



SPONSOR: Rep. J. Johnson & Sen. Henry
Reps. Baumbach, Q. Johnson, Kowalko, Lynn, Osienski,
B. Short; Sens. Ennis, Simpson

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 97

AN ACT TO AMEND CHAPTER 51 OF TITLE 24 OF THE DELAWARE CODE RELATING TO COSMETOLOGY
AND BARBERING

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Section 5107, Title 24 of the Delaware Code by making deletions as shown by strike through
2 and insertions as shown by underline as follows and redesignating accordingly:

3 § 5107. Qualifications of applicant; judicial review; report to Attorney General.

4 (a) All persons applying for a license to practice under this chapter:

5 (6) Shall not have been convicted of a crime substantially related to the practice of cosmetology, barbering,
6 electrology or nail technology, unless the applicant was previously so licensed or was enrolled in a training program to
7 be so licensed while an offender under the supervision of the Department of Correction prior to July 10, 2001; In
8 determining whether a crime is substantially related to the professions regulated by this chapter, the Board shall not
9 consider a conviction where more than 10 years have elapsed since the date of conviction, if there have been no other
10 criminal convictions in the intervening time. ~~however, a~~ After a hearing or review of documentation demonstrating that
11 the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum,
12 or, during the time period between Board meetings, the Board President or his or her designee, may waive this
13 paragraph (a)(6), if it finds all of the following:

14 a. For waiver of a felony conviction where the crime was committed against a person, more than 5 3
15 years have elapsed since the date of the conviction and for all other felonies, more than 2 years have elapsed since
16 the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on
17 probation, ~~on~~ or parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be
18 in substantial compliance with all court orders pertaining to fines, restitution and community service.

19 b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may
20 not be incarcerated, on work release, on probation, ~~on~~ or parole at Level III Supervision or higher, or serving any
21 part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines,
22 restitution and community service.

23 c. The applicant is capable of practicing cosmetology, barbering, electrology or nail technology in a
24 competent and professional manner.

25 d. The granting of the waiver will not endanger the public health, safety or welfare.

26 (7) Shall not have a pending criminal charge relating to an offense the circumstances of which substantially
27 relate to the practice of cosmetology, barbering, electrology or nail technology. Applicants who have criminal
28 conviction records or pending criminal charges shall require appropriate authorities to provide information about the
29 record or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the
30 applicant can carry out that applicant's own professional services with due regard for the health and safety of the
31 recipients of those services and the public.

32 (8) Shall not have any disciplinary proceedings or unresolved complaints pending against that person in any
33 jurisdiction where the applicant previously has been, or currently is, licensed to practice cosmetology, barbering,
34 electrology or nail technology.

35 (b) As set forth in board rules and regulations, foreign-trained applicants shall provide evidence satisfactory to the
36 Board of training equivalent to that required in paragraph (a)(3) of this section, in addition to meeting all other requirements
37 of this section.

38 (c) When a person who feels the Board has refused or rejected an application without justification; has imposed
39 higher or different conditions for the person than for other applicants or persons now licensed; or has in some other manner
40 contributed to or caused the failure of such person's application, the applicant may appeal to Superior Court.

41 (d) Where the Board has found to its satisfaction that an application has been intentionally fraudulent, or that false
42 information has been intentionally supplied, it shall report its findings to the Attorney General for further action.

43 Section 2. Amend Chapter 51 of Title 24 of the Delaware Code by adding new section 5107A, after section 5107,
44 as shown by underline as follows:

45 §5107A. Barbering training program operated by the Delaware Department of Correction

46 (a) The Delaware Department of Correction may operate a barbering training program within a Delaware
47 correctional institution subject to the following requirements:

48 (1) The training program shall consist of 600 classroom hours of concentrated coursework in barbering, taught
49 by a licensed barber instructor, to be followed by 1,500 hours in an apprenticeship to a licensed barber. The 1,500-
50 hour apprenticeship shall comply with the requirements set forth in Board Regulations.

51 (2) The written and practical examinations required for licensure may be administered at the correctional
52 institution under the supervision of the Department of Correction.

(3) The Department of Correction shall establish the requirements for admission to and continued participation in the barbering training program.

(4) A barbershop located within a correctional institution shall obtain a Board-issued permit prior to commencing operation.

(b) Limited barber licenses:

(1) A limited barber license is only valid within a Delaware Department of Correction barbering program. A person holding a limited barber license may practice only in a Board approved, prison operated barbershop.

(2) Former barbering licensees: A person who previously held a Delaware barber license may be issued a limited barber license if the license was last active no more than four years prior to issuance of the limited barber license.

(3) Apprentices: A person may be issued a limited barber apprentice license after successful completion of the 600 classroom hours of concentrated course work. A person holding a limited barber apprentice license shall be supervised by a licensed barber.

(c) Conversion of a limited barber license: Upon release from prison, and contingent upon successful completion of the barbering training program, and successful completion of the written and practical examinations, a person holding a limited barber license may apply for a barber license, subject to the requirements set forth in section 5107.

Section 3. Amend Section 5127, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5127. Qualifications.

(a) No person shall be licensed under this subchapter unless the person has:

~~(6) Shall not have a criminal conviction record nor pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of aesthetics. Applicants who have criminal conviction records or pending criminal charges shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to actions as a licensed aesthetician. However, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(6), if it finds all of the following:~~

(6) Shall not have been convicted of a crime substantially related to the practice of aesthetics. In determining whether a crime is substantially related to the practice of aesthetics, the Board shall not consider a conviction where more than 10 years have elapsed since the date of conviction, if there have been no other criminal convictions in the

83 intervening time. After a hearing or review of documentation demonstrating that the applicant meets the specified
84 criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, or, during the time period between
85 Board meetings, the Board President or his or her designee, may waive this paragraph (a)(6), if it finds all of the
86 following:

87 a. For waiver of a felony conviction where the crime was committed against a person, more than ~~5~~ 3
88 years have elapsed since the date of the conviction and for all other felonies, more than 2 years have elapsed since
89 the date of conviction. At the time of the application the applicant may not be incarcerated, on work release, on
90 probation,~~on~~ or parole at Level III Supervision or higher, or serving any part of a suspended sentence and must be
91 in substantial compliance with all court orders pertaining to fines, restitution and community service.

92 b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may
93 not be incarcerated, on work release, on probation,~~on~~ or parole at Level III Supervision or higher, or serving any
94 part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines,
95 restitution and community service.

96 c. The applicant is capable of performing as a licensed aesthetician in a competent and professional
97 manner.

98 d. The granting of the waiver will not endanger the public health, safety or welfare.

99 Section 4. This Bill shall take effect 90 days after enactment.

SYNOPSIS

This Bill modifies the impact of criminal history on an applicant's eligibility for licensure. It gives the Board discretion to grant waivers for a felony convictions for crimes committed against a person where more than 3 years have elapsed, and more than 2 years have elapsed for other felonies. The Board is precluded from considering a conviction where more than 10 years have elapsed since date of conviction.

The Bill authorizes the Delaware Department of Correction to establish prison barbering training programs. These programs will provide a means for inmates to satisfy licensure requirements while incarcerated and help with employment opportunities upon release.