MISSISSIPPI LEGISLATURE

REGULAR SESSION 2021

By: Representative Gunn

To: Accountability, Efficiency, Transparency

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1315

AN ACT TO REPEAL SECTIONS 73-65-1 THROUGH 73-65-17, MISSISSIPPI CODE OF 1972, WHICH CREATE THE PROFESSIONAL ART THERAPISTS ADVISORY COUNCIL AND PROVIDE THE LICENSING REQUIREMENTS FOR PROFESSIONAL ART THERAPISTS; TO REPEAL SECTIONS 73-4-1 THROUGH 73-4-51, MISSISSIPPI CODE OF 1972, WHICH ESTABLISH THE MISSISSIPPI AUCTIONEERS LICENSE ACT, CREATE THE MISSISSIPPI AUCTIONEER COMMISSION AND PROVIDE THE LICENSING REQUIREMENTS FOR AUCTIONEERS; TO AMEND SECTION 75-27-215, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT NO AUCTIONEER SHALL BE PERMITTED TO BUY CATTLE IN HIS NAME DURING THE PERIOD WHILE ACTUALLY ENGAGED IN AUCTIONEERING, TO CONFORM TO THE PRECEDING SECTION; TO REPEAL SECTIONS 73-73-1 THROUGH 73-73-35, MISSISSIPPI CODE OF 1972, WHICH ESTABLISH THE MISSISSIPPI CERTIFIED INTERIOR DESIGN ACT, CREATE THE INTERIOR DESIGN ADVISORY COMMITTEE AND PROVIDE THE LICENSING REQUIREMENTS FOR MISSISSIPPI CERTIFIED INTERIOR DESIGNERS; TO AMEND SECTIONS 73-7-2, 73-7-7, 73-7-13 AND 73-7-29, MISSISSIPPI CODE OF 1972, TO REMOVE ANY LICENSING REQUIREMENT OR REGULATION FOR A WIGOLOGIST OR WIG SPECIALIST WITHIN THE COSMETOLOGIST LICENSING LAW; TO BRING FORWARD SECTION 73-22-1, MISSISSIPPI CODE OF 1972, WHICH PROVIDES DEFINITIONS IN THE ORTHOTICS AND PROSTHETICS LICENSING LAW, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO REPEAL SECTIONS 73-67-1 THROUGH 73-67-39, MISSISSIPPI CODE OF 1972, WHICH CREATE THE MISSISSIPPI PROFESSIONAL MASSAGE THERAPY ACT AND THE STATE BOARD OF MASSAGE THERAPY; TO AMEND SECTION 73-55-15, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE SCOPE OF THE MISSISSIPPI ATHLETIC TRAINERS LICENSURE ACT, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION 75-60-5, MISSISSIPPI CODE OF 1972, WHICH PROVIDES EXEMPTIONS TO THE COMMISSION ON PROPRIETARY SCHOOL AND COLLEGE REGISTRATION, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

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SECTION 2. Sections 73-4-1, 73-4-3, 73-4-5, 73-4-7, 73-4-9, 73-4-11, 73-4-13, 73-4-15, 73-4-17, 73-4-19, 73-4-21, 73-4-23, 73-4-25, 73-4-27, 73-4-29, 73-4-31, 73-4-33, 73-4-35, 73-4-37, 73-4-39, 73-4-41, 73-4-43, 73-4-45, 73-4-47, 73-4-49 and 73-4-51, Mississippi Code of 1972, which establish the Mississippi Auctioneers License Act, create the Mississippi Auctioneer Commission and provide the licensing requirements for auctioneers, are repealed.

SECTION 3. Section 75-27-215, Mississippi Code of 1972, is amended as follows:

75-27-215. * * * No auctioneer shall be permitted to buy cattle in his or her name during the period while actually engaged in auctioneering.

SECTION 5. Section 73-7-2, Mississippi Code of 1972, is amended as follows:

73-7-2. As used in this chapter, the following terms shall have the meanings ascribed herein unless the context otherwise requires:

(a) "Board" means the State Board of Cosmetology.

(b) "Cosmetology" means any one (1) or a combination of the following practices if they are performed on a person's head, face, neck, shoulder, arms, hands, legs or feet for cosmetic purposes:

(i) Cutting, clipping or trimming hair and hair pieces.

(ii) Styling, arranging, dressing, curling, waving, permanent waving, straightening, cleansing, bleaching, tinting, coloring or similarly treating hair and hair pieces.

(iii) Cleansing, stimulating, manipulating, beautifying or applying oils, antiseptics, clays, lotions or other preparations, either by hand or by mechanical or electrical apparatus.

(iv) Arching eyebrows, to include tweezing, waxing, threading or any other methods of epilation, or tinting eyebrows and eyelashes.

(v) Removing superfluous hair by the use of depilation.

(vi) Manicuring and pedicuring.
(c) "Cosmetologist" means a person who for compensation, whether direct or indirect, engages in the practice of cosmetology.

(d) "Esthetics" means any one (1) or a combination of the following practices:

(i) Massaging the face or neck of a person.

(ii) Arching eyebrows to include trimming, tweezing, waxing, threading or any other method of epilation or tinting eyebrows and eyelashes.

(iii) Tinting eyelashes or eyebrows.

(iv) Waxing, stimulating, cleaning or beautifying the face, neck, arms or legs of a person by any method with the aid of the hands or any mechanical or electrical apparatus, or by the use of a cosmetic preparation.

The term "esthetics" shall not include the diagnosis, treatment or therapy of any dermatological condition.

(e) "Esthetician" means any person who, for compensation, either direct or indirect, engages in the practice of esthetics.

(f) "Instructor" means a person licensed to teach cosmetology, or manicuring and pedicuring, or esthetics, or all of those, pursuant to this chapter, and shall include those persons engaged in the instruction of student instructors.

(g) "Manicuring and pedicuring" means any one (1) or a combination of the following practices:
(i) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating a person's nails.
(ii) Applying artificial nails.
(iii) Massaging or cleaning a person's hands, arms, legs or feet.

(h) "Manicurist" means a person who for compensation, either direct or indirect, engages in the practice of manicuring and pedicuring.

(i) "Master" means a person holding a cosmetology, manicuring and esthetics license who has completed the minimum course of continuing education prescribed by Section 73-7-14.

(j) "Salon" means an establishment operated for the purpose of engaging in the practice of cosmetology, or manicuring and pedicuring, or esthetics, * * * or all of those.

(k) "School" means an establishment, public or private, operated for the purpose of teaching cosmetology, or manicuring and pedicuring, or esthetics, * * * or all of those.

SECTION 6. Section 73-7-7, Mississippi Code of 1972, is amended as follows:

73-7-7. (1) The board shall have authority to make reasonable rules and regulations for the administration of the provisions of this chapter. The board shall set up a curriculum for operation of schools of cosmetology and the other professions it is charged to regulate in this state. The board shall receive and consider for adoption recommendations for rules and
regulations, school curriculum, and related matters from the Mississippi Cosmetology Council, whose membership shall consist of, in addition to the board members, five (5) elected delegates from the Mississippi Cosmetology Association, five (5) elected delegates from the Mississippi Cosmetology School Association, five (5) elected delegates from the Mississippi Independent Beauticians Association, and five (5) elected delegates from the School Owners and Teachers Association. The board may revoke the license of any cosmetologist, esthetician, manicurist, instructor, school of cosmetology, or salon, or may refuse to issue a license to any cosmetologist, esthetician, manicurist, instructor, school of cosmetology, or salon that fails or refuses to comply with the provisions of this chapter and the rules and regulations of the board in carrying out the provisions of this chapter.

(2) The board shall have authority to prescribe reasonable rules and regulations governing sanitation of schools of cosmetology and beauty salons for the guidance of persons licensed under this chapter in the operation of schools of cosmetology, or a beauty salon, and in the practice of cosmetology, esthetics, manicuring and pedicuring ***. However, any and all rules and regulations relating to sanitation shall, before adoption by the board, have the written approval of the State Board of Health. When the board has reason to believe that any of the provisions of this chapter or of the rules and regulations of the board have been violated, either upon receipt of a written complaint alleging
such violations or upon the board's own initiative, the board, or any of its authorized agents, shall investigate same and shall have authority to enter upon the premises of a school of cosmetology or salon at any time during the regular business hours of that school or salon to conduct the investigation. Such investigation may include, but not be limited to, conducting oral interviews with the complaining party, school or salon owner(s) and/or students of the school, and reviewing records of the school or salon pertinent to the complaint and related to an area subject to the authority of the board. Such investigation shall not include written interviews or surveys of school employees or students, and the privacy of patrons shall be respected by any person making such investigation.

(3) On or before July 1, 2001, the board shall adopt regulations to ensure that all fingernail service products used by licensed cosmetologists, manicurists and other licensees do not contain methyl methacrylate (MMA) as a monomer agent for cosmetic nail applications.

(4) If the board finds that a violation of the provisions of this chapter or the rules and regulations of the board has occurred, it may cause a hearing to be held as set forth in Section 73-7-27.

SECTION 7. Section 73-7-13, Mississippi Code of 1972, is amended as follows:
73-7-13. (1) The board shall admit to examination for a cosmetology license any person who has made application to the board in proper form, has paid the required fee, and who (a) is at least seventeen (17) years of age, (b) can read, write and speak English, (c) has successfully completed no less than fifteen hundred (1500) hours over a period of no less than nine (9) months in a licensed school of cosmetology, and (d) has a high school education or its equivalent or has been successfully enrolled in a community college.

(a) The board may, in its discretion, issue to any student who has completed the prescribed hours in a licensed school and paid the required fee a temporary permit until such time as the next examination may be held, but such student shall be issued only one (1) temporary permit. Application for an examination and license shall be accompanied by two (2) passport photographs of the applicant. No temporary permit will be issued to an applicant from any other state to operate a beauty salon or school of cosmetology in this state unless in case of emergency.

(b) Applicants for the cosmetologist examination, after having satisfactorily passed the prescribed examination, shall be issued a cosmetology license which until June 30, 2001, shall be valid for one (1) year, and after July 1, 2001, shall be valid for two (2) years, and all those licenses shall be subject to renewal.

(c) Any barber who can read, write and speak English and has successfully completed no less than fifteen hundred (1500)
hours in a licensed barber school, and who holds a current valid certificate of registration to practice barbering and who holds a current valid license, is eligible to take the cosmetology examination to secure a cosmetology license upon successfully completing five hundred (500) hours in a licensed school of cosmetology. All fees for application, examination, registration and renewal thereof shall be the same as provided for cosmetologists.

(2) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

(3) Any licensed cosmetologist, esthetician, or manicurist who is registered but not actively practicing in the State of Mississippi at the time of making application for renewal, may apply for registration on the "inactive" list. Such "inactive" list shall be maintained by the board and shall set out the names and post office addresses of all persons registered but not actively practicing in this state, arranged alphabetically by name and also by the municipalities and states of their last-known professional or residential address. Only the cosmetologists, estheticians and manicurists registered on the appropriate list as actively practicing in the State of Mississippi shall be authorized to practice those professions. For the purpose of this section, any licensed cosmetologist, esthetician or manicurist who has actively practiced his or her profession for at least three
(3) months of the immediately preceding license renewal period shall be considered inactive practice. No cosmetologist, esthetician, or manicurist shall be registered on the "inactive" list until the person has furnished a statement of intent to take such action to the board. Any licensed cosmetologist, esthetician or manicurist registered on the "inactive" list shall not be eligible for registration on the active list until either of the following conditions have been satisfied:

(a) Written application shall be submitted to the State Board of Cosmetology stating the reasons for such inactivity and setting forth such other information as the board may require on an individual basis and completion of the number of clock hours of continuing education as approved by the board; or

(b) Evidence to the satisfaction of the board shall be submitted that they have actively practiced their profession in good standing in another state and have not been guilty of conduct that would warrant suspension or revocation as provided by applicable law; and

(c) Payment of the fee for processing such inactive license shall be paid biennially in accordance to board rules.

SECTION 8. Section 73-7-29, Mississippi Code of 1972, is amended as follows:

73-7-29. The State Board of Cosmetology shall assess fees in the following amounts and for the following purposes:
(a) Initial license/renewal for cosmetologist, manicurist ** or esthetician ** $ 50.00
(b) Instructor initial license/renewal ........ 80.00
(c) Master cosmetologist license/renewal ........ 70.00
(d) Delinquent renewal penalty - cosmetologist, manicurist, esthetician ** and instructor ............ 50.00

There shall be no renewal fee for any licensee seventy (70) years of age or older.
(e) Salon application and initial inspection .... 85.00
(f) Salon reinspection .......................... 35.00
(g) Salon change of ownership or location, or both .................................................. 85.00
(h) Salon renewal .................................. 60.00
(i) Salon delinquent renewal penalty ........... 50.00
(j) Application and initial inspection for a new school .................................................. 300.00
(k) New school reinspection .................... 100.00
(l) School change of ownership .................. 300.00
(m) School relocation ............................. 150.00
(n) School renewal ............................... 5.00
(o) School delinquent renewal penalty ........... 100.00
(p) Duplicate license .............................. 10.00
(q) Penalty for insufficient fund checks ........ 20.00
(r) Affidavit processing .......................... 15.00
The State Board of Cosmetology may charge additional fees for services which the board deems appropriate to carry out its intent and purpose. These additional fees shall not exceed the cost of rendering the service.

The board is fully authorized to make refunds of any deposits received by the board for services which are not rendered. Refunds will automatically be made on overpayment of fees. Refunds will be made on underpayments by written requests from applicants. If no request for refund is made within sixty (60) days, the fees will be forfeited.

SECTION 9. Section 73-22-1, Mississippi Code of 1972, is brought forward as follows:

73-22-1. As used in this chapter:

(a) " Appropriately trained" means the satisfactory completion of a course of study that covers fitting and patient management of therapeutic diabetic shoes and inserts that is approved by the National Commission for Orthotic and Prosthetic Education (N.C.O.P.E.), or a course of study offered by a manufacturer.

(b) "Orthotic device" means a brace or support, but does not include fabric and elastic supports, corsets, arch supports, trusses, elastic hose, canes, crutches, cervical collars, dental appliances or other similar devices carried in stock and sold by drug stores, department stores, corset shops or surgical supply facilities.
(c) "Orthotics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing orthotic devices for the support, correction or alleviation of musculoskeletal diseases, injuries, disabilities or deformities as permitted by prescriptions from a licensed doctor of medicine.

(d) "Orthotist" means a person who is certified by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification as a certified orthotist.

(e) "Person" means any individual, corporation, partnership, association or other organization.

(f) "Prosthetic device" means any artificial device that is not surgically implanted and that is used to replace a missing limb, appendage or any other external human body part, including devices such as artificial limbs, hands, fingers, feet, toes, but excluding artificial eyes or appliances for the eyes, dental plates, and largely cosmetic devices such as wigs, artificial breasts, eyelashes, ears and noses or other devices which could not by their use have a significantly detrimental impact upon the musculoskeletal functions of the body.

(g) "Prosthetics" means the science or practice of measuring, designing, constructing, assembling, fitting, adjusting or servicing prosthetic devices as permitted by prescriptions from a licensed doctor of medicine.
(h) "Prosthetist" means a person who is certified by the American Board for Certification in Orthotics and Prosthetics or the Board for Orthotist/Prosthetist Certification as a certified prosthetist.


SECTION 11. Section 73-55-15, Mississippi Code of 1972, is amended as follows:

73-55-15. (1) Nothing in this chapter shall be construed to authorize the practice of medicine or nursing by any person not licensed by the State Board of Medical Licensure or the Mississippi Board of Nursing.

(2) Nothing in this chapter shall be construed as preventing or restricting any of the following persons from engaging in the profession or occupation for which they are licensed:

(a) Physicians and surgeons licensed by the State Board of Medical Licensure.

(b) Dentists licensed by the State Board of Dental Examiners.

(c) Optometrists licensed by the State Board of Optometry.
(d) Nurses licensed by the Mississippi Board of Nursing.

(e) Chiropractors licensed by the State Board of Chiropractic Examiners.

(f) Podiatrists licensed by the State Board of Medical Licensure.

(g) Physical therapists licensed by the State Board of Physical Therapy.

(h) Occupational therapists licensed by the State Department of Health.

* * *

(3) The provisions of this chapter shall not restrict any of the following persons:

(a) Coaches and physical education instructors in the performance of their duties.

(b) Athletic trainers from other nations, states or territories performing their duties for their respective teams or organizations and only during the course of their team or organization's stay in this state.

SECTION 12. Section 75-60-5, Mississippi Code of 1972, is amended as follows:

75-60-5. The provisions of this chapter do not apply to the following categories of courses, schools or colleges:

(a) Tuition-free courses or schools conducted by employers exclusively for their own employees;
(b) Schools, colleges, technical institutes, community colleges, junior colleges or universities under the jurisdiction of the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board;

(c) Schools or courses of instruction under the jurisdiction of the State Board of Cosmetology, State Board of Barber Examiners ** or the State Board of Nursing;

(d) Courses of instruction required by law to be approved or licensed, or given by institutions approved or licensed, by a state board or agency other than the Commission on Proprietary School and College Registration; however, a school so approved or licensed may apply to the Commission on Proprietary School and College Registration for a certificate of registration to be issued in accordance with the provisions of this chapter;

(e) Correspondence education;

(f) Nonprofit private schools offering academic credits at primary or secondary levels, or conducting classes for exceptional education as defined by regulations of the State Department of Education;

(g) Private nonprofit colleges and universities or any private school offering academic credits at primary, secondary or postsecondary levels;

(h) Courses of instruction conducted by a public school district or a combination of public school districts;
ST: Occupational licenses; repeal those for art therapists, auctioneers, interior designers, wigologists and massage therapists.