

HOUSE BILL 250

C2

7lr0107

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor,
Licensing and Regulation)**

Introduced and read first time: January 23, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Barbers and State Board of Cosmetologists – Special Fund and**
3 **Fees**

4 FOR the purpose of establishing the State Barbers and Cosmetologists Boards' Fund as a
5 special, nonlapsing fund in the Department of Labor, Licensing, and Regulation;
6 specifying the contents of the Fund; requiring that the Fund be used for certain
7 purposes; requiring the Secretary of Labor, Licensing, and Regulation, or a designee
8 of the Secretary, to administer the Fund; providing for an audit of the Fund;
9 requiring any unspent and unencumbered portion of the Fund in excess of a certain
10 amount to revert to the General Fund at the end of each fiscal year; crediting certain
11 earnings to the General Fund; requiring the Secretary, in consultation with the State
12 Board of Barbers and the State Board of Cosmetologists, to annually calculate
13 certain costs; authorizing the State Board of Barbers and the State Board of
14 Cosmetologists to set by regulation certain fees based on certain calculations;
15 requiring each board to publish a certain fee schedule; repealing provisions of law
16 requiring each board to pay certain money into the General Fund of the State;
17 requiring each board to pay certain fees to the Comptroller; requiring the
18 Comptroller to distribute certain fees to the Fund; prohibiting certain fees from
19 increasing by more than a certain amount each year; altering certain fees; requiring
20 that certain fees in effect on a certain date shall remain in full force and effect until
21 certain other fees are adopted and become effective; and generally relating to the
22 State Barbers and Cosmetologists Boards' Fund.

23 BY repealing and reenacting, with amendments,
24 Article – Business Occupations and Professions
25 Section 4–205(a), 4–206, 4–304(a), 5–205, and 5–206
26 Annotated Code of Maryland
27 (2010 Replacement Volume and 2016 Supplement)

28 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Business Occupations and Professions
2 Section 4–207 and 5–208
3 Annotated Code of Maryland
4 (2010 Replacement Volume and 2016 Supplement)

5 BY adding to
6 Article – Business Occupations and Professions
7 Section 4–207 and 5–208
8 Annotated Code of Maryland
9 (2010 Replacement Volume and 2016 Supplement)

10 BY adding to
11 Article – Business Regulation
12 Section 2–106.9 and 2–106.10
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2016 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Business Occupations and Professions**

18 4–205.

19 (a) On request of any person and payment of a certification fee **SET BY THE**
20 **BOARD**, the Board shall certify the licensing, registration, or permit status and
21 qualifications of any person who is the subject of the request.

22 4–206.

23 (a) **[(1)]** In addition to any powers set forth elsewhere, the Board may adopt any
24 regulation to carry out this title.

25 **[(2) (i)]** The Board shall establish reasonable fees for examinations,
26 licensing, licensing renewal, reinstatement, certification, applications, preopening
27 inspections, per diem fees for Board members, compensation for inspectors appointed by
28 the Board, and any other service performed by the Board necessary to carry out the
29 provisions of this title.

30 (ii) 1. Except for examination fees which the Board shall
31 establish in amounts not to exceed the costs of the required examinations and subject to
32 subsubparagraph 2 of this subparagraph, the fees established by the Board shall be set in
33 a manner that will produce funds sufficient to cover the actual direct and indirect costs of
34 regulating the barber industry in this State in accordance with the provisions of this title.

35 2. The Board may not set fees for licensing and license
36 renewals that exceed \$50.

1 (iii) The total cost of regulating the barber industry in this State in
2 accordance with the provisions of this title may not be more than the revenues generated
3 by the fees established under subparagraph (i) of this paragraph.]

4 (b) (1) The Board shall adopt regulations that establish detailed curriculum
5 standards for use by the State Board of Education or the Maryland Higher Education
6 Commission in approving applications for instruction in the practice of barbering and the
7 provision of barber–stylist services at public schools or private career schools.

8 (2) The curriculum standards established under paragraph (1) of this
9 subsection shall:

10 (i) incorporate modern methods and practices for the practice of
11 barbering and the provision of barber–stylist services;

12 (ii) include a reference to each topic and the emphasis of each topic
13 required of a comprehensive barbering and barber–stylist curriculum; and

14 (iii) be reviewed and updated periodically as determined by the
15 Board.

16 (c) In addition to any duties set forth elsewhere, the Board shall administer and
17 enforce this title.

18 [4–207.

19 The Board shall pay all money collected under this title into the General Fund of the
20 State.]

21 **4–207.**

22 **(A) (1) EXCEPT FOR THE EXAMINATION FEES THAT THE BOARD SHALL**
23 **ESTABLISH IN AMOUNTS NOT TO EXCEED THE COSTS OF THE EXAMINATIONS, THE**
24 **BOARD MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES, INCLUDING**
25 **APPLICATION FEES, LICENSING FEES, LICENSE RENEWAL FEES, LICENSE**
26 **REINSTATEMENT FEES, CERTIFICATION FEES, PERMIT FEES, PERMIT RENEWAL**
27 **FEES, INSPECTION FEES, AND ANY OTHER FEES NECESSARY FOR THE BOARD TO**
28 **CARRY OUT THE PROVISIONS OF THIS TITLE.**

29 **(2) THE FEES CHARGED SHALL BE:**

30 **(I) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST**
31 **OF MAINTAINING THE BOARD; AND**

1 **(II) BASED ON THE CALCULATIONS PERFORMED BY THE**
2 **SECRETARY UNDER § 2-106.10 OF THE BUSINESS REGULATION ARTICLE.**

3 **(B) THE BOARD SHALL PUBLISH A SCHEDULE OF FEES SET BY THE BOARD.**

4 **(C) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE**
5 **TO THE COMPTROLLER.**

6 **(2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE**
7 **BARBERS AND COSMETOLOGISTS BOARDS' FUND ESTABLISHED IN § 2-106.9 OF THE**
8 **BUSINESS REGULATION ARTICLE.**

9 4-304.

10 (a) Except as otherwise provided in § 4-304.1 of this subtitle, an applicant is
11 entitled to be examined as provided in this section if the applicant:

12 (1) otherwise qualifies for a license under this title; and

13 (2) pays an examination fee established by the Board in accordance with
14 **[[§§ 4-206 and] § 4-303** of this title to the Board or the Board's designee.

15 5-205.

16 (a) In addition to any duties set forth elsewhere, the Board shall adopt:

17 (1) bylaws for the conduct of its proceedings;

18 (2) regulations for qualification and examination of applicants for licenses,
19 registration, and permits and issuance of licenses, certificates of registration, and permits;

20 (3) regulations to govern the conduct of persons regulated under this title;

21 (4) regulations to govern sanitation and safety in practicing cosmetology,
22 including regulations that establish precautions to prevent the spread of infectious and
23 contagious diseases; and

24 (5) regulations to govern the direct supervision of the operation of limited
25 practice beauty salons.

26 (b) **[(1) The Board shall establish reasonable fees for licensing, licensing**
27 **renewal, examinations, reinstatements, certifications, applications, preopening**
28 **inspections, per diem fees for Board members, compensation for inspectors appointed by**
29 **the Board, and for any other service performed by the Board necessary to carry out the**
30 **provisions of this title.**

1 (2) (i) Except for the examination fees which the Board shall establish
2 in amounts not to exceed the costs of the examinations and subject to subparagraph (ii) of
3 this paragraph, the fees established by the Board shall be set in a manner that will produce
4 funds sufficient to cover the actual direct and indirect costs of regulating the cosmetology
5 industry in the State in accordance with the provisions of this title.

6 (ii) The Board may not set fees for licensing and license renewals
7 that exceed \$50.

8 (3) The total cost of regulating the cosmetology industry in the State in
9 accordance with the provisions of this title may not be more than the revenues generated
10 by the fees established under paragraph (1) of this subsection.

11 (c)] (1) The Board shall adopt regulations that establish detailed curriculum
12 standards for use by the State Board of Education or the Maryland Higher Education
13 Commission in approving applications for instruction in the practice of cosmetology, the
14 provision of esthetic services, the provision of hair services, and the provision of nail
15 technician services at public schools or private career schools.

16 (2) The curriculum standards established under paragraph (1) of this
17 subsection shall:

18 (i) incorporate modern methods and practices for:

- 19 1. practicing cosmetology;
- 20 2. providing esthetic services;
- 21 3. providing hair services;
- 22 4. providing hair services – blow drying; and
- 23 5. providing nail technician services;

24 (ii) include a reference to each topic and the emphasis of each topic
25 required of a comprehensive curriculum in the appropriate licensing area; and

26 (iii) be reviewed and updated periodically as determined by the
27 Board.

28 5–206.

29 (a) On request of any person and payment of a certification fee established by the
30 Board in accordance with [§ 5–205] § 5–208 of this subtitle, the Board shall certify the
31 licensing, registration, or permit status and qualifications of any person who is the subject
32 of the request.

1 (b) Each certification under this section:

2 (1) shall include a statement of the licensing, registration, or permit status
3 of the person who is the subject of the request; and

4 (2) may include:

5 (i) information about the examination results and other
6 qualifications of that person;

7 (ii) information about the dates of issuance and renewal of the
8 license, registration, or permit of that person;

9 (iii) information about any disciplinary action taken against that
10 person; and

11 (iv) if authorized by that person, information about any complaint
12 against that person.

13 (c) The Board shall collect the certification fee established by the Board in
14 accordance with [~~§ 5-205~~] **§ 5-208** of this subtitle for each certification under this section.

15 [~~5-208~~.

16 The Board shall pay all money collected under this title into the General Fund of the
17 State.]

18 **5-208.**

19 **(A) EXCEPT FOR THE EXAMINATION FEES THAT THE BOARD SHALL**
20 **ESTABLISH IN AMOUNTS NOT TO EXCEED THE COSTS OF THE EXAMINATIONS, THE**
21 **BOARD MAY SET BY REGULATION REASONABLE FEES FOR ITS SERVICES, INCLUDING**
22 **APPLICATION FEES, LICENSING FEES, LICENSE RENEWAL FEES, LICENSE**
23 **REINSTATEMENT FEES, CERTIFICATION FEES, PERMIT FEES, PERMIT RENEWAL**
24 **FEES, INSPECTION FEES, AND ANY OTHER FEES NECESSARY FOR THE BOARD TO**
25 **CARRY OUT THIS TITLE.**

26 **(B) THE FEES CHARGED SHALL BE:**

27 **(1) SET SO AS TO PRODUCE FUNDS TO APPROXIMATE THE COST OF**
28 **MAINTAINING THE BOARD; AND**

29 **(2) BASED ON THE CALCULATIONS PERFORMED BY THE SECRETARY**
30 **UNDER § 2-106.10 OF THE BUSINESS REGULATION ARTICLE.**

1 (C) THE BOARD SHALL PUBLISH A SCHEDULE OF FEES SET BY THE BOARD.

2 (D) (1) THE BOARD SHALL PAY ALL FEES COLLECTED UNDER THIS TITLE
3 TO THE COMPTROLLER.

4 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE STATE
5 BARBERS AND COSMETOLOGISTS BOARDS' FUND ESTABLISHED IN § 2-106.9 OF THE
6 BUSINESS REGULATION ARTICLE.

7 Article – Business Regulation

8 2-106.9.

9 (A) IN THIS SECTION, “FUND” MEANS THE STATE BARBERS AND
10 COSMETOLOGISTS BOARDS' FUND.

11 (B) THIS SECTION APPLIES TO THE FOLLOWING OCCUPATIONAL LICENSING
12 BOARDS:

13 (1) THE STATE BOARD OF BARBERS ESTABLISHED UNDER TITLE 4 OF
14 THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE; AND

15 (2) THE STATE BOARD OF COSMETOLOGISTS ESTABLISHED UNDER
16 TITLE 5 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

17 (C) (1) THERE IS A STATE BARBERS AND COSMETOLOGISTS BOARDS'
18 FUND IN THE DEPARTMENT.

19 (2) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
20 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

21 (D) (1) EXCEPT AS OTHERWISE PROVIDED BY LAW, EACH OCCUPATIONAL
22 LICENSING BOARD DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL PAY ALL
23 FEES COLLECTED TO THE COMPTROLLER.

24 (2) THE COMPTROLLER SHALL DISTRIBUTE THE FEES TO THE FUND.

25 (E) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED
26 DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY
27 DUTIES OF EACH OCCUPATIONAL LICENSING BOARD DESCRIBED IN SUBSECTION (B)
28 OF THIS SECTION.

29 (F) THE SECRETARY OR A DESIGNEE OF THE SECRETARY SHALL
30 ADMINISTER THE FUND.

1 **(G) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND**
2 **TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE**
3 **GOVERNMENT ARTICLE.**

4 **(H) AT THE END OF EACH FISCAL YEAR, ANY UNSPENT AND UNENCUMBERED**
5 **PORTION OF THE FUND IN EXCESS OF \$100,000 SHALL REVERT TO THE GENERAL**
6 **FUND OF THE STATE.**

7 **(I) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE CREDITED TO THE**
8 **GENERAL FUND OF THE STATE.**

9 **2-106.10.**

10 **(A) (1) IN CONSULTATION WITH EACH BOARD SPECIFIED UNDER §**
11 **2-106.9 OF THIS SUBTITLE, THE SECRETARY SHALL ANNUALLY CALCULATE THE**
12 **DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO EACH BOARD.**

13 **(2) EACH BOARD SHALL ESTABLISH FEES BASED ON THE**
14 **CALCULATIONS PROVIDED BY THE SECRETARY UNDER THIS SECTION.**

15 **(3) EXCEPT FOR EXAMINATION FEES UNDER §§ 4-303 AND 5-306 OF**
16 **THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE, EACH FEE**
17 **ESTABLISHED BY AN INDIVIDUAL BOARD MAY NOT BE INCREASED ANNUALLY BY**
18 **MORE THAN 12.5% OF THE EXISTING AND CORRESPONDING FEE OF THE BOARD.**

19 **(B) IN ORDER TO ESTABLISH FEES THAT MORE EQUITABLY DISTRIBUTE THE**
20 **COSTS ASSOCIATED WITH THE OPERATION OF EACH BOARD AMONG SIMILAR**
21 **BOARDS, THE SECRETARY MAY AVERAGE THE DIRECT AND INDIRECT COSTS OF THE**
22 **BOARDS PROVIDED THAT THE BOARDS CONSENT TO HAVING THEIR DIRECT AND**
23 **INDIRECT COSTS AVERAGED TOGETHER.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That the fees set forth in Title 4,
25 Subtitles 2 and 3 and Title 5, Subtitle 2 of the Business Occupations and Professions
26 Article, respectively, in effect on June 30, 2017, shall remain in full force and effect until
27 the fees authorized to be set by the State Board of Barbers and the State Board of
28 Cosmetologists, respectively, under this Act are adopted and become effective.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
30 1, 2017.