

Niche-Beauty Services Opportunity Act

Model Legislation

May 1, 2021

Be It Enacted by the Legislature of the State of _____:

100:1 Definitions: (a) As used in this act:

1. “Blow-dry styling” means the practice of shampooing, conditioning, drying, arranging, curling, straightening or styling hair using only mechanical devices, hair sprays and topical agents, such as balms, oils and serums. It includes the use and styling of hair extensions, hair pieces and wigs. It excludes cutting hair or the application of dyes, bleach, reactive chemicals, keratin treatments or other preparations to color or alter the structure of hair. It is distinct from the practice of cosmetology.
2. “Eyelash extension application” means the application, removal, and trimming of threadlike natural or synthetic fibers to an eyelash. It includes the cleaning of lashes. Eyelash extensions excludes color agents, straightening agents, permanent wave solutions, bleaching agents, or any other cosmetology service. It is distinct from the practices of cosmetology and esthetics.
3. “Makeup application” means the application of a cosmetic to enhance the appearance of the face or skin, including powder, foundation, rouge, eyeshadow, eyeliner, mascara, and lipstick. It includes the application of makeup applied using an airbrush. It excludes the application of permanent makeup or tattooing. It is distinct from the practices of cosmetology and esthetics.
4. “Mechanical devices” means brushes, clips, combs, curlers, curling irons, flat irons, hairpins, rollers, blunt-tipped needles, thread, tweezers and hair binders.
5. “Natural hair braiding” means the service of twisting, wrapping, weaving, extending, locking or braiding hair by hand or with mechanical devices, including the use of natural or synthetic hair extensions, natural or synthetic hair and fibers, decorative beads, and other hair accessories, the minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair, or the making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions. It includes the use of topical agents such as conditioners, gels, moisturizers, oils, pomades, and shampoos. It excludes the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair or the use of chemical hair joining agents such as synthetic tape, keratin bonds, or fusion bonds. It is distinct from the practice of cosmetology.

6. “Threading” means a method of removing hair from the eyebrows, upper lip, or other body parts by using a cotton thread to pull hair from follicles. It includes the use of over-the-counter astringents, gels, powders, tweezers and scissors incidental to threading. It is distinct from the practice of cosmetology and esthetics.

100:2 Exemptions. (a) A person who provides any of the following services is exempt from this [cosmetology/barbering licensing] chapter:

1. demonstrations of the use of cosmetic, beauty aid or equipment for the purpose of offering for sale to the public such cosmetic, beauty aid or equipment;
2. cosmetology services for theatrical, television, film, fashion, photography, media productions or media appearances;
3. blow-dry styling;
4. eyelash extension application;
5. makeup application;
6. natural hair braiding; and
7. threading.

(b) The facility where a person provides one or more of the services in (a) and no other services requiring licensure by [state’s cosmetology licensing laws] is exempt from the requirement for a cosmetology salon license.

100:3 Business license and taxes. Nothing in this chapter shall be construed to exempt providers of services exempted by section 100:02 from the requirements of (1) a general business registration including a commercial activity license or similar general business license; and (2) any law relating to the payment of taxes.

100:4 Consumer protection. (a) The salon owner is responsible for:

1. ensuring the education, training, skills, and competence of persons who work in the owner's salon; and
2. protecting the health and safety of customers and persons who work in the owner’s salon. This includes the salon’s sanitation and all equipment used in it.

(b) In an action based on an injury alleged to have occurred in a salon, a person may recover from the salon owner damages and other relief as determined by a court.

(c) Nothing in this chapter shall be construed to prohibit private certification of any provider or an employer from requiring private certification.

100:5 Protection of reputation. (a) It shall be unlawful for any person to use an unfair or deceptive act or practice in the provision of any service authorized under this chapter.

(b) Such an unfair or deceptive act or practice includes the making, publishing, disseminating, circulating, aiding or abetting any oral or written statement that is false, disparaging and intended to injure the reputation of a person licensed under this State's cosmetology practice act.

(c) A violation shall be subject to disciplinary action under section xxx of this State's unlawful and deceptive trade practices act.