Bill as Introduced

HB 52-FN – AS INTRODUCED

2003 SESSION

03-0003
10/09

HOUSE BILL ***52-FN***

AN ACT relative to the licensure of shampoo assistants by the board of barbering, cosmetology, and esthetics.

SPONSORS: Rep. Hall, Hills 58; Sen. O'Hearn, Dist 12

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill provides for the regulation of the qualifications, examination, and licensure of shampoo assistants by the board of barbering, cosmetology, and esthetics.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 52-FN – AS INTRODUCED

03-0003
10/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to the licensure of shampoo assistants by the board of barbering, cosmetology, and esthetics.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Definition; Shampoo Assistant. Amend RSA 313-A:1 by inserting after paragraph XIII the following new paragraph:

XIV. "Shampoo assistant" means any person licensed by the board as an assistant who performs any of the following functions:

(a) Shampooing.

(b) Rinsing and pulling rods.

(c) Rinsing treated or untreated hair.

(d) Other cleaning or sink-related functions as determined by the board.

2 New Paragraph; Rulemaking; Shampoo Assistants. Amend RSA 313-A:8 by inserting after paragraph XIII:

XIII-a. The scope of practice and qualifications for licensure as a shampoo assistant.

3 New Section; Qualifications; Shampoo Assistants. Amend RSA 313-A by inserting after section 11 the following new section:

313-A:11-a Qualifications; Shampoo Assistants. In order to be issued a shampoo assistant's license by the board, a person shall:

I. Be at least 16 years of age or have successfully completed the eighth grade or equivalent.

II. Have completed either 300 hours in a barbering or cosmetology school as defined by the board, or a shampooing program acceptable to the board.

III. Have completed a shampooing program as an apprentice in a shop.

IV. Be required to pass an examination conducted by the board.

V. Pay a fee as established by the board.

4 Effective Date. This act shall take effect 60 days after its passage.

LBAO
03-0003
12/17/02

HB 52-FN - FISCAL NOTE

AN ACT relative to the licensure of shampoo assistants by the board of barbering, cosmetology, and esthetics.

FISCAL IMPACT:

The Board of Barbering, Cosmetology and Esthetics stated this bill will increase state expenditures by $2,652 in FY 2003, $10,608 in FY 2004, $13,260 in FY 2005, $15,912 in FY 2006 and $19,890 in FY 2007. State general fund unrestricted revenues will increase by $3,315 in FY 2003, $13,260 in FY 2004, $16,575 in FY 2005, $19,890 in FY 2006 and $24,862 in FY 2007. There will be no fiscal impact on county and local expenditures or revenues.

METHODOLOGY:

The Board estimated there would be 1,000 new apprentices each year and assumed this bill will be effective in FY 2003. The Board anticipates 10% of the apprentices will take advantage of the shampoo assistant license in FY 2003, 40% in FY 2004, 50% in FY 2005, 60% in FY 2006 and 75% in FY 2007. The Board indicated the cost to process an application, administer and correct an exam, and issue a license would be $26.52 per applicant. Costs include the salary and benefits of a Licensing Clerk, (1 1/2 hours @ $11.96/hour plus 37% for benefits), $.74 postage, $.20 for envelopes and $1.00 for copies.

The Board further assumed license fee revenue would be sufficient to cover 125% of expenditures or $33.15 per applicant. The Board provided the following estimate of revenue and expenditures:

	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Number of Applicants	100	400	500	600	750
License Fees @ $33.15	$3,315	$13,260	$16,575	$19,890	$24,862
Salary & Benefits for					
License Clerk $24.58	2,458	9,832	12,290	14,748	18,435
Postage & envelopes $.94	94	376	470	564	705
Photo copying $1.00	100	400	500	600	750
Total	$2,652	$10,608	$13,260	$15,912	$19,890

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 52 Date JAN. 16, '03

Committee ED+A

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Rep Nelson S Allen	107 Shore Dr Nashua		Dist 63	√	

Hearing Minutes

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

PUBLIC HEARING ON HB 52

BILL TITLE: relative to the licensure of shampoo assistants by the board of barbering, cosmetology, and esthetics

DATE: January 16, 2003

LOB ROOM: 100 SH **Time Public Hearing Called to Order:** 10:00 AM

Time Adjourned: 10:25 AM

(please circle if present)

Committee Members: Reps. O'Neil, Hamel, Langer, Goulet, Zolla, N. Allan, Dexter, Hall, C. Robertson, Bergin, L. Flammia, Milligan, W. Field, Fitzgerald, Maybeck, Clayton, Schulze, DeJoie, Irwin, Pilotte and F. Sullivan.

Bill Sponsors: Rep. Hall, Hills 58; Sen. O'Hearn, Dist 12

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Hall, sponsor. Supports bill. Wants to pay assistants for shampooing.
Sen. O'Hearn, co sponsor. Supports bill.
*Lynda Elliott, representing Board of Cosmetology, 271-3625. Supports bill. Suggests adding an amendment – see written attachment. Limits to an apprentice in the shop. Do not wear gloves while performing to prevent disease. Should be supervised.
Pamela Dew, 8 Cabot Dr., Nashua, 883-3441. Representing NH Cosmetology Assoc. Supports bill. Not just for shampooing – dying. Provides jobs for students makes them look forward to other jobs. Includes chemical services. Justify their position and receive more compensation. (President of the Cosmetology Association)(15%-20% of cosmetology group)

Respectfully submitted,

Ray L Langer

Rep. Ray Langer, Clerk

Testimony

State of New Hampshire

BOARD OF BARBERING, COSMETOLOGY,
AND ESTHETICS
2 INDUSTRIAL PARK DRIVE
CONCORD 03301
271-3608

Good morning I am Lynda Elliott, Board Administrator, for the Board of Barbering, Cosmetology, and Esthetics. The Board of Barbering, Cosmetology, and Esthetics current statute requires an individual hold a barber or cosmetology license before providing a shampoo or assist a licensee at the shampoo bowl. By allowing an individual to obtain a shampoo assistant license you will ensure the health of the public is protected and create an entry-level position.

In drafting the bill I believe an "OR" was inadvertently left out. RSA 313-A:11-a II should have an "OR at the end of it. The intention of this bill would be to require an individual to attend a school or have the option to complete an apprenticeship program in a shop not requiring them to do both.

To be consistent with the current statute House Bill 52 needs to be amended to include.

Shampoo Assistant after manicuring in RSA 313-A:15 *Examinations*. RSA 313-A:15 to read as follows:

RSA 313-A:15 Examinations. – The board shall hold examinations in barbering, cosmetology, manicuring, **shampoo assistant,** and esthetics at least once every 6 months in such towns throughout the state as it may deem convenient for applicants and at such additional times as it may from time to time determine. The scope and content of the examinations shall be established by the board. The board shall notify all applicants at least 10 days in advance as to the place, date, and time of examinations.

Shampoo Assistant after apprentice in RSA 313-A:20 *Expiration and Renewal of Licenses*. RSA 313-A:20 to read as follows:

RSA 313-A:20 Expiration and Renewal of Licenses. – Each barber, barber instructor, apprentice, **shampoo assistant,** barbershop, barber school, esthetician, esthetics instructor, esthetics school, esthetics salon, manicurist, apprentice, beauty salon, or manicuring salon license issued under this chapter shall expire on the birthday of the licensee in the odd year next succeeding its date of issuance. Each cosmetologist, cosmetology instructor, or cosmetology school license issued under this chapter shall expire on the birthday of the licensee in the even year next succeeding its date of issuance. Any license which has expired may be renewed at any time during the year next following upon payment of the renewal fee established by the board and an additional fee of $5, and at any time during the next succeeding year period upon the payment of the renewal fee and an additional fee of $10. If the holder of any license fails to renew the license within 2 years after its expiration, such license may be renewed within 5 years after expiration by paying the same fee required for an original license.

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

January 21, 2003

License Cmte. (52 Fin)

Licensure of shampoo assistance

Charles Hall. Bill Fuller, Maurice Pilotte,

Jack Dexter, Jean Schulze, P Baglaneme

Rep. Dexter talked re Licensure & consequences

of passing a bill. Law to look up original bill

M. Magleck. P. Bergin Pam Lew

R.H. Milligan

1- Public Safety

2- Does current legislation allow to happen

3. What action can we take re the bill

9:50

Session Started

What are qualification necessary for apprentice

1500 hrs. over 1 year

3000 hrs - over 2 yr. under app. agr.

Lynda Elliott submitted Licensed apprentice written testimony

Each licensed person may have an apprentice providing they meet the hour, age, requirements, etc under rules work under ~~cond~~ instructor

(1)

HB352-FN

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

Looked at electrician apprentice explanation

Bill doesn't specify a school

Need a copy of rules - Pam will secure

Work on paying customers 300 hrs or 3 mos of school

License not needed if not getting paid

Morticians don't need a license - others

Rep Jaulet plans to submit an amendment doesn't want to exercise a new license

believes employer can do on the job training under 541-A - any employer can establish an OJT program for shampoo - the employer training approach will be submitted to Bd of Cosmetology or appropriate Bd.

Rep. Laflamme - obj. - get stylist to do more people per hour - shampoo person gives stylist more time

Rep. Dexter closed entity - said we need clarification of rules & that we do not need to create a new license

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD HB52:FW

meet next Tuesday 9am. Rep Schulz will work. Rep Gaudet to develop amendment
Mt. adjourned 9:45

State of New Hampshire

HB 52-FN

BOARD OF BARBERING, COSMETOLOGY,
AND ESTHETICS
2 INDUSTRIAL PARK DRIVE
CONCORD 03301
271-3608
TDD Access: Relay NH 1-800-735-2964

January 16, 2003

Rep. Judson K. Dexter
ED&A Committee
State House
107 North Main Street
Concord NH 03301-4951

Dear Rep. Dexter:

This letter is in regards to House Bill 52, which was heard today before the ED&A Committee and was sent to sub committee for further review under your direction. After today's hearing and further discussion the Board of Barbering, Cosmetology, and Esthetics ("the Board") feels licensure may not be the answer since licensure is considered the highest level. HB 52 was requested by the NH Cosmetology Association and not the board, but the board is not opposed to the shampoo assistant concept. This would provide for entry level jobs for those who would, hopefully, continue their education to eventual licensing. The Board's statute needs to be amended to allow an individual to provide a shampoo or assist the licensee at the shampoo sink, then the Board could quickly enter into the rulemaking process to include the appropriate parameters The Board has based the need for statute amendment because of the limitations noted in the RSA:

RSA 313-A:1 Definitions. *– As used in this chapter:*

I. "Barber' means any person practicing barbering.
II. "Barbering' means:
(a) Shaving or trimming the beard or cutting the hair;
(b) Giving facial or scalp massages or treatment with oils, creams, lotions, or other preparations, either by hand or mechanical appliances;
(c) ***Shampooing****, arranging, dressing, or dyeing the hair or applying hair tonics;*

(d) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck, or removing superfluous hair from the face and neck of any person; or

(e) Styling, waving, curling, straightening, or bleaching the hair by mechanical or chemical means.

III. "Barbershop' means any establishment or place of business wherein the practice of barbering is engaged in or carried on.

IV. "Board' means the board of barbering, cosmetology, and esthetics.

V. "Cosmetologist' means any person practicing cosmetology.

VI. "Cosmetology' means arranging, dressing, curling, waving, ***cleansing****, cutting, bleaching, coloring, or similarly treating the hair of any person, and performing other work customarily performed by a cosmetologist such as giving facials and manicures.*

RSA 313-A:9 Licensure Required. *– It shall be a misdemeanor for any person to:*

I. Engage in any practice regulated by this chapter without the appropriate license.

II. Operate a barbershop, salon, or school unless such establishment is at all times under the direct supervision and management of a professional licensed under this chapter.

III. Hire or employ any person to engage in a practice regulated by this chapter, unless such person then holds a valid license or a temporary permit issued by the board to practice the respective profession.

IV. Operate a school, unless it has been licensed by the board and is operated according to rules adopted by the board.

V. Engage in the instructing of any activity licensed by this chapter without holding an appropriate license issued under this chapter.

As you are aware the Board cannot write any administrative rules without first having the authority as required by RSA 541 which states the following:

RSA 541-A:22 Validity of Rules.

III. An agency shall not by rule:

(b) Require licensing, as defined in RSA 541-A:1, IX, unless authorized by a law which uses one of the specific terms listed in RSA 541-A:1, VIII.

(g) Expand or limit a statutory definition affecting the scope of who may practice a profession.

The Board does have an apprenticeship program in place for a barber and cosmetologist. The rules clearly state what is required and does not give an individual the ability to enter into an apprentice program and only provide assistance at the shampoo sink. The Board administrative rules clearly state what an individual is to be trained in as follows:

Bar 101.02 "Apprentice" means a person being instructed in a shop or school and registered in accordance with RSA 313-A:22.

Bar 301.03 Apprenticeship Hours.

(b) The number of hours to complete an apprenticeship shall be in accordance with:

(1) RSA 313-A:10 I(c)(1) or (2);

(2) RSA 313-A:11, I(c)(1) or (2);

(3) RSA 313-A:12 I, or pursuant to RSA 313-A:12, II 600 hours in a shop apprenticeship program; or

(4) RSA 313-A:13 or pursuant to RSA 313-A:13, II 1200 hours in a shop apprenticeship program.

(c) The type of instruction shall be in at least the following:

(1) For barber apprentices:

a. Shampooing;

b. Haircutting;

c. Hairstyling, men and women;

d. Razor cutting;

e. Shaves and beard trim;

f. Scalp massaging;

g. Permanent waving and straightening;

h. Coloring;

i.Hair analysis;

j. Hairpieces;

k. Business management;

l. Textbook theory which shall consist of reading textbooks in regard to barbering;

m. State laws and rules; and

n. Bacteriology safety and sanitation;

(2) For cosmetology apprentices:

a. Shampooing;

b. Hairstyling;

c. Hair shaping;

d. Hair coloring, including temporary, semi-permanent and permanent;

e. Permanent waving and straightening;

f. Hair analysis and scalp treatments;

g. Facials and waxing;

h. Manicuring and pedicuring;

i. Bacteriology, safety, and sanitation;

j. Personal development;

k. Business management and salesmanship;

l. State laws and rules;

m. Textbook theory, which shall consist of reading textbooks in regard to cosmetology;

n. Sculptured nail, nail tip, nail wrap and gel application; and

o. Reflexology and massage as it relates to cosmetology, manicuring, and pedicuring services;

Bar 301.04 Instructors of Apprentices.

(a) Each apprentice shall receive his/her instruction from a cosmetologist, barber, esthetician, or manicurist, who is a licensed instructor in accordance with Bar 403 or Bar 301.02(c).

(b) An instructor license shall expire in accordance with RSA 313-A:20.

(c) At no time shall a shop instructor have more than one apprentice. A shop instructor shall only instruct the apprentice named on the shop instructor's license.

(d) A Shop instructor shall keep a monthly record of the apprentice's attendance on a sheet provided by the board, including:

(1) The name of the apprentice;

(2) The name and address of the shop;

(3) The apprentice licensure date;

(4) The month and year for which the record is being submitted;

(5) The total number of hours completed during the apprenticeship;

(6) The signature of the shop instructor; and

(7) The signature of the shop apprentice.

(e) The shop instructor shall forward the monthly record of attendance to the board no later than the 15th of the next following month.

(f) Instructors shall administer written, oral, or practical tests pertaining to Bar 301.03(b). The tests shall be graded and reviewed with the students promptly. Each apprentice shall be tested at least once a month. Shop instructors shall send a copy of each completed and corrected test to the board along with the monthly record of attendance in accordance with Bar 301.04(d).

(g) Shop instructors shall prohibit a shop apprentice being instructed in barbering or cosmetology does not practice on a paying customer until the apprentice has completed at least 3 months and 400 hours. A licensed barber or

cosmetologist, apprenticing to obtain a license in the alternate profession may practice on a client immediately.

(h) Shop instructors shall prohibit a shop apprentice being instructed in manicuring only does not practice manicuring on a paying customer until the apprentice has completed at least 50 hours.

(i) All shops with an apprentice practicing on paying customers shall have the apprentice wear a name tag. The name tag shall state "Apprentice".

(j) Paying customer services shall be assigned to the apprentice by the instructor.

(k) Each apprentice shall be provided with at least 2 written progress reports during each course. The reports shall evaluate the apprentice's theory and practical work, and attendance. Instructors shall be available to discuss the reports and the apprentices progress in the course.

(l) Theory and practice shall precede clinic activities, and apprentices shall have demonstrated competence in both theory and practice before being allowed to participate in such activities. Instruction in theory and practice shall not be replaced by the clinic and apprentices shall not be excused from scheduled classes to work in the clinic.

With the above information I would suggest the committee give the Board authority by statute which would allow the Board to set up this classification by rule or give the Board authority to write rules regulating the barber or cosmetologist who choose to have a shampoo assistant.

Unfortunately, I cannot attend Tuesday January 21, 2003 sub committee meeting I will be in South Carolina until Monday night January 27, 2003. The Board hopes the committee will review the above information and amend HB 52 accordingly.

Thank you for giving me this opportunity to provide you with additional information in writing. I look forward to meeting with you in the near future.

Sincerely,

Lynda Elliott
Board Administrator
Board of Barbering, Cosmetology,
And Esthetics

CC: Rep Charles Hall
Senator Jane O'Hearn
Pam New, President of the Cosmetology Association

Voting Sheets

HOUSE COMMITTEE ON EXECUTIVE DEPARTMENTS AND ADMINISTRATION

EXECUTIVE SESSION on HB 52-FN

BILL TITLE: **relative to the licensure of shampoo assistants by the board of barbering, cosmetology, esthetics**

DATE: January 29, 2003

LOB ROOM: 100 SH

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Dexter

Seconded by Rep. Pilotte

Vote: 13-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 13-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Ray F. Langer, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Bill #: HB 52 **Title:**

PH Date: 1/16/03 Exec Session Date: 1/29/03

Motion: ITL Amendment #:

MEMBER	YEAS	NAYS
O'Neil. Michael. Chairman	NV	
Hamel. Albert W. V Chairman	11 V	
Langer. Rav F	1	
Goulet. Maurice E	NV	
Zolla. William R	2	
Allan. Nelson S	NV	
Dexter. Judson K	3	
Hall. Charles Q	4	
Robertson. Carl G	5	
Bergin. Peter F	NV	
LaFlamme. Paul G	6	
Milligan. Robert H	7	
Field. William D	NV	
Fitzgerald. James M	8	
Mayhew. Margie	9	
Clayton. William K	NV	
Schulze. Joan H	NV	
DeJoie. John	10	
Irwin. Anne-Marie	11	
Pilotte. Maurice L	12	
Sullivan. Francis B	13	
	13-0	

NV means Absent

TOTAL VOTE:
Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Executive Departments and Administration**

BILL NUMBER: **HB 52-FN**

TITLE: relative to the licensure of shampoo assistants by the board of barbering, cosmetology, and esthetics.

DATE: January 29, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☒ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The problem that triggered this bill was confusion by the "Board of Barbering, Cosmetology and Esthetics" in the interpretation of their rules as well as concerns of conflict between the RSA's and rules. The committee found that the current statute and rules are very clear with regard to the employment of shampooing assistants and when enforced as written, there is no problem. Therefore, this legislation is not necessary.

Vote 13-0.

Rep. Judson K. Dexter
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Executive Departments and Administration

HB 52-FN, relative to the licensure of shampoo assistants by the board of barbering, cosmetology, and esthetics. **INEXPEDIENT TO LEGISLATE**

Rep. Judson K. Dexter for Executive Departments and Administration: The problem that triggered this bill was confusion by the "Board of Barbering, Cosmetology and Esthetics" in the interpretation of their rules as well as concerns of conflict between the RSA's and rules. The committee found that the current statute and rules are very clear with regard to the employment of shampooing assistants and when enforced as written, there is no problem. Therefore, this legislation is not necessary. **Vote 13-0.**

State of New Hampshire

HOUSE OF REPRESENTATIVES

CONCORD

HB-52-FN

The problem ~~that~~ triggered this bill was some confusion by the "Board of Barbering, Cosmetology, + esthetics" in the interpretation of their rules as well as concerns of conflict between the RSA's + rules. The committee found the current statute + rules are very clear with regard to ~~this position~~ the employment of shampooing assistants, and when enforced as written, + there is no problem. Therefore, this legislation is not necessary -

Judson Dexter - Vote 13-0 ITL