

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 40

(By Mr. Salver)



PASSED Feb. 24, 1939

In Effect ninety days from Passage

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House Bill No. 40

(BY MR. CALVERT)

[Passed February 24, 1939; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three, four, five, six, seven, eight, nine, ten, eleven, twelve and fourteen, chapter eighty-two, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, relating to the practice of barbering and beauty culture.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five, six, seven, eight, nine, ten, eleven, twelve and fourteen, chapter eighty-two, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 2. *Definitions of Words and Phrases.* For the purpose of this article "barbering" shall mean any one or combination of the following acts, when done on the human body,

4 and not for the treatment of disease, to-wit: Shaving,
5 shaping and trimming the beard; cutting, singeing, sham-
6 poing or dyeing the hair, or applying tonics thereto; appli-
7 cations, treatment or massages of the face, neck, or scalp
8 with oils, creams, lotions, antiseptics, cosmetics, powders, clays
9 or other preparations: and when the same are done to en-
10 courage the use or sale of articles of trade, or for pay, reward
11 or other compensation, whether to be received directly or
12 indirectly.

13 “Beauty Culture” shall mean any one or combination of
14 the following acts, when done on the human body, and not
15 for the treatment of disease, to-wit: The care, preservation
16 and beautification of the hands and nails, (commonly called
17 manicuring); the cleansing, curling, waving, permanent
18 waving, straightening, arranging, dressing, bleaching, tinting,
19 coloring and shaping the hair, including such cutting of the
20 hair as is necessary for the purposes mentioned in this para-
21 graph; and the application to, or treatment and massage of
22 the scalp, face, neck, arms, hands or upper part of the body
23 with oils, creams, lotions, powders, clays, cosmetics, antisep-
24 tics, or other preparations; and when the same are done to

25 encourage the use or sale of articles of trade, or for pay,
26 reward or other compensation, whether to be received directly
27 or indirectly.

28 The performance of any of the acts enumerated in this
29 section shall not be deemed barbering or beauty culture when
30 done by duly licensed physicians, surgeons, nurses or mor-
31 ticians, in the proper discharge of their professional duties.

Sec. 3. *Who To Compose Committee; Compensation;*
2 *Duties; Inspectors.* The committee shall consist of the com-
3 missioner of health, ex officio, and four other members to be
4 appointed by the Governor, by and with the consent of the
5 Senate, subject to removal by the Governor at his will and
6 pleasure. Of the four members thus appointed, one shall be
7 an employing barber, one an employee barber, one an employ-
8 ing beautician, and one an employee beautician. One of the
9 four so appointed shall be a member of the colored race. Each
10 member of the committee so appointed shall have been en-
11 gaged within this state in the practice of barbering or beauty
12 culture, as the case may be, for a period of eight years imme-
13 diately prior to his appointment, and not more than two of the

14 four members of the committee so appointed shall belong to
15 the same political party.

16 Within sixty days after this act becomes effective, the Gov-
17 ernor shall appoint one member to said committee for a term
18 of four years, one member for a term of three years, one
19 member for a term of two years, and one member for a term
20 of one year, and on or before the expiration of the terms of
21 appointment as hereinabove provided, and each year there-
22 after, the Governor shall appoint one member of the commit-
23 tee to serve for four years. Any member of the committee so
24 appointed shall be eligible for reappointment.

25 The commissioner of health shall be ex officio chairman of
26 the committee, and the enforcement of all rules and regula-
27 tions promulgated by the committee pertaining to sanitary
28 conditions of barber and beauty shops and pertaining to the
29 registration and qualifications of barbers and beauticians shall
30 be under his supervision and direction; no order, rule, or
31 regulation promulgated by the committee shall be in force and
32 effect until approved by the commissioner of health. The said
33 committee shall designate one of its members, or some other
34 person, to act as secretary of the committee, and it shall be the

35 duty of said secretary to perform such duties as may be pre-
36 scribed by the committee.

37 Each member of the committee, except the chairman, shall
38 receive as compensation as per diem of ten dollars for each
39 day said member is actually in attendance upon the sessions
40 of the committee, plus an allowance for expenses which shall
41 not exceed four dollars for each day of such attendance, but
42 such compensation for each member, exclusive of the allow-
43 ance for expenses, shall not exceed the sum of three hundred
44 dollars in any calendar year.

45 The committee shall examine all applicants for certificates
46 of registration and shall issue said certificates to those entitled
47 thereto; collect examination and registration fees; promulgate
48 rules and regulations governing the operation of barber shops,
49 beauty shops, and schools of barbering and beauty culture,
50 including the prescribing of curriculums and standards of
51 instructions for such schools; promulgate rules and regula-
52 tions for the physical examination of barbers, beauticians,
53 junior barbers and beauticians, and students, and fix the
54 standard form of report of such examinations; establish and
55 enforce sanitary regulations in barber shops, beauty shops,

56 and schools of barbering and beauty culture; enforce all
57 such rules and regulations as are herein authorized; and do
58 all other things necessary to effectuate the purposes of this
59 act in the interest and protection of public health.

60 The commissioner of health shall appoint not to exceed six
61 inspectors, who shall be registered barbers and beauticians
62 of this state, as herein provided, and it shall be their duty
63 to make frequent inspections of all barber and beauty shops,
64 schools of barbering and beauty culture in this state, and
65 report all violations to the commissioner of health. The
66 salaries and allowances for expenses of such inspectors shall
67 be that fixed and allowed by the commissioner of health and
68 approved by the director of the budget, pursuant to said
69 director's power to classify purposes and employments in
70 the State Government and its agencies.

Sec. 4. *Filing and Publication of Regulations; Penalties;*

2 *Expenditure of Funds so Received.* Every general regulation
3 adopted by the committee shall state the day on which it
4 takes effect, and a copy thereof, duly signed by the commis-
5 sioner of health, shall be filed in the office of the secretary of
6 state, and shall be published in such manner as the committee

7 may determine. For any violation of any regulation so
8 promulgated, when said regulation is reasonable and not in-
9 consistent with law, the committee may cancel and revoke the
10 certificate of registration issued such violator and/or may
11 refuse to renew or reissue the same.

12 The expenditures of the committee shall not in any year
13 exceed the amount of fees collected by the committee for that
14 year. All money collected and received by the committee
15 under the provisions of this act shall belong to the state and
16 the committee or its chairman shall immediately turn same in
17 the state treasury and record shall be made thereof; and the
18 expenditures herein provided for, when authorized by the
19 committee, shall be paid out by warrant on the treasurer of
20 the state in form and manner provided by law.

Sec. 5. *Qualifications of Applicants; How Registered.* An

2 applicant for registration as a barber or beautician shall
3 present satisfactory evidence that he or she is at least eighteen
4 years of age, of good moral character and temperate habits,
5 has completed at least the eighth grade of grammar school, or
6 the equivalent thereof, and has been graduated from a school
7 of barbering or beauty culture approved by the state com-

8 mittee of barbers and beauticians, and shall transmit with
9 his application an examination fee of twenty dollars. The
10 examination shall be of such character as to determine the
11 qualifications and fitness of the applicant to practice barber-
12 ing or beauty culture as defined by this article, and shall
13 cover such subjects germane to the inquiry as the committee
14 may deem proper. If the applicant successfully passes such
15 examination and is otherwise duly qualified, as required by
16 this section, and presents the proper certificate of health, the
17 committee shall register the applicant as a duly qualified
18 junior barber or beautician, for which permit the fee shall be
19 two dollars and fifty cents. Upon proof that the holder of
20 such a certificate has served as a junior barber or beautician
21 for a period of not less than twelve months from the original
22 date of such certificate, accompanied by a certificate of health
23 from a duly licensed physicians, the committee shall issue to
24 the applicant a certificate of registration authorizing the ap-
25 plicant to practice barbering or beauty culture in this state.
26 Any person who is able to furnish satisfactory proof that he
27 has practiced barbering or beauty culture for at least twelve
28 months prior to examination may be registered as a duly

29 qualified barber or beautician immediately after he has passed
30 the examination, without serving the specified twelve-month
31 period as a junior barber or beautician. The committee shall
32 charge for every certificate of registration, or renewal thereof,
33 issued by it, a fee of five dollars.

Sec. 6. *Renewal of Registration; Fee; Blood Test.* Every
2 registered barber or beautician who desires to continue in
3 active practice or service shall, annually on or before the first
4 day of January, renew his certificate of registration and pay
5 an annual renewal fee of five dollars. An expired certificate
6 of registration may be restored only upon the payment of
7 one annual renewal fee. Every applicant for renewal, or
8 restoration, of his or her certificate of registration shall sub-
9 mit to the Wasserman, or other recognized blood test and
10 shall submit the report thereon to the committee, together
11 with a certificate of health from a duly licensed physician.

Sec. 7. *Student's Permit; Application For; Fee.* All stu-
2 dents, before entering upon their studies in approved schools
3 of barbering or beauty culture in this state shall apply for
4 and receive a student's permit from the committee. The ap-
5 plication shall be upon forms provided by the committee and

6 shall include a health certificate from a duly licensed phy-
7 sician. An applicant for registration as a student shall pre-
8 sent satisfactory evidence that he or she is at least seventeen
9 years of age, of good moral character and temperate habits,
10 and has completed at least the eighth grade of grammar school
11 or the equivalent thereof. If the applicant is otherwise quali-
12 fied and upon payment of a fee of two dollars and fifty cents,
13 the committee shall register the applicant as a student barber
14 or beautician and shall issue the applicant a certificate as
15 such, which certificate shall be good during the prescribed
16 period of study for such student. A student may perform any
17 or all acts constituting barbering or beauty culture in a school
18 of barbering or beauty culture under the immediate super-
19 vision of a registered instructor, but not otherwise.

Sec. 8. *Display of Certificate of Registration.* Every person
2 practicing barbering or beauty culture and every student and
3 junior barber and beautician shall display his certificate of
4 registration in a conspicuous place in the shop wherein he
5 practices or is employed and whenever required shall exhibit
6 such certificate to the state committee of barbers and beau-
7 ticians or its authorized representative.

Sec. 9. *Shops To Be Managed By Registered Barbers and*

2 *Beauticians.* Every barber or beauty shop in this state shall
3 be operated under the supervision and management of a
4 barber or beautician who is registered as such in this state.
5 Each barber or beauty shop in this state may employ at least
6 one junior barber or beautician therein. However, in shops
7 regularly employing more than three registered barbers or
8 beauticians only one such junior barber or beautician may be
9 employed for every three such registered barbers or beau-
10 ticians, but in no event can more than three such junior bar-
11 bers or beauticians be employed in any one barber or beauty
12 shop. No business or trade other than that of barbering shall
13 be conducted in a barber shop and no business or trade other
14 than that of beauty culture shall be conducted in a beauty
15 shop, except the display and/or sale of commodities or other
16 articles used in connection with barbering or beauty culture,
17 and no such barber or beauty shop shall be operated in a store,
18 dwelling house, or other building or space used for any pur-
19 pose other than barbering or beauty culture unless such bar-
20 ber or beauty shop is separated by stationary partitions ex-
21 tending from floor to ceiling : *Provided*, That nothing herein

22 contained shall be construed as prohibiting a barber shop
23 from carrying on the business of shoe shining or manicuring
24 or both shoe shining and manicuring. A suitable sign
25 shall be displayed at the main entrance of all barber and
26 beauty shops, plainly indicating the business conducted
27 therein: *Provided, however,* That no sign shall be displayed
28 outside any barber or beauty shop or inside the same, so
29 as to be clearly visible from the outside and for the osten-
30 sible purpose of attracting trade, which in any way adver-
31 tises the prices to be charged in such barber or beauty shop
32 for services to be therein performed.

Sec. 10. *Schools; Qualifications, Etc.* No person, firm or
2 corporation, whether organized for profit or not, shall own
3 or operate a school of barbering or beauty culture in this state
4 without first obtaining a license so to do from the committee,
5 and no such license shall be issued unless the person or per-
6 sons teaching or instructing therein have a high school educa-
7 tion or equivalent thereto, and have for a period of not less
8 than five years prior to such application have been actively
9 engaged as duly qualified barbers or beauticians, and are
10 registered as such within this state. All applicants for license

11 to operate a school of barbering or beauty culture shall submit
12 to an examination by the committee relative to whether or not
13 such proposed school is properly fitted and equipped to teach
14 barbering or beauty culture. After passing said examination
15 a license shall be issued by the committee to such applicant
16 to open such school. All instructors in any such school of
17 barbering or beauty culture shall first qualify as such by
18 passing an examination submitted by the committee relative
19 to their fitness and ability to instruct as such.

20 The license fee for each school of barbering and for each
21 school of beauty culture shall be twenty-five dollars annually,
22 to be paid in such manner as the committee may prescribe, on
23 or before January first of each year. The license shall be
24 prominently displayed in the school, and a suitable sign shall
25 be kept on the front of the school which shall plainly indicate
26 that a school of barbering or beauty culture is operated
27 therein.

Sec. 11. *Health Certificates Required Before Certificate of*
2 *Registration Issued or Renewed.* No person shall practice
3 barbering or beauty culture or serve as a student or junior
4 barber or beautician in this state while having an infectious,

5 contagious or communicable disease. No person shall be regis-
6 tered as a barber, beautician, student, or junior barber or
7 beautician until he or she shall have obtained a certificate of
8 health from a licensed physician under article three of this
9 chapter certifying said person to be free of all infectious,
10 contagious and communicable diseases; which certificate shall
11 be filed with the state committee of barbers and beauticians
12 within ten days after the examination of the person is made
13 by the physician, and photograph of the applicant must ac-
14 company the application with such certificate. The certificate
15 shall be in such form as the committee may prescribe. A like
16 certificate must be filed with the committee before any certifi-
17 cate is renewed, and the examination must have been within
18 thirty days prior to the beginning of the renewal period. The
19 committee shall be empowered to compel any registered bar-
20 ber, beautician, student, or junior barber or beautician, to
21 submit to a physical examination and file a certificate of
22 health at any time.

Sec. 12. *Requirements to Operate Shop.* It shall be unlaw-
2 ful for any person, firm or corporation to own or operate a

3 beauty or barber shop, or a school of beauty culture or barber-
4 ing, or to act as a barber or beautician, unless:

5 (a) Such beauty shop, barber shop, or school of beauty
6 culture or barbering shall before opening its place of business
7 to the public, have been approved by the committee as having
8 met all the requirements and qualifications for such places of
9 business as are required by this article, and for this purpose,
10 it shall be the duty of the owner or operator of each such
11 beauty shop, barber shop, or school of beauty culture or bar-
12 bering to notify the committee, in writing, at least ten days
13 before the proposed opening date of such shop or school,
14 whereupon it shall become the duty of the committee, through
15 the inspectors herein provided for, to inspect such shops or
16 schools, and if found to meet the requirements of this article
17 respecting the same, to grant to it a certificate permitting it
18 to do business as such. If, however, after the lapse of ten
19 days after the giving of such notice of opening to the com-
20 mittee, an inspection is not made or such certificate of open-
21 ing has not been granted or refused, the owner or operator of
22 such shop or school may open provisionally, subject to later

23 acquirement of such certificate and to all other provisions,
24 rules and regulations provided for in this article.

25 (b) All such shops and schools, and bathrooms, toilets and
26 adjoining rooms used in connection therewith, are kept clean,
27 sanitary, well-lighted and ventilated at all times. The use of
28 chunk alum, powder puffs and styptic pencils in any such
29 shop or school is prohibited.

30 (c) Each barber, beautician, instructor, junior barber and
31 beautician, and student, shall thoroughly cleanse his or her
32 hands with soap and water immediately before serving any
33 patron.

34 (d) Each patron is served with clean, freshly laundered
35 linen which is kept in a closed cabinet used for that purpose
36 alone. All linens, immediately after being used, shall be
37 placed in a receptacle used for that purpose alone.

38 The committee shall prescribe such other rules and regula-
39 tions in regard to sanitation and cleanliness in such shops
40 and schools as it may deem proper and necessary and shall
41 have power to enforce compliance therewith. Such rules and
42 regulations shall be kept posted in a conspicuous place in each
43 shop or school.

Sec. 14. *Penalties for Violation.* Any violation of the provisions of this article or of the rules and regulations of the committee, when promulgated by it as set out in section four of this article, shall constitute a misdemeanor, punishable, upon conviction, by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and and imprisonment. Justices of the peace shall have concurrent jurisdiction with circuit and criminal courts for the enforcement of the provisions of this article and the rules and regulations promulgated by the committee.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frank Mullender
Acting Chairman Senate Committee

Deed B. Walker
Chairman House Committee

Originated in the *House of Delegates*

Takes effect *ninety days from* passage.

Sherry D. Miller
Clerk of the Senate

Geo. A. Hall
Clerk of the House of Delegates

Wm. M. Brown
President of the Senate

James Tay Thomas
Speaker House of Delegates

The within *Approved* this the *4th*
day of *March*, 1939.

James A. H.

Governor.



Filed in the office of the Secretary of State
of West Virginia **MAR 6 1939**

Wm. S. O'BRIEN,
Secretary of State