

Chapter No. 477  
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**SENATE BILL NO. 2632**

Originated in Senate *Rosendo Guzman* Secretary

SENATE BILL NO. 2632

AN ACT TO AMEND SECTIONS 73-5-3, 73-5-7, 73-5-8, 73-5-9, 73-5-23, 73-5-25, 73-5-27, 73-5-29, 73-5-33, 73-5-39 AND 73-5-43, MISSISSIPPI CODE OF 1972, RELATING TO THE BARBER PRACTICE ACT, TO PROVIDE FOR AN EXECUTIVE DIRECTOR OF THE BOARD OF BARBER EXAMINERS; TO PROVIDE FOR INSPECTORS; TO PROVIDE QUALIFICATIONS FOR REGISTRATION AS A BARBER INSTRUCTOR; TO PROVIDE QUALIFICATIONS FOR REGISTRATION AS A BARBER; TO PROVIDE REQUIREMENTS FOR DISPLAY OF BARBER LICENSES; TO PROVIDE GROUNDS FOR LICENSE DISCIPLINARY ACTION; TO PROVIDE HEARING PROCEDURES BEFORE THE BOARD; TO PRESCRIBE FEES; TO REVISE THE DEFINITION OF THE PRACTICE OF BARBERING; TO PRESCRIBE CRIMINAL PENALTIES FOR VIOLATIONS OF THE ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 73-5-3, Mississippi Code of 1972, is amended as follows:

73-5-3. The board shall elect a president and secretary and shall adopt and use a common seal for the authentication of its records and orders. The secretary shall keep a record of all proceedings and acts of the board and an accurate account of all funds received and disbursed, which shall be considered as public records.

The secretary shall execute and file with the Secretary of State a bond in the sum of Ten Thousand Dollars (\$10,000.00) conditioned according to law, the bond to be made in a surety company authorized to do business in this state and approved by the Governor. The premium for the bond shall be paid out of the funds in the board's special fund in the State Treasury.

A majority of the board shall constitute a quorum, and it is authorized to perform the requirements of this chapter at any regular or special meeting called for that purpose.

Each member of the board shall receive per diem in accordance with Section 25-3-69 when actually attending to the work of the board or any of its committees, and shall be reimbursed for traveling expenses in accordance with Section 25-3-41 in carrying out the provisions of this chapter. The board shall employ an executive director with compensation to be established by the State Personnel Board, and the executive director shall devote his or her full time to oversee all day-to-day operations of the board. The board may employ four (4) inspectors, one (1) to be appointed from each of the four (4) congressional districts \* \* \*, to make periodic inspections of all barbershops throughout the state and one (1) chief inspector to be appointed from the state at large to supervise inspections and investigations statewide. The board shall employ the necessary personnel to carry out the provisions of this chapter, and maintain and pay the expenses of an office to be located in the City of Jackson. All per diem, salaries and expenses shall be paid exclusively from the funds in the board's special fund, and salaries and expenses of personnel may be disbursed monthly.

The board shall require such of its employees as it may consider necessary to make bond and file same with the Secretary of State in such sums as it may consider necessary to protect the interests of the barbers of the State of Mississippi and require the faithful performance of their duties.

**SECTION 2.** Section 73-5-7, Mississippi Code of 1972, is amended as follows:

73-5-7. (1) The Board of Barber Examiners shall have authority to make reasonable rules and regulations for the administration of the provisions of this chapter. Provided, however, that any and all rules and regulations relating to sanitation shall, before adoption by the board, have the written approval of the State Board of Health. The Board of Barber Examiners shall adopt regulations for the guidance of registered

barbers in the operation of a shop and in the practice of barbering except, however, it shall be optional with the individual barber as to whether he or she uses a mug. Any member or designee of the Board of Barber Examiners shall have the authority to enter upon and inspect any barbershop or barber school at anytime during business hours. A copy of the rules and regulations of the State Board of Barber Examiners shall be furnished to the owner or manager of each shop and barber school affected by this chapter, and such copy shall be posted in a conspicuous place in such barbershop or barber school.

(2) The board shall have authority to establish rules and regulations governing schools of barbering in this state except those schools operated by a state institution of higher learning or by a public community or junior college. The board shall have further authority to establish curriculum for such regulated schools of barbering in this state.

Each regulated school of barbering shall submit the following to the board before enrolling students:

(a) The address of proposed school, and the type and size of building in which the school is to be located;

(b) The names and addresses of owners and officers of such school, and the names, addresses and instructor license number of managers, supervisors and instructors of such school;

(c) A list of equipment and teaching aids; and

(d) A copy of the contract to be used between the school and the student.

All regulated schools of barbering in the State of Mississippi shall be required to maintain a surety bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) to ensure that in the event a school ceases operation, that all unused tuition fees will be refunded to the students concerned. This bond shall remain in effect for the duration of the school's operation.

(3) The Board of Barber Examiners shall adopt rules and regulations establishing a procedure for the processing and investigation of complaints filed with the board. The board shall keep records of all complaints, and such records shall indicate the action taken on the complaints.

(4) The Board of Barber Examiners shall keep a record of its proceedings relating to the issuance, refusal, suspension and revocation of certificates of registration. The record shall also contain the name, place of business and the residence of each registered barber, and the date and number of his certificate of registration. The record shall be open to public inspection at all reasonable times.

**SECTION 3.** Section 73-5-8, Mississippi Code of 1972, is amended as follows:

73-5-8. Any person is qualified to receive a certificate of registration as a barber instructor who:

- (a) Is eighteen (18) years of age or older;
- (b) Is of good moral and temperate habits;
- (c) Is able to read, write and speak English;
- (d) Possesses a high school education or its equivalent;
- (e) Has successfully completed not less than fifteen hundred (1500) hours at a barbering school approved by the State Board of Barber Examiners and holds a valid certificate of registration to practice barbering;
- (f) Has (i) not less than two (2) years of active experience as a registered barber and has successfully completed not less than six hundred (600) hours of barber instructor training at a school approved by the board, or (ii) less than two (2) years of active experience as a registered barber and has successfully completed not less than one thousand (1,000) hours of barber instructor training at a school approved by the board; and

(g) Has passed a satisfactory examination conducted by the board to determine his fitness to practice as a barber instructor.

All persons who have received a certificate of registration as a barber instructor from the board before July 1, 2002, shall be considered to have met the requirements of this section, and all those certificates of registration shall be renewable as otherwise provided in this chapter.

The board will implement an active and inactive instructor license. In order to renew an active license, instructors holding an active license shall be required to submit proof of twelve (12) hours of continuing education each year to the Board of Barber Examiners. That education shall be acquired in classes or trade shows teaching materials that are approved by the board. Instructors holding an inactive license shall be required to submit proof of twelve (12) hours continuing education before upgrading to an active status.

**SECTION 4.** Section 73-5-9, Mississippi Code of 1972, is amended as follows:

73-5-9. (1) No person shall practice or attempt to practice barbering in the State of Mississippi without a certificate of registration as a registered barber issued pursuant to the provisions of this chapter.

(2) No person shall be a barber instructor in the State of Mississippi without a certificate of registration as a barber instructor issued pursuant to the provisions of this chapter.

(3) Any person or persons who violates any provision of this chapter shall be guilty of a misdemeanor, punishable upon conviction in a court of competent jurisdiction as follows:

(a) For the first offense, by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00);

(b) For the second offense, by a fine of not less than Five Hundred One Dollars (\$501.00) nor more than One Thousand Dollars (\$1,000.00);

(c) For the third and any later offense, by imprisonment for not less than five (5) days nor more than six (6) months in the county jail.

**SECTION 5.** Section 73-5-23, Mississippi Code of 1972, is amended as follows:

73-5-23. (1) Every holder of a certificate of registration as a registered barber shall display it in a conspicuous place adjacent to or near his or her work chair, and in plain view of the patrons of the shop in which he or she is engaged at work.

(2) It shall be the responsibility of all owners, managers, or persons in charge of a barbershop at the time of an inspection to ensure that all licenses are displayed at all times.

(3) Any owner or barber found in violation of this section shall be fined not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00).

**SECTION 6.** Section 73-5-25, Mississippi Code of 1972, is amended as follows:

73-5-25. (1) The Board of Barber Examiners may refuse to issue, or may suspend definitely or indefinitely, or revoke any certificate of registration or license for any one (1) or a combination of the following causes:

(a) Conviction of a felony shown by a certified copy of the judgment of court in which such conviction is had, unless upon a full and unconditional pardon of such convict, and upon satisfactory showing that such convict will in the future conduct himself in a law-abiding way.

(b) Gross malpractice or gross incompetency.

(c) Continued practice by a person knowingly having an infectious or contagious disease.

(d) Advertising, practicing or attempting to practice under a trade name or name other than one's own.

(e) Habitual drunkenness or habitual addiction to the use of morphine, cocaine or habit-forming drug, or any other illegal controlled substances.

(f) Immoral or unprofessional conduct.

(g) Violation of regulations that may be prescribed as provided for in Sections 73-5-7 through 73-5-43.

(2) In addition to the causes specified in subsection (1) of this section, the board shall be authorized to suspend the certificate of registration of any person for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a certificate for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a certificate suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a certificate suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

**SECTION 7.** Section 73-5-27, Mississippi Code of 1972, is amended as follows:

73-5-27. The Board of Barber Examiners may neither refuse to suspend or revoke, nor revoke or suspend any certificate of registration as a registered barber or barber instructor, for any of the causes enumerated in this chapter, unless the holder of such certificate has been given at least twenty (20) days' notice, in writing by registered mail, signed by the President and Secretary of the Board of Barber Examiners, setting forth the charges against such holder of such certificate and naming the time and place for a hearing upon the charge or charges, and a public hearing thereof by the Board of Barber Examiners. The

person shall return a written response within ten (10) business days acknowledging receipt of the letter and confirmation of attendance at the board hearing no later than the close of business of the tenth day.

Upon the hearing of any such charge or charges the board may issue all subpoenas for all necessary witnesses for and against the accused, and require their attendance upon such hearing, may administer oaths, and may procure by process the production of all necessary books and papers, bearing or touching upon such charges against the accused.

**SECTION 8.** Section 73-5-29, Mississippi Code of 1972, is amended as follows:

73-5-29. The fee for taking an examination as a registered barber shall be in the sum of not more than Fifty-five Dollars (\$55.00), and the further sum of not more than Forty-five Dollars (\$45.00) shall be required for the issuance of a certificate for the registered barber. The fee for taking an examination as a registered barber instructor shall be in the sum of not more than Fifty-five Dollars (\$55.00), and the further sum of not more than Fifty Dollars (\$50.00) shall be required for the issuance of a certificate of registration for the registered barber instructor. A fee of not more than One Hundred Fifty Dollars (\$150.00) shall be required for the issuance of a certificate of registration to a practicing barber of another state as authorized by Section 73-5-21. Likewise, an annual renewal fee payable on the anniversary date of the issuance of each certificate of registration as a registered barber of not more than Forty-five Dollars (\$45.00) shall be charged for the issuance of the renewal of the certificate; an annual renewal fee payable on the anniversary date of the issuance of each certificate of registration as a registered barber instructor of not more than Fifty Dollars (\$50.00) shall be charged for the issuance of the renewal of the certificate; however, the renewal fee for a

registered barber and barber instructor who is sixty-five (65) years of age or older shall be not more than Thirty Dollars (\$30.00). No renewal fee shall be charged for registered barbers and barber instructors who are at least seventy-two (72) years of age. A fee of Ten Dollars (\$10.00) for each year or any portion thereof in addition to payment of all unpaid renewal fees in arrears and the regular renewal fee shall be required for the restoration of expired certificates of registration issued pursuant to this chapter. Additionally, in order to restore any certificate of registration issued under this chapter that has been expired for a period of five (5) years or longer, the holder thereof must retake and pass the appropriate examination. A penalty of Ten Dollars (\$10.00) in addition to payment of all unpaid renewal fees in arrears and the regular renewal fee shall be required for the restoration of certificates that have expired for a period of thirty (30) to sixty (60) days. A penalty of Twenty-five Dollars (\$25.00) in addition to payment of all unpaid renewal fees in arrears and the regular renewal fee shall be required for the restoration of certificates that have been expired for a period greater than sixty (60) days.

The board may adopt and spread upon its minutes the rules and regulations for the issuance of a duplicate certificate for which a fee of not more than Ten Dollars (\$10.00) may be charged. However, each duplicate certificate issued shall have stamped across its face the word "duplicate" and shall bear the number of the original certificate in lieu of which it is issued.

**SECTION 9.** Section 73-5-33, Mississippi Code of 1972, is amended as follows:

73-5-33. (1) The board shall issue a license for each barbershop in operation in the State of Mississippi, and the board shall prescribe the rules and regulations and circulate the information necessary to obtain a license for the barbershop. A fee of not more than Fifteen Dollars (\$15.00) for each chair

manned by a registered barber located in the shop shall be required for the issuance of the license, and the same fee shall be required for a renewal of the license to the shop, the renewal due on the anniversary date of each year. A fee of not more than Twenty-five Dollars (\$25.00) in addition to the regular renewal fee shall be required for restoration of any license that has expired for more than thirty (30) days. Any barbershop license having passed the second year anniversary date, in delinquency, shall be required to have a new shop inspection and shall hereafter pay an initial fee of not more than Forty-five Dollars (\$45.00) in addition to all other fees required for restoration.

(2) All barbershop owners shall be responsible for employing only licensed barbers in the shop. Any barbershop owner found by the Board of Barber Examiners to employ an unlicensed barber or barbers shall be fined Five Hundred Dollars (\$500.00) payable into the State General Fund, and shall be subject to closure until those violations are corrected. For any later violation, the fine shall be One Thousand Dollars (\$1,000.00). Any barbershop operating within the State of Mississippi without a license after July 1, 1968, shall be subjected to closing by a proper order of a court of competent jurisdiction upon a proper showing that it has failed to comply with the terms of this chapter.

(3) The board may assess against any barbershop owner found to employ an unlicensed barber or barbers any of the following costs that are expended by the board in the conduct of a proceeding for violation of subsection (2): court filing fees, court costs and the cost of serving process. Any monies collected by the board under this subsection (3) shall be deposited into the special fund operating account of the board.

(4) All new barbershops or change of ownership or location of barbershops shall hereafter pay an initial fee of not more than Twenty-five Dollars (\$25.00) in addition to all other fees

required before beginning business. The fee shall not be transferable upon change of ownership or location.

(5) All licensees shall notify the State Board of Barber Examiners of the location of the barbershop at which they are employed.

**SECTION 10.** Section 73-5-39, Mississippi Code of 1972, is amended as follows:

73-5-39. Any one or any combination of the following practices (when done upon the upper part of the human body for cosmetic purposes and not for the treatment of diseases, or physical or mental ailment, and when done for payment either directly or indirectly, or without payment, for the public generally) constitutes the practice of barbering:

Shaving, trimming the beard or cutting the hair by use of any electric instruments, razors or shears;

Giving facial or scalp massages or treatments with oils, creams, lotions or other preparations, either by hand or mechanical devices;

Singeing, shampooing, coloring or dyeing of the hair or beard, or any chemical services as pertains to hair perms, hair color or straightening;

Applying cosmetic preparations, antiseptics, powders, clays or lotions to scalp, face, neck or upper part of the body.

**SECTION 11.** Section 73-5-43, Mississippi Code of 1972, is amended as follows:

73-5-43. Each of the following constitutes a misdemeanor, punishable in any court of competent jurisdiction, upon conviction thereof, by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Thousand Dollars (\$1,000.00):

The violation of any of the provisions of Sections 73-5-9, 73-5-33 and 73-5-23; or

Any acts or threats of violence against any members or employees of the board; or

Obtaining or attempting to obtain a certificate of registration for money other than the required fee, or any other thing of value, or by fraudulent misrepresentation; or

Practicing or attempting to practice by fraudulent misrepresentations; or

The willful failure to display a certificate of registration as required by Section 73-5-23; or

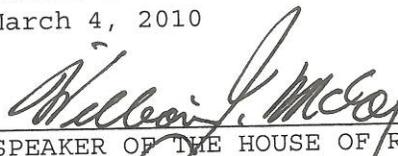
The use of any room or place for barbering which is also used for residential or business purpose (except for the sale of hair tonics, lotions, creams, cutlery, toilet articles, cigars, tobacco and such commodities as are used or sold in a barbershop) unless a substantial partition of ceiling height separates the portion used for the residence or business purpose from that in which such practice of barbering is carried on.

**SECTION 12.** This act shall take effect and be in force from and after July 1, 2010.

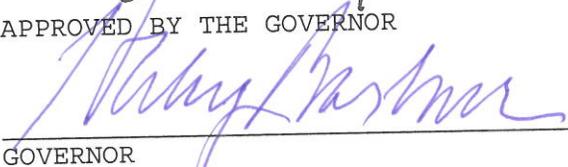
PASSED BY THE SENATE  
February 11, 2010

  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 4, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
GOVERNOR

4/1/10

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