

HB 1171-FN - AS AMENDED BY THE HOUSE

16Mar2022... 0843h

2022 SESSION

22-2358

11/08

HOUSE BILL

***1171-FN***

AN ACT

exempting certain niche beauty services from licensure requirements.

SPONSORS:

Rep. Pauer, Hills. 26; Rep. Baxter, Rock. 20; Rep. Pitre, Straf. 2; Rep. Rung, Hills. 21; Rep. Hough, Belk. 3; Rep. Jeudy, Hills. 10; Rep. Rhodes, Ches. 15; Rep. Sylvia, Belk. 6; Sen. Reagan, Dist 17

COMMITTEE:

Executive Departments and Administration

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ANALYSIS

This bill exempts niche beauty services from occupational and shop license requirements.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                    exempting certain niche beauty services from licensure requirements.

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

1            1    New Paragraph; Barbering, Cosmetology, and Esthetics; Definitions; Blow-dry Styling.  
2    Amend RSA 313-A:1 by inserting after paragraph III the following new paragraph:

3            III-a. "Blow-dry styling" means the practice of shampooing, conditioning, drying, arranging,  
4    curling, straightening, or styling hair using only mechanical devices, hair sprays, and topical agents  
5    such as balms, oils, and serums. "Blow-dry styling" includes the use and styling of hair extensions,  
6    hair pieces, and wigs, but excludes cutting hair or the application of dyes, bleach, reactive chemicals,  
7    keratin treatments, other preparations to color or alter the structure of hair, or other cosmetology  
8    services and is distinct from the practice of cosmetology.

9            2    Barbering, Cosmetology, and Esthetics; Definitions; Cosmetology. Amend RSA 313-A:1, VI to  
10    read as follows:

11            VI. "Cosmetology" means [~~arranging, dressing, curling, waving, cleansing,~~] cutting,  
12    bleaching, coloring, **chemically altering**, or similarly treating the hair of any person, and  
13    performing other work customarily performed by a cosmetologist such as giving facials, manicures,  
14    pedicures, and artificial nail enhancements[~~, applying makeup or eyelashes~~] to any person[~~and~~  
15    ~~removing superfluous hair~~].

16            3    Barbering, Cosmetology, and Esthetics; Definitions. Amend RSA 313-A:1, VIII-a to read as  
17    follows:

18            VIII-a. ***"Eyelash extension application" means the application, removal, and***  
19    ***trimming of threadlike natural or synthetic fibers to an eyelash. It includes the cleaning***  
20    ***of lashes. "Eyelash extension application" excludes the use of color agents, straightening***  
21    ***agents, permanent wave solutions, bleaching agents, or other cosmetology services and is***  
22    ***distinct from the practices of cosmetology and esthetics.***

23            VIII-b. "Fitzpatrick scale" means the following scale for classifying the 6 skin types, based  
24    on the skin's reaction to the first 10 to 45 minutes of sun exposure after the winter season:

- 25    Skin Type Sunburning and Tanning History
- 26    1 Always burns easily; never tans
  - 27    2 Always burns easily; tans minimally
  - 28    3 Burns moderately; tans gradually
  - 29    4 Burns minimally; always tans well
  - 30    5 Rarely burns; tans profusely
  - 31    6 Never burns; deeply pigmented.

1 *VIII-c. "Makeup application" means the application of a cosmetic to enhance the*  
2 *appearance of the face or skin, including powder, foundation, rouge, eyeshadow, eyeliner,*  
3 *mascara, and lipstick. "Makeup application" includes the application of makeup applied*  
4 *using an airbrush, but excludes the application of permanent makeup, tattooing, or other*  
5 *cosmetology services and is distinct from the practices of cosmetology and esthetics.*

6 4 New Paragraph; Barbering, Cosmetology, and Esthetics; Definitions; Threading. Amend RSA  
7 313-A:1 by inserting after paragraph XV the following new paragraph:

8 XV-a. "Threading" means a method of removing hair from the eyebrows, upper lip, or other  
9 body parts by using a cotton thread to pull hair from follicles. "Threading" includes the use of over  
10 the counter astringents, gels, powders, tweezers, and scissors incidental to threading, but excludes  
11 other cosmetology services and is distinct from the practice of cosmetology and esthetics.

12 5 New Paragraph; Barbering, Cosmetology, and Esthetics; Shop Licensure. Amend RSA 313-  
13 A:19 by inserting after paragraph IV the following new paragraph:

14 V. The owner of a salon, barbershop, or mobile barbershop licensed under this section is  
15 responsible for:

16 (a) Verifying the education, training, skills, and competence of persons who work in the  
17 owner's salon, barbershop, or mobile barbershop; and

18 (b) Protecting the health and safety of customers and persons who work in the owner's  
19 salon, barbershop, or mobile barbershop. This includes the sanitation of the facility and any  
20 equipment used in it.

21 6 Barbering, Cosmetology, and Esthetics; Exemptions. Amend the section heading and  
22 introductory paragraph of RSA 313-A:25 to read as follows:

23 313-A:25 Exemptions. The provisions of this chapter relative to barbering, cosmetology,  
24 esthetics, ~~and~~ manicuring, **and shop licensure** shall not be construed to apply to the following  
25 persons:

26 7 New Paragraphs; Barbering, Cosmetology, and Esthetics; Exemptions. Amend RSA 313-A:25  
27 by inserting after paragraph XIII the following new paragraphs:

28 XIV. Persons engaged in blow dry styling and hair styling.

29 XV. Persons who demonstrate the use of cosmetic beauty aid or equipment for the purpose of  
30 offering for sale to the public such cosmetic beauty aid or equipment.

31 XVI. Persons engaged in blow-dry styling and makeup application for theatrical, television,  
32 film, fashion, photography, or media productions or media appearances.

33 XVII. Persons engaged in eyelash extension application.

34 XVIII. Persons engaged in makeup application.

35 XIX. Persons engaged in threading.

36 8 Effective Date. This act shall take effect 60 days after its passage.

**HB 1171-FN- FISCAL NOTE**  
AS AMENDED BY THE HOUSE (AMENDMENT #2022-0843h)

AN ACT exempting certain niche beauty services from licensure requirements.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Office of Professional Licensure and Certification Fund			

**METHODOLOGY:**

This bill exempts individuals who perform eyelash extension application, blow dry styling/hair styling, makeup application, threading, persons who provide cosmetology services for theatrical purposes, etc; and persons who demonstrate use of cosmetic beauty aids from the requirements of licensure by the Board of Barbering, Cosmetology & Esthetics. It also establishes an enforcement provisions under RSA 358-A:4 for any person to use an unfair or deceptive act or practice in the provisions of any service authorized under RSA 313-A. The enforcement provision in this bill may have an indeterminable increase in state revenues and expenditures to the extent any violations occur.

The Office of Professional Licensure and Certification (OPLC) states there is an indeterminable fiscal impact on State revenue and expenditures. OPLC states they do not capture in its licensing data the number of individuals performing specific services proposed in this bill. However, at the close of FY 21, there were 8,447 licensed cosmetologists, 1,993 licensed esthetician, 1,727 licensed booths, and 2,130 licensed shops, who presently pay the following fees per biennium:

- Cosmetologist/esthetician:  $\$40.00 \times 10,440 = \$417,600$
- Booth Rental:  $\$75.00 \times 1,727 = \$130,275$
- Shop Rental:  $\$100.00 \times 2,130 = \$213,000$

If all licensure were exempt the maximum loss in revenue each fiscal year would be \$380,437.50 ( $\$760,875 \div 2$ ). OPLC states they do not now how many individuals, booths, and

shops would no longer renew under the proposed legislation. Additionally they are not able to quantify, for similar reasons, any reduction in expenditure of resources.

It is assumed the fiscal impact would not occur until after FY 2022.

**AGENCIES CONTACTED:**

Office of Professional Licensure and Certification