

MINUTES

SENATE COMMERCE & HUMAN RESOURCES COMMITTEE

DATE: Wednesday, March 22, 2017

TIME: 8:00 A.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Patrick, Vice Chairman Guthrie, Senators Martin, Lakey, Thayn, Souza, Anthon, Ward-Engelking, and Burgoyne

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Patrick** called the meeting of the Senate Commerce and Human Resources Committee (Committee) to order at 8:00 a.m.

MINUTES APPROVAL: **Senator Souza** moved to approve the Minutes of March 21, 2017. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 139 **Relating to Barbers and Cosmetologists.** **Senator Den Hartog** said this bill combines the Idaho Barber Law and the Idaho Cosmetology Law and combines the Board of Barber Examiners and the Idaho Board of Cosmetology into a single board, called the Barber and Cosmetology Services Licensing Board (BCSLB) to regulate the barbering, barber-styling, cosmetology, and electrology professions. **Senator Den Hartog** stated this legislation allows for the transfer of education between professions and will facilitate efficiencies in licensing and oversight. The bill decreases barriers to employment and provides for business opportunities by exempting from licensure individuals who engage only in event styling and exempting from licensure businesses that only provide demonstrations of thermal styling products.

Senator Den Hartog stated there is no impact to the General Fund. It is anticipated that this legislation will reduce Idaho Bureau of Occupational License's (IBOL's) dedicated fund expenditures. Combining boards will result in fewer total board meetings, fewer board members, and therefore lower expenses. Moreover, it is expected that this bill will allow barber license fees to be lowered.

Senator Den Hartog said this bill will modernize the law. The bill is not endorsed by the Board of Cosmetology. She went over the changes in the proposed bill. **Senator Den Hartog** explained the bill would also provide for licensure applications, examinations, qualifications for licensure and for instructors, apprentices and students. The bill would provide for licensure of retail cosmetics dealers, and a makeover or glamour photography business. The bill also provides requirements for certain schools, endorsement licensure, scope of practice for an apprentice, inspection of establishments, and certain disinfection. Provisions would be established regarding issuance and display of licenses, license renewal and reinstatement, provisions regarding fees, discipline of licensees, and establish provisions regarding barber poles. Provisions would be established regarding prior boards and licensees, to prohibit certain acts, and to provide severability. Total required hours to become a cosmetologist will be reduced from 2,000 hours to 1,600 hours.

Senator Den Hartog said that a license should be retroactively reinstated and that

Idaho should grant reciprocity with other states. She said the BCSLB may recover the actual costs and fees, including attorney's fees, incurred by the BCSLB in the investigation and prosecution of a licensee upon the finding of a violation of this chapter or a rule adopted or an order issued by the BCSLB. This area needs to be readdressed next year.

Representative Clow said last summer he became aware that Master Educators Beauty School failed to pay their license renewal fees. They immediately paid the renewal when the lapse was discovered during an accreditation review. However, the payment was not retroactive and caused a problem with accreditation. He said he tried to work with the Board of Cosmetology, but no one was willing to change their position as the law was explicit. He referred to page 16 of the bill, and said that license renewal and reinstatement shall be in accordance with Idaho Code § 67-2614, provided however, that if a licensee pays the renewal fee within 90 days of the failure to renew, and there is no other cause for the cancellation of a license that would otherwise be in good standing, the BCSLB's reinstatement action may be retroactive to the date of expiration, but the licensee may still be obliged to pay other costs or penalties provided by law or rule. This rule will provide some flexibility.

Representative Wintrow remarked that there was a business that wanted to open in the mall and sell curling irons, but that customers were not allowed to try the curling irons before purchase. She said she went to the Board of Cosmetology to ask for an exemption on curling irons. The exemption was not granted due to the current law. The business owner has insurance for all businesses in the kiosks and was willing to work with the Board of Cosmetology. She said that Wyoming and Utah both have exemptions.

TESTIMONY:

Kris Ellis, representing the NW College Federation, testified in support of the bill. **Ms. Ellis** said that Idaho has the highest number of hours required to complete cosmetology school. She stated the national average is approximately 1,500 hours and could be dropping as several states with already lower hours have pending legislation to lower the hours further. Only a couple of states do not include hair, skin, and nails in their scope of practice and some even include barbering.

Ms. Ellis remarked that cosmetology in Idaho was first regulated in 1929 and the 2,000 hours required to be a cosmetologist has been in effect since that time. She stated that to refuse to recognize how technology has changed education, and continue to have students with up to \$5,000 more in student debt than is necessary, is not prudent. **Chairman Patrick** asked if students would save money if the amount of required hours was reduced. **Ms. Ellis** said students would save between \$3,500 and \$5,000.

Senator Burgoyne asked how many hours would be required for an apprenticeship. **Ms. Ellis** said an apprenticeship was used infrequently. She commented that after 5 percent of theory training, a student can work on the floor.

Linda Mottishaw, licensed cosmetology instructor for 40 years, said she owns a school, and testified in opposition to the bill. She said bacterial infections and other diseases can all be transmitted in salons. Those practicing event styling need a license. Sanitation has to be done for public safety. If exemptions to licensure are allowed, the BCSLB would be exempt from making decisions on what is going on in establishments. **Chairman Patrick** asked if Ms. Mottishaw had witnessed many disease problems in Idaho. **Ms. Mottishaw**, said yes, especially lately. Clean combs and brushes are necessary. This proposed law still requires 4,000 hours for an apprenticeship. A reduction in hours does not necessarily reduce the amount of tuition.

Senator Burgoyne asked if Ms. Mottishaw's concern related to the number of hours and the lack of a license to practice. **Ms. Mottishaw** replied yes. **Senator Burgoyne** asked if the BCSLB would require inspection of off-site venues. **Ms. Mottishaw** said there would be no oversight. The public has no one to intervene if they have been adversely affected. The State does not know who is operating without a license.

Morgan Rodcliffe, cosmetologist, testified in support of the bill. She said she has been doing makeup for 12 years and is currently paying off \$20,000 in student loans. She said she did event styling, but according to the current law, she cannot be paid. **Senator Anthon** asked what the violation would be by doing event styling. **Ms. Rodcliffe** said by doing freelance makeup she would be breaking the law and the fine is \$1,000.

Ryan Evans, representing himself, testified in opposition to the bill. There are 25 licensed schools in Idaho and he called all but three. Currently, out of 25 schools, two were unable to support the bill one way or the other. Eighteen schools oppose this bill. Eighty-one percent of school owners are in opposition.

Senator Martin asked about the new requirement of 1,600 hours and asked Mr. Evans to explain in more detail. **Mr. Evans** said the reduction in hours will force tuition to increase at his school. He explained that students get hands-on experience. If the hours are reduced, a student would have less time to work on the public. **Senator Martin** asked if by the reduction in hours, would the school have a new group of students come in faster to offset costs. **Mr. Evans** explained that now most students finish in 12 months. With the reduction in hours, students would attend for nine months, which leaves a three-month gap.

Senator Burgoyne asked if Mr. Evans would suffer a financial loss. **Mr. Evans** stated he would be forced to adapt and that financially he would come up with something. **Senator Burgoyne** asked if he had his hair cut out-of-state, would Senator Burgoyne be unsafe. **Mr. Evans** said no, but his concern was still quality of education. He said he was there for his students.

Senator Souza asked Mr. Evans if this law passes, would it stop him from continuing to run his program in the same way and would his students be able to take a longer course. **Mr. Evans** said the law is detrimental to his business. If someone can finish school in 9 months instead of 12 months, the tuition will increase. He said he is affiliated with schools in Utah who currently require 2,000 hours as opposed to 1,600 hours.

Senator Ward-Engelking remarked that all opportunities are being examined, including online classes, which would then allow more time for hands-on hours. She asked if that was a possibility. **Mr. Evans** said he is an owner and an instructor who works 50 hours a week. Hands-on education is conducted every day. Students do not learn hands-on techniques by watching movies, although they could pick up a few things. He has seen students who need more hands-on experience, while some are naturally talented. The additional 400 hours builds confidence. In 85 percent of salons, cosmetologists rent a stall and compete with the person next to them.

Micalah Howard, independent makeup artist, testified in support of the bill. She said she wants to work legally. This bill affects the wedding industry. Freelance will never stop due to the movie, production, and photography businesses. **Ms. Howard** mentioned that the top makeup schools in the country only give a certificate. She stated she chose to be a makeup artist because it is her passion. She chose to freelance because she is a single mom. Because of freelance she

can pick her daughter up from school everyday and take her to her functions. She has never once had an issue with sanitation in her 14 years of practicing makeup.

Vicki Ellis, college owner, testified in opposition to this bill. She the bill directly affects her business, students, and their work. She said she learned how event stylists have been working illegally for years. She knows what it is like to get a license and the license means something. If this bill passes, then students are disenfranchised. There are too many bad things in the bill.

Senator Anthon asked about health and safety. **Ms. Ellis** explained she went to a testing facility and they did not talk about skills and all they cared about was sanitation. Disease can be passed to others. A facility can be shut down if lice are discovered on a client.

Nadia Saakyan, representing herself, testified in support of the bill. She said the current law makes it illegal for a licensed and non-licensed professional to provide hair and makeup services outside of a retail facility and be compensated for their time, product, and travel. There is a growing need for freelance artists. Consumers and clients should have the right to choose who they want to contract for their events. **Ms. Saakyan** said that many of those who have testified have mentioned their background and training. She said she did not believe that it is fair to compare cosmetology schools' education to makeup training and education.

Senator Burgoyne said he heard a suggestion from one of the opponents of the bill that event stylists are not trained or schooled. **Ms. Saakyan** said that she takes sanitation classes every three months and works for an employer who trains their employees.

Ronda Clark, school owner and cosmetologist for 30 years, testified in opposition to the bill. She said she has many students who come through her school. Proper sanitation methods are taught. The way this bill is written, freelance artists do not have to have any kind of license or training. Event styling means applying facial cosmetic products to customers, arranging customer's hair, or using thermal styling equipment on customer's hair in preparation for events including, but not limited to, weddings, dances, parties, and recitals. An "event" could be going out to lunch and the freelance person is exempt with no specified training.

Senator Den Hartog said that without government sanction, event stylists have become educated, perfected their craft, and have a successful business. She asked the Committee to send this bill to the floor with a do pass recommendation.

Senator Martin said he had several unresolved issues and called upon Kris Ellis. He asked for an explanation of a licensed person versus an event stylist. He remarked he heard in prior testimony that an event stylist can go to an event, but they are not licensed; does an event stylist have to be licensed. **Ms. Ellis** explained the bill would allow for both licensed and unlicensed event stylists. Many states do not regulate makeup artists at all.

MOTION:

Senator Souza moved to send **H 139** to the floor of the Senate with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

SUBSTITUTE MOTION:

Senator Anthon moved to hold **H 139** in Committee. **Vice Chairman Guthrie** seconded the motion.

Senator Anthon said it appears there is a policy problem. He said he liked 70 percent of the bill, but it is so late in the legislative session, there is not enough time for this bill. The Board of Cosmetology needs to be more flexible. The vast majority of schools in Idaho are opposed and the bill needs more work.

Senator Souza said she and her husband own a special events business and that government is getting out-of-hand. She commented that people should be able to do their jobs and win or fail on their own reputations.

Senator Ward-Engelking said that there are many weddings and events in this State for which people are hired. There are problems in the bill, but the bill could be fixed next year. She said she supported the original motion.

Senator Burgoyne remarked he supported the original motion. He commented this legislation needs more work next year. He said he did not know how the Board of Cosmetology believed freelance stylists could be excluded. He said regulation is not very good, especially since he has visited several salons and they are not clean. Event styling will be done for film and theatrical events, regardless of the law.

Vice Chairman Guthrie remarked this was a tough vote, but it was the right thing to do to hear the bill. Much work needs to be done to make changes. If another week was left, the bill could go to the amending order. He said he liked the substitute motion. He remarked that if the regulatory board came down with a heavy hand, he would be upset.

Chairman Patrick called for a voice vote on the substitute motion. The motion failed by **voice vote**.

Chairman Patrick called for a voice vote on the original motion. The motion carried by **voice vote**. **Senator Anthon** and **Vice Chairman Guthrie** requested to be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Patrick** adjourned the meeting at 9:03 a.m.

Senator Patrick
Chair

Linda Kambeitz
Secretary