

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951



ENROLLED

HOUSE BILL No. 80

(By Mrs. Walker)



PASSED March 7, 1951

In Effect July 1, 1951. ~~Passage~~



80

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(By MRS. WALKER)

[Passed March 7, 1951; in effect July 1, 1951.]

AN ACT to repeal chapter eighty-two, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, as last amended by chapter thirty, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, and to amend chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article fourteen, relating to the regulation of barbering and beauty culture and of schools of barbering and beauty culture.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-two, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, as last amended by chapter thirty, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be repealed, and that chapter sixteen of the code of West Virginia, one thou-

sand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article fourteen, to read as follows:

Article 14. Barbering and Beauty Culture.

Section 1. *Division of Barbers and Beauticians; Committee; Certificate of Registration.*—There is hereby created in the state department of health, and under its jurisdiction, a division of barbers and beauticians. There is also hereby created a state committee of barbers and beauticians, hereinafter called the committee.

It shall be unlawful for any person to practice or offer to practice barbering or beauty culture in this state without first obtaining a certificate of registration for such purpose from the committee.

Sec. 2. *Barbering and Beauty Culture Defined.*—For the purpose of this article “barbering” shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to-wit: Shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair, or applying tonics thereto; applications, treatment or massages of the face, neck, or

8 scalp with oils, creams, lotions, antiseptics, cosmetics,
9 powders, clays or other preparations; and any such acts
10 when done to encourage the use or sale of articles of trade,
11 or for pay, rewards or other compensation, whether to be
12 received directly or indirectly.

13 "Beauty culture" shall mean any one or combination of
14 the following acts, when done on the human body, and
15 not for the treatment of disease, to-wit: The care, preser-
16 vation and beautification of the hands and nails, commonly
17 called manicuring; the cleansing, curling, waving, perma-
18 nent waving, straightening, arranging, dressing, bleach-
19 ing, tinting, coloring and shaping the hair, including such
20 cutting of the hair as is necessary for the purposes men-
21 tioned in this paragraph; the application to, or treatment
22 and massage of the scalp, face, neck, arms, hands, or upper
23 part of the body with oils, creams, lotions, powders, clays,
24 cosmetics, antiseptics, or other preparations; and any such
25 acts when done to encourage the use or sale of articles of
26 trade, or for pay, reward or other compensation, whether
27 to be received directly or indirectly.

28 The performance of any of the acts enumerated in this

29 section shall not be deemed barbering or beauty culture
30 when done by duly licensed physicians, surgeons, nurses,
31 morticians, in the proper discharge of their professional
32 duties.

Sec. 3. *Committee; Chairman to Approve and Enforce*
2 *Rules and Regulations; Secretary; Expenses of Members;*
3 *Powers and Duties of Committee; Inspectors.*—The com-
4 mittee shall consist of the director of health, ex-officio,
5 and four other members to be appointed by the governor,
6 by and with the advice and consent of the senate, to serve
7 at the will and pleasure of the governor. Of the four mem-
8 bers thus appointed, one shall be an employing bar-
9 ber, one an employee barber, one an employing beau-
10 tician, and one an employee beautician. One of the
11 four so appointed shall be a member of the colored
12 race. Each member of the committee so appointed shall
13 have been engaged within this state in the practice of
14 barbering or beauty culture, as the case may be, for a
15 period of eight years immediately prior to his appoint-
16 ment, and not more than two of the four members of

17 the committee so appointed shall belong to the same po-
18 litical party.

19 On or before the thirtieth day of June of each year the
20 governor shall appoint one member of the committee to
21 serve for a term of four years, to begin on the first day
22 of July. Any member of the committee shall be eligible
23 for reappointment.

24 The director of health shall be ex-officio chairman of
25 the committee, and the enforcement of all rules and regu-
26 lations promulgated by the committee pertaining to sani-
27 tary conditions of barber and beauty shops and pertaining
28 to the registration and qualifications of barbers and beau-
29 ticians shall be under his supervision and direction; no
30 order, rule, or regulation promulgated by the committee
31 shall be in force and effect until approved by the director
32 of health. The committee shall designate one of its mem-
33 bers, or some other person, to act as secretary of the com-
34 mittee, and it shall be the duty of the secretary to perform
35 such duties as may be prescribed by the committee.

36 Each member of the committee, except the chairman,
37 shall receive as compensation a per diem of fifteen dollars

38 for each day he is in attendance upon the sessions of the
39 committee, but such compensation for each member shall
40 not exceed the sum of three hundred dollars in any cal-
41 endar year. Each member shall be reimbursed for actual
42 and necessary expenses incurred in the performance of his
43 duties, upon presentation of an itemized sworn statement
44 thereof.

45 The committee shall examine all applicants for certifi-
46 cates of registration and shall issue certificates to those
47 entitled thereto; collect examination and registration fees;
48 promulgate rules and regulations governing the operation
49 of barber shops, beauty shops, and schools of barbering
50 and beauty culture, including the prescribing of curricu-
51 lums and standards of instructions for such schools; pro-
52 mulgate rules and regulations for the physical examina-
53 tion of barbers, beauticians, junior barbers and beauti-
54 cians, and students, and fix the standard form of report of
55 such examinations; establish and enforce sanitary regula-
56 tions in barber shops, beauty shops, and schools of barber-
57 ing and beauty culture; enforce all such rules and regula-
58 tions as are herein authorized; and do all other things

59 necessary to effectuate the purposes of this article in the
60 interest and protection of public health.

61 The director of health shall appoint not to exceed six
62 inspectors, who shall be registered barbers and beauticians
63 of this state, as herein provided, and it shall be their duty
64 to make frequent inspections of all barber and beauty
65 shops, and all schools of barbering and beauty culture in
66 this state, and to report all violations to the director of
67 health. The salaries and allowances for expenses of such
68 inspectors shall be that fixed and allowed by the director
69 of health and approved by the director of the budget, pur-
70 suant to his power to classify employment in the state
71 government and its agencies.

Sec. 4. *General Regulations; Revocation of Certificate
2 for Violation.*—Every general regulation adopted by the
3 committee shall state the day on which it takes effect, and
4 a copy thereof, duly signed by the director of health, shall
5 be filed in the office of the secretary of state, and shall
6 be published in such manner as the committee may de-
7 termine. For the violation of any reasonable regulation
8 so promulgated, the committee may cancel and revoke

9 the certificate of registration issued such violator, and may
10 refuse to renew or reissue the same.

Sec. 5. *Qualifications of Applicants; Fees; Examination;*
2 *Registration Certificate.*—An applicant for registration as
3 a barber or beautician shall present satisfactory evidence
4 that he or she is at least eighteen years of age, of good
5 moral character and temperate habits, has completed at
6 least the eighth grade of school, or the equivalent there-
7 of, and has been graduated from a school of barbering or
8 beauty culture approved by the state committee of bar-
9 bers and beauticians, and shall transmit with his applica-
10 tion an examination fee of twenty dollars. The examina-
11 tion shall be of such character as to determine the
12 qualifications and fitness of the applicant to practice bar-
13 bering or beauty culture as defined by this article, and
14 shall cover such subjects germane to the inquiry as the
15 committee may deem proper. If the applicant successfully
16 passes such examination and is otherwise duly qualified,
17 as required by this section, and presents the proper cer-
18 tificate of health, the committee shall register the appli-
19 cant as a duly qualified junior barber or beautician, for

20 which certificate, or renewal thereof, the fee shall be five
21 dollars. Upon proof that the holder of such a certificate
22 has served as a junior barber or beautician for a period
23 of not less than six months nor more than twelve months
24 from the original date of such certificate, accompanied by
25 a certificate of health from a duly licensed physician, the
26 committee shall issue to the applicant a certificate of
27 registration authorizing the applicant to practice barber-
28 ing or beauty culture in this state. Any person who is able
29 to furnish satisfactory proof that he has practiced barber-
30 ing or beauty culture for at least six months prior to ex-
31 amination may be registered as a duly qualified barber or
32 beautician immediately after he has passed the examina-
33 tion, without serving the specified six month period as a
34 junior barber or beautician. The committee shall charge
35 for every such certificate of registration, or renewal there-
36 of, issued by it, a fee of five dollars.

37 Any person who meets the requirements of this section
38 as to age, character and health, who is a graduate of a
39 recognized school of barbering or beauty culture in an-
40 other state, and who holds a current certificate as a reg-

41 istered barber or beautician in another state, may file
42 with the committee an application for registration without
43 examination, together with a fee of twenty dollars. If in
44 the opinion of the committee such applicant has had a
45 prescribed course of instruction in barbering or beauty
46 culture equivalent to that required in this state at the time
47 such course was completed, ~~and~~ ^{or} is otherwise properly
48 qualified, the committee may without examination issue
49 to such applicant a certificate of registration as a duly
50 qualified barber or beautician.

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Sec. 6. *Renewal of Registration; Fee, Blood Test.*—Every
2 registered barber or beautician who desires to continue
3 in active practice or service shall, annually on or before
4 the first day of January, renew his certificate of registra-
5 tion and pay an annual renewal fee of five dollars. Every
6 registered barber or beautician who does not desire to
7 continue in active practice, shall notify the committee in
8 writing and shall, during such period, be listed by the
9 committee as being inactive, and shall not be required to
10 renew his certificate until such time as he notifies the com-
11 mittee of his desire to again become active, and during

12 such inactive period he or she shall not be liable for any
13 renewal fees. Every applicant for renewal or reinstatement
14 of a certificate of registration shall submit to the
15 Wasserman or other recognized blood test, and shall submit
16 the report thereon to the committee, together with a
17 certificate of health from a duly licensed physician.

Sec. 7. *Student's Permit; Qualifications; Fee.*—All students,
2 before entering upon their studies in approved
3 schools of barbering or beauty culture in this state, shall
4 apply for and receive a student's permit from the committee.
5 The application shall be upon forms provided by
6 the committee and shall include a health certificate from
7 a duly licensed physician. An applicant for registration
8 as a student shall present satisfactory evidence that he
9 or she is at least seventeen years of age, of good moral
10 character and temperate habits, and has completed at
11 least the eighth grade of school or the equivalent thereof.
12 Upon receipt of a fee of five dollars, the committee shall
13 register each qualified applicant as a student barber or
14 beautician and shall issue the appropriate student's permit,
15 which shall be good during the prescribed period of

16 study for such student. A student may perform any or
17 all acts constituting barbering or beauty culture in a school
18 of barbering or beauty culture under the immediate su-
19 pervision of a registered instructor, but not otherwise.

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

Sec. 9. *Shop To Be Managed by Registered Barbers and*
2 *Beauticians; Number of Junior Barbers or Beauticians*
3 *Permitted; Restrictions on Buildings or Rooms Used as*
4 *Shops and Businesses In; Advertising of Prices Prohibited.*
5 —Every barber or beauty shop in this state shall be op-
6 erated under the supervision and management of a barber
7 or beautician who is registered as such in this state. Each
8 barber or beauty shop in this state may employ at least
9 one junior barber or beautician therein. However, in

10 shops regularly employing more than three registered
11 barbers or beauticians only one such junior barber or
12 beautician may be employed for every three such reg-
13 istered barbers or beauticians, but in no event can more
14 than three such junior barbers or beauticians be employed
15 in any one barber or beauty shop. No business or trade
16 other than that of barbering shall be conducted in a barber
17 shop and no business or trade other than that of beauty
18 culture shall be conducted in a beauty shop, except the
19 display and/or sale of commodities or other articles used
20 in connection with barbering or beauty culture, and no
21 such barber or beauty shop shall be operated in a store,
22 dwelling house, or other building or space used for any
23 purpose other than barbering or beauty culture unless
24 such barber or beauty shop is separated by stationary
25 partitions extending from floor to ceiling: *Provided*, That
26 nothing herein contained shall be construed as prohibiting
27 a barber shop from carrying on the business of shoe shin-
28 ing or manicuring or both shoe shining and manicuring.
29 A suitable sign shall be displayed at the main entrance
30 of all barber and beauty shops, plainly indicating the

31 business conducted therein: *Provided, however,* That no
32 sign shall be displayed outside any barber or beauty shop
33 or inside the same, so as to be clearly visible from the
34 outside and for the ostensible purpose of attracting trade,
35 which in any way advertises the prices to be charged in
36 such barber or beauty shop for services to be therein per-
37 formed.

Sec. 10. *Schools of Barbering or Beauty Culture; Quali-*
2 *fications of Instructors.*—No person, firm or corporation,
3 public or private, whether organized for profit or not,
4 shall own or operate a school of barbering or beauty cul-
5 ture in this state without first obtaining a license so to do
6 from the committee. No such license shall be issued un-
7 less the person or persons teaching or instructing therein
8 have been registered by the committee as duly qualified
9 instructors. All applicants for a license to operate a school
10 of barbering or beauty culture shall permit an inspection
11 of such proposed school to determine whether it is proper-
12 ly fitted and equipped for instruction in barbering or
13 beauty culture. No school shall be licensed unless in the
14 opinion of the committee it is properly fitted and equipped.

15 The committee may suspend, revoke, or refuse to renew
16 the license of a school whenever it fails to meet the
17 minimum standards and qualifications required for the
18 issuance of an original license.

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

27 The committee is hereby authorized to make reasonable
28 rules and regulations prescribing the standards and re-
29 quirements to be met by applicants for registration as
30 duly qualified instructors in schools of barbering or beauty
31 culture. Such rules and regulations may provide for the
32 issuance of certificates for instructors, including tempo-
33 rary certificates, and shall prescribe minimum qualifica-
34 tions as to age, education and training for applicants for
35 such certificates. Each registered instructor in barbering

36 or beauty culture shall pay an initial registration fee of
37 five dollars, and shall renew his certificate annually and
38 pay a renewal fee of five dollars on or before the first day
39 of January of each year. An expired certificate may be
40 reinstated only upon the payment of all lapsed renewal
41 fees, unless such instructor shall have notified the com-
42 mittee that he or she desires to be placed on an inactive
43 status during which time he or she shall not be liable for
44 any renewal fees. The applicant for reinstatement shall
45 also be required to meet the qualifications for registration
46 in effect at the time application for reinstatement is made.

Sec. 11. *Health Certificates Required Before Certificate*
2 *of Registration Issued or Renewed.*—No person shall prac-
3 tice barbering or beauty culture or serve as a student or
4 junior barber or beautician in this state while having an
5 infectious, contagious or communicable disease. No per-
6 son shall be registered as a barber, beautician, student, or
7 junior barber or beautician until he or she shall have
8 obtained a certificate of health from a licensed physician
9 under article three of this chapter certifying said person
10 to be free of all infectious, contagious and communicable

11 diseases; which certificate shall be filed with the state
12 committee of barbers and beauticians within ten days
13 after the examination of the person is made by the phy-
14 sician, and photograph of the applicant must accompany
15 the application with such certificate. The certificate shall
16 be in such form as the committee may prescribe. A like
17 certificate must be filed with the committee before any
18 certificate is renewed, and the examination must have
19 been within thirty days prior to the beginning of the
20 renewal period. The committee shall be empowered to
21 compel any registered barber, beautician, student, or
22 junior barber or beautician, to submit to a physical ex-
23 amination and file a certificate of health at any reasonable
24 time.

Sec. 12. *Requirements to Operate Shops and Schools;*

2 *Sanitary Rules and Regulations.*—It shall be unlawful for
3 any person, firm or corporation to own or operate a beauty
4 or barber shop, or a school of beauty culture or barbering,
5 or to act as a barber or beautician, unless:

6 (a) Such beauty shop, barber shop, or school of beauty
7 culture or barbering shall before opening its place of busi-

8 ness to the public, have been approved by the committee
9 as having met all the requirements and qualifications for
10 such places of business as are required by this article and
11 for this purpose, it shall be the duty of the owner or op-
12 erator of each such beauty shop, barber shop, or school
13 of beauty culture or barbering to notify the committee,
14 in writing, at least ten days before the proposed opening
15 date of such shop or school, whereupon it shall become
16 the duty of the committee, through the inspectors herein
17 provided for, to inspect such shops or schools, and if found
18 to meet the requirements of this article respecting the
19 same, to grant to it a certificate permitting it to do busi-
20 ness as such. If, however, after the lapse of ten days after
21 the giving of such notice of opening to the committee, an
22 inspection is not made or such certificate of opening has
23 not been granted or refused, the owner or operator of
24 such shop or school may open provisionally subject to
25 later acquirement of such certificate and to all other pro-
26 visions, rules and regulations provided for in this article;

27 (b) All such shops and schools, and bathrooms, toilets
28 and adjoining rooms used in connection therewith, are

29 kept clean, sanitary, well-lighted and ventilated at all
30 times. The use of chunk alum, powder puffs and styptic
31 pencils in any such shop or school is prohibited;

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

36 (d) Each patron is served with clean, freshly laun-
37 dered linen which is kept in a closed cabinet used for
38 that purpose alone. All linens, immediately after being
39 used, shall be placed in a receptacle used for that purpose
40 alone.

41 The committee shall prescribe such other rules and
42 regulations in regard to sanitation and cleanliness in such
43 shops and schools as it may deem proper and necessary
44 and shall have power to enforce compliance therewith.
45 Such rules and regulations shall be kept posted in a con-
46 spicuous place in each shop or school.

Sec. 13. *Grounds for Cancellation, or Refusal to Issue
2 or Renew Certificate of Registration.*—The committee
3 may refuse to issue a certificate of registration to any

4 applicant, or may refuse to renew, or may suspend or
5 revoke the same for any holder thereof, for any of the
6 following causes: (1) conviction of the commission of
7 a felony, as shown by a certified copy of the record of
8 the court of conviction; (2) obtaining or attempting to
9 obtain a certificate of registration to practice barbering
10 or beauty culture in this state by false pretenses, fraudu-
11 lent misrepresentation, or bribery by the use of money or
12 other consideration; (3) gross incompetency; (4) the
13 continued practice of barbering or beauty culture by a
14 person knowing himself or herself to be afflicted with
15 a contagious or infectious disease; (5) the use knowingly
16 of any false or deceptive statements in advertising; (6)
17 habitual drunkenness or habitual addiction to the use of
18 morphine, cocaine or other habit-forming drugs; (7) con-
19 viction for the illegal sale of any intoxicating beverage,
20 as shown by a certified copy of the record of the court of
21 conviction; (8) violation of any of the sanitary rules and
22 regulations prescribed by the committee.

Sec. 14. *Penalties for Violation; Injunction.*—Any viola-
2 tion of the provisions of this article or of the rules and

3 regulations of the committee, when promulgated by it as
4 set out in section four of this article, shall constitute a
5 misdemeanor, punishable, upon conviction, by a fine of
6 not less than ten dollars, nor more than one hundred
7 dollars, or by imprisonment in the county jail for not
8 more than sixty days, or by both such fine and imprison-
9 ment. Justices of the peace shall have concurrent juris-
10 diction with circuit and criminal courts for the enforce-
11 ment of the provisions of this article and the rules and
12 regulations promulgated by the committee.

13 Notwithstanding the existence or pursuit of any other
14 remedy, the committee may, in the manner provided by
15 law, maintain an action in the name of the state for an
16 injunction against any person, partnership, association, or
17 corporation to restrain or prevent the establishment, con-
18 duct, management, or operation of any barber shop,
19 beauty shop, school of barbering or beauty culture, or
20 related agency, when such person, partnership, associa-
21 tion, or corporation, repeatedly refuses to obtain regis-
22 tration or license therefor and continues the practice or
23 teaching of barbering or beauty culture without first ob-

24 taining registration or a license therefor in the manner
25 hereinbefore provided.

Sec. 15. *Provisions of Article One, Chapter Thirty,
2 Code, to Apply to Committee.*—Unless otherwise specially
3 provided herein, the provisions of article one, chapter
4 thirty of the code of West Virginia shall apply to the
5 state committee of barbers and beauticians.

Sec. 16. *Collections and Expenditures; Disposition of
2 Funds.*—All money collected under the provisions of this
3 article shall be deposited in the state treasury as pro-
4 vided by law, and shall be credited to the committee in
5 a special fund to be known as the “Barbers and Beauti-
6 cians Special Fund”. All money in such fund shall be ex-
7 pended only for the administration and enforcement of
8 the provisions of this article, except that at the end of
9 each fiscal year there shall be transferred from this fund
10 to the general revenue fund of the state ten percent of
11 all money collected by the committee during the year.

Sec. 17. *Provisions of Act Separable; Repeal of Laws.*—
2 The various provisions of this act shall be construed as
3 separable and several, and should any of the provisions

4 or parts thereof be construed or held to be unconstitu-
5 tional, or for any other reason invalid the remaining pro-
6 visions of this act shall not be thereby affected. All acts
7 and parts of acts in conflict with the provisions of this
8 act, or any part thereof, are hereby repealed. Any ordi-
9 nances of any municipalities in this state now in effect
10 and having for their purposes the regulation of the prac-
11 tice of barbering or beauty culture, which are in con-
12 flict with the provisions of this act, or any part thereof,
13 shall be null and void and of no effect on and after the
14 date this act goes into effect.

Handwritten signature: H. B. No. 80

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

Robert C. Byrd
Chairman Senate Committee

James M. Loeb
Chairman House Committee

Originated in the House of Delegates

Takes effect *July 1, 1951* passage

Howard Meyer
Clerk of the Senate

J.R. Aliff
Clerk of the House of Delegates

W. Leigh Brantley
President of the Senate

W.E. Tom
Speaker House of Delegates

The within *approved* this the *16th* day of *March*, 1951.

Clay L. Patterson
Governor



West Virginia **MAR 16 1951**
D. PITT O'BRIEN,
SECRETARY OF STATE