

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-23-80

Time 1:00 p.m.

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1980

ENROLLED

SENATE BILL NO. 37

(By **Mr.** Miss Herndon)

PASSED March 7, 1980

In Effect ninety days from Passage



No: 37

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Senate Bill No. 37
(By MISS HERNDON)

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AN ACT to amend and reenact sections one, two, three, four, six, seven, eight, nine, ten and eleven, article twenty-seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to prohibiting employees and individuals with a pecuniary interest in schools of barbering and beauty culture from appointment to the board of barbers and beauticians; increasing the salaries of the board members; giving the board the power to promulgate concurrent rules and regulations; requiring promulgation of rules in certain areas; providing for resolution of conflicts in rules; providing for revocation of license for violation of regulations; increasing examination fees; abolishing licensing for junior barbers or beauticians and removing all references thereto; increasing fees for licenses; mandating that rules and regulations be promulgated to establish a joint barber-beautician license; increasing license renewal fees and late penalties; increasing license fees for schools of barbering and beauty culture and instructors; providing minimum qualifications for instructors; and making violation of board's regulations grounds for refusal to license.

Be it enacted by the Legislature of West Virginia:

That sections one, two, three, four, six, seven, eight, nine, ten and eleven, article twenty-seven, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 27. BOARD OF BARBERS AND BEAUTICIANS.**§30-27-1. Board of barbers and beauticians; appointment; qualifications and terms of board members; compensation and expenses of members; powers and duties of board.**

1 (a) The board of barbers and beauticians heretofore
2 established is continued and all members of the com-
3 mittee, serving for a term which has not expired on the
4 effective date of this article, shall continue to serve the
5 terms for which they were appointed. The board shall
6 promulgate rules and regulations pertaining to the
7 licensure and qualifications of barbers, beauticians and
8 manicurists, and curricula and standards of instruction
9 for schools of barbering and beauty culture. The board
10 shall aid and assist in the enforcement of all rules and
11 regulations in accordance with chapter sixteen, article
12 fourteen, section one, et. seq. The board shall consist
13 of four professional members to be appointed by the
14 governor, by and with the advice and consent of the
15 Senate, and one lay member to be appointed in accordance
16 with the provisions of section four-a, article one of this
17 chapter. Of the four professional members, one shall be
18 an employing barber, one an employee barber, one an
19 employing beautician and one an employee beautician.
20 Each professional member of the board shall have been
21 engaged within this state in the practice of barbering
22 or beauty culture, as the case may be, for a period of
23 five years prior to his appointment, and no more than
24 two of the four professional members may belong to
25 the same political party. No member of the board shall
26 own or have a pecuniary interest in a barber or beautician
27 school licensed by or doing business within this state
28 or shall be employed by such an institution.

29 (b) On or before the thirtieth day of June of each
30 year the governor shall appoint one member of the board
31 to serve for a term of four years, to begin on the first
32 day of July. No professional member of the board may
33 serve for more than two complete terms.

34 (c) The board shall designate one of its members as
35 chairperson.

36 (d) Each member of the board shall receive as
37 compensation a per diem of fifty dollars for each day
38 of attendance at board sessions, but such compensation
39 for each member shall not exceed the sum of two
40 thousand dollars in any calendar year. Each member
41 shall be reimbursed for actual and necessary expenses
42 incurred in the performance of their duties, upon
43 presentation of an itemized sworn statement thereof.

44 (e) The board shall examine all applicants for
45 licensure and shall issue licenses to those entitled thereto
46 and collect examination and licensure fees, in accordance
47 with regulations promulgated by the board of health
48 pursuant to article fourteen, chapter sixteen of this code
49 or the board of barbers and beauticians.

50 (f) It shall be unlawful for any person to practice
51 or offer to practice barbering, beauty culture or mani-
52 curing in this state without first obtaining a license
53 for such purposes from the board of barbers and
54 beauticians.

55 (g) The board shall have the power to promulgate
56 rules and regulations generally regarding the practice
57 and conduct of barbering and beauty culture, including
58 but not limited to the procedures, criteria and curricula
59 for examination and qualifications of applicants for
60 licensure, and for the licensing of instructional person-
61 nel for schools of barbering and beauty culture.

62 The power of the board to promulgate such rules and
63 regulations shall be concurrent with that of the board
64 of health as authorized in article fourteen, chapter six-
65 teen of this code, provided that in the case of conflicting
66 provisions regarding requirements for health and sanita-
67 tion, the rule or regulation of the board of health shall
68 be deemed to apply. The board of health and the board
69 of barbers and beauticians shall for a reasonable fee
70 make available upon request to any licensee a copy of
71 such rules and regulations.

§30-27-2. Revocation of license for violation.

1 For violation of any regulation authorized by the terms
2 of this article or promulgated by the board of health, the
3 board of barbers and beauticians may cancel and revoke

4 the license issued such violator, and may refuse to renew
5 or reissue the same.

**§30-27-3. Qualifications of applicants; fees; examinations; li-
censure.**

1 An applicant for licensure as a barber, beautician or
2 manicurist shall present satisfactory evidence that he or
3 she is at least eighteen years of age, of good moral charac-
4 ter and temperate habits, has completed at least the
5 eighth grade of school, or the equivalent thereof, and
6 has been graduated from a school of barbering or beauty
7 culture approved by the state board of barbers and beau-
8 ticians, or in the case of a manicurist has successfully
9 completed an approved course in manicuring in such a
10 school, and shall transmit with his application an exami-
11 nation fee of twenty-five dollars. The examination shall
12 be of such character as to determine the qualifications
13 and fitness of the applicant to practice barbering, beauty
14 culture or manicuring as defined by this article, and shall
15 cover such subjects germane to the inquiry as the board
16 may deem proper. If an applicant for licensure as a barber
17 or beautician successfully passes such examination and
18 presents a certificate of health from a licensed physician
19 and is otherwise qualified as required by this section, the
20 board shall license the applicant as a duly qualified bar-
21 ber or beautician. Any applicant for license as a manicur-
22 ist may be licensed as a duly qualified manicurist after he
23 has passed the examination. The board shall charge
24 twenty-five dollars for the issuance of a license.

25 The state board of barbers and beauticians shall prom-
26 ulgate rules and regulations to establish a joint barber-
27 beautician license.

28 Any person who meets the requirements of this section
29 as to age, character and health, who is a graduate of a
30 recognized school of barbering or beauty culture in
31 another state, or has successfully completed an approved
32 course in manicuring in such a school, and who holds a
33 current license as a registered barber, beautician or mani-
34 curist in another state, may file with the board an appli-
35 cation for licensure without examination, together with
36 a fee of fifty dollars. If in the opinion of the board such

37 applicant has had a prescribed course of instruction in
 38 barbering, beauty culture or manicuring equivalent to
 39 that required in this state at the time such course was
 40 completed, or is otherwise properly qualified, the board
 41 may without examination issue to such applicant a license
 42 as a duly qualified barber, beautician or manicurist.

**§30-27-4. Renewal of license; fee; penalty for late renewal;
 withdrawal from active practice.**

1 Every licensed barber, beautician or manicurist who
 2 desires to continue in active practice or service shall,
 3 annually upon or before the first day of January, renew
 4 his license and pay an annual renewal fee of twenty-five
 5 dollars. For any renewal which is more than thirty
 6 days late, a penalty of five dollars shall be added to
 7 the regular renewal fee, and an additional five dollar
 8 penalty for each successive thirty-day period said re-
 9 newal fee is late. Every licensed barber, beautician or
 10 manicurist who does not desire to continue in active
 11 practice, shall notify the board in writing, and shall
 12 during such period, be listed by the board as being
 13 inactive, and shall not be required to renew his license
 14 until such time as he shall again become active, and
 15 during such inactive period he or she shall not be liable
 16 for any renewal fees.

§30-27-6. Display of license.

1 Every person practicing barbering, beauty culture or
 2 manicuring and every student shall display his license or
 3 renewal thereof in a conspicuous place in the shop where-
 4 in he practices or is employed and whenever required
 5 shall exhibit such license to the state board of barbers
 6 and beauticians or its authorized representative.

**§30-27-7. Shop to be managed by licensed barbers and beau-
 ticians; restrictions as to other businesses; signs;
 advertising of prices prohibited.**

1 Every barber or beauty shop in this state shall be
 2 operated under the supervision and management of a
 3 barber or beautician who is licensed as such in this state.
 4 No business or trade other than that of barbering shall

5 be conducted in a barbershop and no business or trade
6 other than beauty culture shall be conducted in a beauty
7 shop, except the display or sale, or both, of commodities
8 or other articles used in connection with barbering or
9 beauty culture, and no such barber or beauty shop shall
10 be operated in a store, dwelling house, or other building
11 or space used for any purpose other than barbering or
12 beauty culture unless such barber or beauty shop is
13 separated by stationary partitions extended from floor to
14 ceiling: *Provided*, That nothing in this article shall be
15 construed as prohibiting a barbershop from carrying on
16 the business of shoe shining or manicuring or both shoe
17 shining and manicuring. A suitable sign shall be dis-
18 played at the main entrance of all barber and beauty
19 shops, plainly indicating the business conducted therein:
20 *Provided, however*, That no sign shall be displayed out-
21 side any barber or beauty shop or inside the same, so as
22 to be clearly visibly from the outside and for the osten-
23 sible purpose of attracting trade, which in any way ad-
24 vertises the prices to be charged in such barber or beauty
25 shop for services to be therein performed.

§30-27-8. License to own or operate schools of barbering or beauty culture; application for license; qualifications; inspection; license fee; rules and regulations; suspension, etc., of license; qualifications and registration of instructors; registration fees; administrative procedures.

1 No person, firm or corporation, whether public or pri-
2 vate, and whether organized for profit or not, shall own
3 or operate a school of barbering or beauty culture in this
4 state without first obtaining a license so to do from the
5 board. The application for such license shall be made in
6 writing on forms prescribed and furnished by the board
7 and shall be signed and verified by the applicant. The
8 applicant shall, in addition to such other information as
9 may be reasonably required by the board, furnish evi-
10 dence that (a) the applicant is professionally competent
11 and financially responsible, (b) adequate physical facili-
12 ties will be available for the school, and (c) persons
13 teaching or instructing therein are licensed by the board

14 as fully qualified instructors. If an applicant desires to
15 own or operate more than one school of barbering or
16 beauty culture, a separate application shall be made and
17 a separate license shall be issued for each.

18 All applicants for a license to own or operate a school
19 of barbering or beauty culture shall permit an inspection
20 of such proposed school by the inspectors appointed pur-
21 suant to subsection (d), section one, article fourteen,
22 chapter sixteen of this code to determine whether it is
23 properly fitted and equipped for instruction in barbering
24 or beauty culture. The board of health shall promulgate
25 reasonable rules and regulations to implement and make
26 effective the powers, duties and responsibilities vested in
27 such board in connection with the licensing of schools
28 of barbering and beauty culture. If the applicant has met
29 all of the standards and qualifications prescribed herein
30 by the board of health and has complied with the rules
31 and regulations pertaining to the issuance of the license
32 applied for, the board shall issue such license to the
33 applicant. Thereafter, the board may suspend, revoke or
34 refuse to renew the license of a school whenever it fails
35 to meet the minimum standards and qualifications re-
36 quired for the issuance of an original license. The director
37 of health or his designees shall administer and enforce
38 such actions of the board.

39 The initial license fee for each school of barbering and
40 for each school of beauty culture shall be five hundred
41 dollars and the annual renewal fee shall be two hundred
42 fifty dollars, to be paid in such manner as the board may
43 prescribe, on or before January first of each year. The
44 license shall be permanently displayed in the school, and
45 a suitable sign shall be kept on the front of the school
46 which shall plainly indicate that a school of barbering or
47 beauty culture is operated therein.

48 The board of barbers and beauticians shall promulgate
49 reasonable rules and regulations prescribing the stan-
50 dards and requirements to be met by applicants
51 for licensure of duly qualified instructors in schools
52 of barbering or beauty culture. Such rules and regu-
53 lations may provide for the issuance of certificates

54 for instructors, including temporary certificates, and
55 shall prescribe minimum qualifications as to age, educa-
56 tion and training for applicants for such certificates. Min-
57 imum qualifications to become applicants as student
58 instructors shall include one year's experience as a
59 licensed full-time practicing barber or beautician and two
60 hundred fifty hours of advanced instruction beyond the
61 normal licensure requirements. Each licensed instructor
62 in barbering and beauty culture shall pay an initial
63 registration fee of fifty dollars, and shall renew his cer-
64 tificate annually and pay a renewal fee of fifty dollars
65 on or before the first day of January of each year. An
66 expired certificate may be reinstated only upon the pay-
67 ment of all lapsed renewal fees, unless such instructor
68 shall have notified the board that he or she desires to be
69 placed on an inactive status during which time he or she
70 shall not be liable for any renewal fees. The applicant for
71 reinstatement shall also be required to meet the qualifi-
72 cations for registration in effect at the time applica-
73 tion for reinstatement is made.

74 Recognizing that all of the provisions of chapter
75 twenty-nine-a of this code are fully applicable to any
76 and all administrative procedures, and the right of judi-
77 cial review, in connection with the provisions of this
78 article, but also recognizing that the question has been
79 raised as to whether rules and regulations adopted under
80 the provisions of this section must be promulgated in
81 accordance with the provisions of said chapter twenty-
82 nine-a, it is hereby expressly provided that all such rules
83 and regulations shall be promulgated in compliance with
84 the provisions of said chapter twenty-nine-a.

§30-27-9. Health certificate and photograph required.

1 No person shall practice barbering, beauty culture or
2 manicuring, or serve as a student in this state while
3 having an infectious, contagious or communicable disease.
4 No person shall be licensed as a barber, beautician, mani-
5 curist or student until he or she shall have obtained a
6 certificate of health from a licensed physician under
7 article three of this chapter certifying such person to be
8 free of all infectious, contagious and communicable dis-

9 eases. Such certificate shall be filed with the state board
10 of barbers and beauticians within ten days after the ex-
11 amination of the person is made by the physician and a
12 photograph of the applicant must accompany the appli-
13 cation with such certificate. The certificate shall be in
14 such form as the board may prescribe. The board shall be
15 empowered to compel any registered barber, beautician,
16 manicurist or student to submit to a physical examina-
17 tion and file a certificate of health at any reasonable time.

**§30-27-10. Requirements to operate shops and schools; sanitary
rules and regulations.**

1 It shall be unlawful for any person, firm or corporation
2 to own or operate a beauty shop or barbershop, or a
3 school of beauty culture or barbering, or to act as a
4 barber, beautician or manicurist, unless:

5 (a) Such beauty shop, barbershop, or school of beauty
6 culture or barbering shall before opening its place of
7 business to the public, have been approved by the board
8 as having met all the requirements and qualifications for
9 such places of business as are required by this article and
10 for this purpose. It shall be the duty of the owner or
11 operator of each such beauty shop, barbershop, or school
12 of beauty culture or barbering to notify the board, in
13 writing, at least ten days before the proposed opening
14 date of such shop or school, whereupon it shall become
15 the duty of the board, through the inspectors herein
16 provided for, to inspect such shop or school. Upon given
17 notice of the opening of any such shop or school, the
18 owner or operator thereof shall pay to the board an
19 inspection fee of twenty-five dollars. In the event the shop
20 or school fails to meet the requirements of this article,
21 and is not approved, the inspection fee shall be returned
22 to the person paying same. Any shop or school meeting
23 the prescribed requirements shall be granted a license
24 permitting it to do business as such. If, however, after the
25 lapse of ten days after the giving of such notice of open-
26 ing to the board, an inspection is not made or such cer-
27 tificate of opening has not been granted or refused, the
28 owner or operator of such shop or school may open
29 provisionally subject to later inspection and to all other

30 provisions, rules and regulations provided for in this
31 article;

32 (b) All such shops and schools, and bathrooms, toilets
33 and adjoining rooms used in connection therewith, are
34 kept clean, sanitary, well lighted and ventilated at all
35 times. The use of chunk alum, powder puffs and styptic
36 pencils in any such shop is prohibited;

37 (c) Each barber, beautician, manicurist, instructor and
38 student shall thoroughly cleanse his or her hands with
39 soap and water immediately before serving any patron;

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

45 The board of health shall prescribe such other rules
46 and regulations in regard to sanitation and cleanliness in
47 such shops and schools as it may deem proper and nec-
48 essary. The director of health or inspectors designated
49 pursuant to subsection (d) of section one of article four-
50 teen of chapter sixteen of the code shall have the power
51 to enforce compliance therewith. Such rules and regula-
52 tions shall be kept posted in a conspicuous place in each
53 shop or school.

**§30-27-11. Grounds for cancellation or refusal to issue or renew
license.**

1 The board may refuse to issue a license of registration
2 to any applicant, or may refuse to renew, or may suspend
3 or revoke the same for any holder thereof, for any of
4 the following causes: (1) Conviction of the commission
5 of a felony, as shown by a certified copy of the record
6 of the court of conviction; (2) obtaining or attempting
7 to obtain a license to practice barbering or beauty cul-
8 ture in this state by false pretenses, fraudulent mis-
9 representation, or bribery by the use of money or other
10 considerations; (3) gross incompetency; (4) the con-
11 tinued practice of barbering or beauty culture by a per-
12 son knowing himself or herself to be afflicted with a
13 contagious or infectious disease; (5) the use knowingly
14 of any false or deceptive statements in advertising; (6)

15 habitual drunkenness or habitual addiction to the use
16 of morphine, cocaine or other habit-forming drugs; (7)
17 conviction for the illegal sale of any intoxicating beverage,
18 as shown by a certified copy of the record of the court
19 of conviction; (8) violation of any of the rules and regu-
20 lations prescribed by the board of health; (9) violation
21 of any of the rules and regulations prescribed by the
22 board of barbers and beauticians.

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

James L. Davis
Chairman Senate Committee

Clarence C. Chestnut Jr
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Todd C. Willis
Clerk of the Senate

VA Blankenship
Clerk of the House of Delegates

W. T. Brotherton Jr
President of the Senate

Cliff M. Lee Jr
Speaker House of Delegates

The within is approved this the 23

day of March, 1980.

John D. Parkey
Governor



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