

Regulate Salons—Free People

Model Salon Inspection Act

August 19, 2020

BE IT ENACTED BY THE LEGISLATURE OF THIS STATE:

Section 1. LICENSING BARBERSHOPS AND COSMETOLOGY SALONS.

Subdivision 1. **Definitions.** The terms defined in this section apply to the chapter.

Subd. 2. “**Agency responsible for inspections**” means the government agency responsible for licensing and inspecting barber and cosmetology salons.¹ In this State, the agency responsible for inspections is _____.

Subd. 3. “**Barbering**” means any one or any combination of the following practices when done upon the head, face, and neck for cosmetic purposes and not for the treatment of disease or physical or mental ailments, and when done for compensation: to shave the face or neck, trim the beard, cut, color, or singe the hair of any person or to give facials with oils, creams, lotions, or other preparations either by hand or mechanical appliances; or to apply cosmetic preparations, antiseptics, oils, clays, or lotions to the face or neck. “Barbering” does not include hair braiding, hairstyling or threading.

Subd. 4. “**Cosmetology**” means providing personal cosmetic care of the hair, nails and skin for compensation. Cosmetology services include cutting, coloring, and chemically treating the hair or enhancing the body surface of the head, scalp, face, arms, hands, legs, feet, and trunk of the body for compensation. “Cosmetology” does not include hair braiding, hairstyling or threading.

Subd. 5. “**Hair braiding**” means the practice of braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and hair extensions into a variety of shapes, patterns, and textures by hand and simple braiding devices for compensation. Hair braiding also includes the use of topical agents such as conditioners, gels, moisturizers, oils, pomades, and shampoos. Hair braiding does not include the use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles, or chemical hair bleaching agents.

Subd. 6. “**Hairstyling**” means the practice of cleaning, drying, arranging, or styling hair, hair extensions, and wigs for compensation. It includes the use of hair sprays and topical agents, such as shampoos and conditioners. It also includes the use and styling of hair extensions and wigs. It does not include cutting or the application of dyes, bleach, reactive chemicals, keratin, or other preparations to color or alter the structure of hair.

Subd. 7. “**Threading**” means the practice of removing hair from the eyebrows, upper lip, or other body parts by using cotton thread to pull hair from follicles for compensation. Threading does not include the use of chemicals or any type of wax. Threading may include the use of (1) over-the-counter astringents, gels, and powders; and (2) tweezers and scissors incidental to threading.

¹ The agency may be part of the Department of Health, another statewide department, agency or board, or a county or municipality

Subd. 8. "**Salon**" means an area, room, or establishment used to offer barbering or cosmetology services. It includes a mobile salon or a salon in the home of the provider. "Salon" does not include the home of a customer.

Subd. 9. "**Mobile salon**" means a readily moveable establishment used to offer barbering or cosmetology services. "Mobile salon" does not include the home of a customer.

Section 2. AUTHORITY TO LICENSE.

Subdivision 1. **License requirement.** A salon may not offer barbering or cosmetology services unless:

1. it holds a valid salon license from the agency responsible for inspections; or
2. the State delegates the authority to license and inspect salons to counties or municipalities, and the county or municipality enacts a resolution to not require a facility license for salons.

Subd. 2. **Salon license.** The agency responsible for inspections shall grant a salon license if a salon meets the requirements set forth in Section 3, pays all reasonable fees, and follows all administrative rules and local ordinances.

Subd. 3. **Notice to consumers.** The salon shall post its facility license and make available contact information for the agency responsible for inspections for purposes of consumer complaints.

Subd. 4. **Supplemental regulation.** An agency responsible for inspections may adopt administrative rules or ordinances consistent with this statute related to issuing salon licenses and inspecting salons.

Subd. 5. **Fees.** An agency responsible for inspections may impose reasonable fees for a license and for an inspection to cover the costs that the agency incurs in administering salon licensing and inspections.

Subd. 6. **Penalties.** A regulation may provide for penalties for failure to obtain or maintain a salon license, or for failure to pass an inspection. A penalty must not exceed \$3,000 per failed inspection.

Subd. 7. **Prohibition on licensing barbers or cosmetologists.** An agency responsible for inspections or other governmental body in this state may not require a person who works in a salon to have a current occupational license or other credential reflecting qualifications based on education, training or other personal qualifications.

Section 3. INSPECTIONS.

Subdivision 1. **Inspections.** An agency responsible for inspections may inspect salons licensed as provided in this section. An inspector shall give the salon owner or designee reasonable notice of the inspection when practicable, and present an official photo identification issued by the agency, upon request by the salon owner or designee.

Subd. 2. **Inspection types.** An agency responsible for inspections may perform three types of inspections:

1. a preoperational inspection to verify the salon is sanitary and properly constructed and equipped;

2. an operational inspection, the periodicity for which is established by the agency responsible for inspections; or
3. an inspection after a consumer files a complaint with the agency responsible for inspections.

Subd. 3. **Inspection criteria for salons.** Except for mobile salons, an agency responsible for inspections shall inspect for failure of the salon to:

1. meet the building, fire, signage and other codes related generally to retailers;
2. provide hot and cold running water;
3. prohibit the use of illegal products, implements or machines;
4. prohibit the presence of non-service animals;
5. maintain the salon's cleanliness;
6. keep restrooms clean;
7. require employees wear clean garments and shoes while providing services;
8. have available protective capes and towels for clients;
9. disinfect tools, whirlpools, foot spas and similar equipment after each client using bactericidal, viricidal, and fungicidal disinfectants approved by the EPA;
10. provide liquid soap, hand towels or hand air dryer;
11. require employees to wash hands with soap and water or use hand sanitizer with at least 60 percent alcohol before serving each client;
12. store creams, lotions, wax, cosmetics, and other products used on clients in clean and closed containers;
13. store disinfectants in clean, closed cabinets or clean closed containers;
14. require employees or contractors to use appropriate protective equipment when cleaning with disinfectant; or
15. maintain first aid supplies including antiseptic, gloves, finger guards, and sterile bandages.

Subd. 4. **Inspection criteria for mobile salons.** An agency responsible for inspections shall inspect for failure of the mobile salon to:

1. provide hot and cold running water if the mobile salon offers a service involving the use of water;

2. prohibit the use of illegal products, implements or machines;
3. prohibit the presence of non-service animals;
4. maintain the salon's cleanliness;
5. require employees wear clean garments and shoes while providing services;
6. have available protective capes and towels for clients;
7. disinfect tools, whirlpools, foot spas and similar equipment after each client using bactericidal, viricidal, and fungicidal disinfectants approved by the EPA;
8. require employees to wash hands with soap and water or use hand sanitizer with at least 60 percent alcohol before serving each client;
9. store creams, lotions, wax, cosmetics, and other products used on clients in clean and closed containers;
10. store disinfectants in clean, closed cabinets or clean closed containers;
11. require employees or contractors to use appropriate protective equipment when cleaning with disinfectant; or
12. maintain first aid supplies including antiseptic, gloves, finger guards, and sterile bandages.

The agency responsible for inspections shall not require a mobile salon to have a restroom or to enter into an agreement with a commercial establishment.

Subd. 5. Protocol. A salon must allow an inspector, in the exercise of official duties, to inspect the salon on the inspector's arrival at the salon. The salon owner or designee must cooperate with an inspector. A salon owner or designee must have access to the salon and provide the inspector access to all areas of the salon, including leased space within the salon.

Subd. 6. Violations; orders to comply. The inspector must give the salon owner or designee a written report when a violation is found during an inspection. The salon owner or designee must immediately address each violation and, within ten business days, bring the salon into compliance with the license requirements or regulation. If an order to comply is issued by the inspector, the salon owner or designee must report to the agency responsible for inspections by means required in the regulations within ten business days of the order's issuance, using a form provided by the inspector. The report must:

1. explain how each violation was corrected and the date of correction; and
2. for each violation that was not corrected within ten days, provide a written explanation of the reason for the delay, the specific steps the salon will take to correct the violation, and the projected date the outstanding violation will be corrected.

The agency responsible for inspections must grant an extension, if requested in writing, when the health and safety of the public is not at an immediate risk and when the delay is warranted based on the information provided by the salon owner or designee.

Subd. 7. **Order to cease operations immediately.** When an agency responsible for inspections has probable cause to believe that human health is endangered, the agency may order the salon immediately to cease operations. The agency shall hold a hearing within fourteen days of the order to determine whether the problem has been rectified and whether to suspend, revoke or reinstate the salon license. The hearing shall be held under the [state's administrative procedure act/city's procedural ordinances].

Subd. 8. **Appeal.** The salon owner may appeal a salon license order, suspension or revocation under the [state's administrative procedures act/ city administrative procedures].

Section 4. RESPONSIBILITY FOR CONSUMER PROTECTION.

Subdivision 1. **Training.** The salon owner is responsible for ensuring the education, training, skills, and competence of persons who work in the owner's salon.

Subd. 2. **Health and safety.** The salon owner is responsible for 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.

Subd. 3. **Remedies.** In addition to remedies otherwise provided by law, in an action based on an injury alleged to have occurred in a salon, a person may recover reasonable attorney fees and receive other equitable relief as determined by the court.

Section 5. LIMITATIONS.

Subdivision 1. **Exemptions.** This chapter does not apply to:

1. funeral homes, hospitals, nursing homes, theaters or similar facilities where barbering or cosmetology is provided as an auxiliary service; and
2. a facility in which all persons only provide hair braiding, hairstyling or threading services, and do not provide any other service.

Subd. 2. **Private certification.** Nothing in this Chapter shall be construed to prohibit private certification of any provider.

Section 6. REPEALER. The following statutes and administrative rules are repealed:

(The list of statutes to be repealed should include the occupational licenses for barbers, cosmetologists, estheticians, and nail technicians.)

Section 7. EFFECTIVE DATE.

For more information, contact Meagan Forbes, Director of Legislation at the Institute for Justice, at mforbes@ij.org.