The CS amends s. 477.016, F.S., to require that the board adopt rules to require and enforce health protection standards for the performance of natural or artificial nail services and for basic facials and advanced skin treatment services involving chemicals.

The CS amends s. 477.019, F.S., to reduce hours of education for new cosmetologist license 1800 to 1500 hours. Current law is 1200.

The CS amends s. 477.019, F.S., to provide an effective date of July 1, 2009, for the repeal of the of the right of enrolled cosmetology students to take the cosmetology examination after completing a minimum of 1,000 educational hours.

The CS does not amend s. 477.019, F.S., to provide procedures to permit a Florida student to practice in his or her respective area for a maximum of 60 days after submitting a completed application for examination for licensure as a cosmetologist, hair technician, esthetician, or nail technician.

The CS amends 477.019(5), F.S., to permits an applicant who has passed all parts of the licensure examination for a cosmetologist, hair stylist, esthetician, or nail technician on their first attempt, to practice until receipt of his or her license, provided that he or she practices under the supervision of an individual who holds the same active license or a cosmetologist licensed before July 1, 2009.

The CS amends s. 477.0265(1), F.S., to prohibit the use of a device containing a razor blade, commonly referred to as a credo, to remove, scrape, and cut calluses from the hands or feet.

The CS requires that the board and DBPR to evaluate the feasibility, processes and associated costs of utilizing a national exam for cosmetology licenses that would improve reciprocity with other states.

B. Amendments:

None.