SENATE BILL No. 340

By Committee on Public Health and Welfare

AN ACT concerning the Kansas state board of cosmetology; relating to disciplinary and enforcement actions; expanding the scope of such actions to non-licensees; amending K.S.A. 65-1908, 65-1941 and 65-1947 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-1908 is hereby amended to read as follows: 65-1908. (a) The board, in accordance with the provisions of the Kansas administrative procedure act, may refuse to issue or renew a license, or revoke, suspend, censure, limit or condition a license for any of the following reasons:

1. Failure to comply with the sanitation standards prescribed by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto;
2. Failure to comply with any provision of this act, with the rules and regulations of the board of cosmetology or with any order issued by the board;
3. The person has become a danger to the public by reason of alcohol or drug abuse;
4. Conviction of a felony, unless the applicant or licensee is able to demonstrate to the board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust;
5. The obtaining of, or the attempt attempting to obtain, a license by fraudulent misrepresentation or bribery;
6. Advertising by means of false or knowingly deceptive matter or statement;
7. Failure to display the annual license or inspection report as provided for in this act;
8. Gross negligence or unprofessional conduct as defined by rules and regulations of the board; or
9. The person has had a license revoked, suspended or limited, or has had other disciplinary action taken, or an application for a license denied, by the proper regulatory authority of another state, territory, the District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) The board may order the remedying of any violations of rules and
regulations of the board or any provision of this act, and the board may
issue a cease and desist order upon board determination that the holder of a
license or any person has violated any order of the board, any rules and
regulations of the board or any provision of this act.

(c) Inspectors employed by the board shall have such powers as the
board may prescribe by rules and regulations to make inspections,
investigations; and inquiries, except that a permanent order for closing any
establishment licensed by the board shall be issued only by the board.

(d) In addition to the board's authority to refuse licensure or impose
discipline pursuant to subsection (a), the board shall have the authority to
assess a fine not in excess of $1,000 against a licensee for each of the reasons specified in subsection (a). Such fine may be assessed in lieu of or in addition to such discipline.

Sec. 2. K.S.A. 65-1941 is hereby amended to read as follows: 65-
1941. (a) No person, including a tattoo artist, cosmetic tattoo artist or body
piercer, shall perform tattooing, cosmetic tattooing or body piercing on
another person, display a sign or in any other way advertise or purport to
be a tattoo artist, cosmetic tattoo artist or body piercer unless that person
holds a valid license issued by the board. This act does not prevent or
affect the use of tattooing, cosmetic tattooing or body piercing by a
physician, a person under the control and supervision of a physician, a
licensed dentist, a person under the control and supervision of a licensed
dentist, or an individual performing tattooing, cosmetic tattooing or body
piercing solely on such individual's body.

(b) Violation of subsection (a) is a class A nonperson misdemeanor.

(c) The board may bring an action to enjoin any person required to be
licensed under K.S.A. 65-1940 through 65-1954, and amendments thereto,
from practicing body piercing, tattooing or cosmetic tattooing if such
person does not hold a currently valid license authorizing the person to
engage in such practice. The board may bring an action to enjoin any
person from operating an establishment required to be licensed under
K.S.A. 65-1940 through 65-1954, and amendments thereto, if such person
does not hold a currently valid establishment license.

(d) The board may order the remedying of any violations of rules and
regulations of the board or any provision of this act, and the board may
issue a cease and desist order upon board determination that the holder of a
license has violated any order of the board, any rules and
regulations of the board or any provision of K.S.A. 65-1940 through 65-
1954, and amendments thereto.

Sec. 3. K.S.A. 65-1947 is hereby amended to read as follows: 65-
1947. (a) The board may revoke, censure, limit, condition, suspend,
refuse to issue or renew any license issued under this act; or assess a fine,
not to exceed $1,000 per violation, on any person or licensee upon proof
that a person or licensee has:

(1) Has been convicted of a violation under K.S.A. 65-1942, and amendments thereto;

(2) has been convicted of any felony offense in this or any other state and fails to demonstrate, to the board's satisfaction, that such person or licensee has been sufficiently rehabilitated to warrant the public's trust. The board may make recommendations to an applicant as to what constitutes proof of rehabilitation;

(3) has misrepresented, misstated or failed to disclose personal qualifications or other information necessary to practice tattooing, cosmetic tattooing or body piercing in any communication to the board;

(4) has used, caused or promoted the use of any advertising matter, promotional literature, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive;

(5) has deceived the public by acting in a manner as to mislead clients as to the person's professional status;

(6) has employed directly or indirectly any suspended or unlicensed person to perform any tattooing, cosmetic tattooing or body piercing covered by this act;

(7) has obtained or attempted to obtain a license through fraud, bribery, deceit, misrepresentation, or other misconduct;

(8) has practiced tattooing, cosmetic tattooing or body piercing under a false, misleading or deceptive name;

(9) has failed, if a licensed tattoo artist, cosmetic tattoo artist or body piercer, to maintain a business address and telephone number at which the licensee may be reached during business hours;

(10) has failed, if a nonpracticing tattoo artist, cosmetic tattoo artist or body piercer, to provide the board with a home address and telephone number;

(11) has failed to properly and reasonably accept responsibility for the actions of employees;

(12) has practiced tattooing, cosmetic tattooing or body piercing with a mental or physical illness that affects ability to perform or endangers the public;

(13) has demonstrated gross incompetence in performing tattooing, cosmetic tattooing or body piercing;

(14) has become a danger to the public by reason of alcohol or drug abuse; or

(15) has violated failed to comply with any of the provisions of this act or rules and regulations adopted by the board pursuant to this act or any order issued by the board.

Sec. 4. K.S.A. 65-1908, 65-1941 and 65-1947 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its
publication in the statute book.