

**SENATE BILL NO. 2098  
with House Amendments  
SENATE BILL NO. 2098**

Sixty-second  
Legislative Assembly  
of North Dakota

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1 A BILL for an Act to create and enact a new subsection to section 43-11-02 of the North Dakota  
2 Century Code, relating to exemption from cosmetology licensure; and to amend and reenact  
3 sections 43-11-01, 43-11-03, 43-11-04, and 43-11-06, subsection 7 of section 43-11-16, and  
4 sections 43-11-21, 43-11-24, 43-11-25, 43-11-26, and 43-11-31 of the North Dakota Century  
5 Code, relating to the practice and licensing of cosmetologists, cosmetology salons, estheticians,  
6 instructors, manicurists, and schools and the powers, membership, and compensation of the  
7 state board of cosmetology.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 43-11-01 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **43-11-01. Definitions.**

12 In this chapter, unless the context or subject matter otherwise requires:

- 13 1. "Board" means the state board of cosmetology.
- 14 2. "Cosmetologist" means an individual licensed under this chapter to practice  
15 cosmetology.
- 16 3. "Cosmetology" means any one or combination of practices generally and usually  
17 performed by and known as the occupation of beauty culturists or cosmeticians or  
18 cosmetologists or hairdressers, or of any other person holding out as practicing  
19 cosmetology by whatever designation and within the meaning of this chapter and in  
20 and upon whatever place or premises; and in particular cosmetology includes the  
21 following or any one or a combination of practices: arranging, dressing, curling,  
22 waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair  
23 of any person by any means or with hands or mechanical or electrical apparatus or  
24 appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams,

1           or otherwise, massaging, cleansing, stimulating, manipulating, exercising, waxing to  
2           remove hair, beautifying, or similar work on the body, or manicuring the nails of any  
3           person.

4     ~~3.4.~~ "Cosmetology salon" includes that part of any building in which the occupation of a  
5           cosmetologist is practiced.

6     ~~4.5.~~ "Esthetician" means a person who is licensed by the board to engage in the practice of  
7           skin care. An esthetician does not include a professional make-up artist trained in  
8           facial make-up application by a cosmetics company.

9     ~~5.6.~~ "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a  
10          salon.

11    ~~6.7.~~ "Instructor" means any person of the age of eighteen years or more, who is a licensed  
12          cosmetologist, who teaches cosmetology or any practices taught in a duly registered  
13          school of cosmetology, and who has met the requirements of section 43-11-27 and  
14          has applied for and received an instructor's license.

15    ~~7.8.~~ "Invasive care" means any procedure that invades the live tissue of the dermis,  
16          including:

17          a. Laser use, except the use of cold laser technology using nonlinear, pulsed light  
18             application for the purpose of biostimulation without the generation of heat; and

19          b. Chemical peels, except for chemical peels using:

20                 (1) Thirty percent alpha hydroxy acid, which includes glycolic acid with a pH of  
21                     3.0 or higher;

22                 (2) Twenty percent beta hydroxy acid, which includes salicylic acid with a pH of  
23                     3.0 or higher; or

24                 (3) Two percent resorcinol with a pH of 3.0 or higher.

25    ~~8.9.~~ "Manager-operator" means any person who has met the requirements of section  
26          43-11-26 and has applied for and received a managing cosmetologist license.

27    ~~9.10.~~ "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the  
28          hands, feet, or nails of any person.

29    ~~10.11.~~ "Manicurist" means a person who is licensed by the board to engage in the practice of  
30          manicuring.

- 1        11. ~~"Operator" means a person, not a student, who is licensed under the provisions of this~~  
2            ~~chapter to engage in and follow any of the practices of a hairdresser or cosmetologist.~~
- 3        12. "School of cosmetology" means an establishment operated for the purpose of teaching  
4            cosmetology.
- 5        13. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions,  
6            creams, or otherwise, massaging, cleansing, stimulating, manipulating, waxing to  
7            remove hair, beautifying, or similar work on the body of any person. The term does not  
8            include invasive care.
- 9        14. "Student" means any person who is engaged in the learning or acquiring of any or all  
10           the practices of cosmetology and while so learning, performs or assists in any of the  
11           practices of cosmetology in any school registered or licensed and under the immediate  
12           supervision of an instructor licensed as such under this chapter.
- 13       15. "Student instructor" means a cosmetologist who is receiving instruction in teacher's  
14           training in a duly registered school of cosmetology.
- 15       16. "Tuition" means the total cost of a person's cosmetology studies, and does not include  
16           books or demonstration kits.

17        **SECTION 2.** A new subsection to section 43-11-02 of the North Dakota Century Code is  
18        created and enacted as follows:

19            Skin care provided under the supervision, control, and responsibility of a physician in  
20            the hospital, clinic, or physician's office.

21        **SECTION 3. AMENDMENT.** Section 43-11-03 of the North Dakota Century Code is  
22        amended and reenacted as follows:

23        **43-11-03. State board of cosmetology - Appointment - Term - Removal.**

24        The state board of cosmetology consists of ~~three~~five members appointed by the governor  
25        for three years each, with their terms of office so arranged that ~~one term expires~~no more than  
26        two terms expire on June thirtieth of each year. Each member shall qualify by taking the oath  
27        required of civil officers and shall hold office until a successor is appointed and qualified. The  
28        governor may remove from office a member for misconduct, malfeasance, neglect of duty in  
29        office, crime in office, gross incompetency, or habitual drunkenness. A vacancy on the board  
30        must be filled by appointment by the governor for the unexpired term.

1       **SECTION 4. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **43-11-04. Members of board - Qualifications.**

4       Each member of the board must be a citizen of this state ~~and. Three of the members of the~~  
5 ~~board must each be~~ a licensed cosmetologist who has had at least three years' practical  
6 experience in the occupation. ~~The other two members of the board must be citizen members.~~

7       **SECTION 5. AMENDMENT.** Section 43-11-06 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **43-11-06. Compensation of members of board - How paid.**

10       Each member of the board is entitled to receive compensation ~~of one hundred dollars in the~~  
11 ~~amount provided for members of the legislative management under section 54-35-10~~ for each  
12 day employed in the actual discharge of official duties, as determined by the board. ~~The~~  
13 ~~secretary of the board shall receive an annual salary of not more than thirteen thousand dollars~~  
14 ~~to be fixed by the board, and necessary expenses actually incurred in the performance of official~~  
15 ~~duties.~~ Expenses incurred by a board member in the performance of an official function are  
16 payable by the board pursuant to sections 44-08-04 and 54-06-09. The compensation and  
17 expenses of all members of the board must be paid from the license fees and other sources of  
18 income of the board.

19       **SECTION 6. AMENDMENT.** Subsection 7 of section 43-11-16 of the North Dakota Century  
20 Code is amended and reenacted as follows:

21       7. Agrees not to:

22           a. ~~Conduct a clinical department for fees after licensure by the board, until the~~  
23           ~~school has been operating for a period of at least twenty percent of the total~~  
24           ~~hours of instruction required by this chapter;~~

25           b. Permit any student to practice on any person not an instructor or registered  
26           student of the school until the student has completed at least twenty percent of  
27           the total hours of instruction required by this chapter; or

28           ~~e.b.~~   Compensate any of its basic students in any way; and

29       **SECTION 7. AMENDMENT.** Section 43-11-21 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **43-11-21. Operator's Cosmetologist license - Examination required - Application -**  
2 **Examination - Fees.**

3       Each person who desires to secure an operator's a cosmetologist license shall file with the  
4 secretary of the board a written application under oath on a form supplied by the board. The  
5 application must be accompanied by all of the following:

- 6       1. Satisfactory proof of the educational qualifications required of a student;\_
- 7       2. An examination fee as may be fixed by the board pursuant to section 43-11-28;\_
- 8       3. Satisfactory proof that the applicant has completed the required training in a school of  
9       cosmetology; and\_
- 10      4. A fee for original licensure as required by section 43-11-28.

11       **SECTION 8. AMENDMENT.** Section 43-11-24 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13       **43-11-24. Operator's Cosmetologist license - When issued - Failure to pass**  
14 **examination - Reexamination - Retraining.**

15       An operator's A cosmetologist license must be issued to any person who has met all the  
16 following requirements:

- 17      1. Complied with section 43-11-21; and\_
- 18      2. Passed to the satisfaction of the board the examination of applicants for a license to  
19      practice under this chapter.

20 If the applicant fails to pass the examination, the examination fee may not be returned. If an  
21 applicant fails to pass an examination, the applicant may be examined again with the payment  
22 of a reexamination fee as set forth in section 43-11-28. An applicant who fails to pass the ~~first-~~  
23 reexamination practical examination twice must complete an additional one hundred sixty hours  
24 of training at a school of cosmetology before applying for a second reexamination.

25       **SECTION 9. AMENDMENT.** Section 43-11-25 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27       **43-11-25. License issued without examination - Conditions.**

28       The board may dispense with the examination of applicants for licenses to practice  
29 cosmetology and may grant licenses upon the payment of a fee for original licensure and the  
30 reciprocity fee ~~provided in section 43-11-28~~ if all the following requirements are met:

- 1       1.    The applicant has complied with the requirements for registration of the District of  
2           Columbia, or another state, territory, foreign country, or province where the  
3           requirements are equal substantially to those in force in this state at the time the  
4           application for the license is filed; ~~and~~.
- 5       2.    The applicant passes to the satisfaction of the board an examination on sanitary  
6           practices and cosmetology law in this state.

7       **SECTION 10. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is  
8    amended and reenacted as follows:

9       **43-11-26. Manager-operator - License - Qualifications.**

10      ~~A person~~An individual may obtain a manager-operator's license upon meeting all the  
11 following requirements:

- 12      1.    Furnishing to the board evidence of having practiced as a ~~licensed-~~  
13           ~~operator~~cosmetologist for at least ~~one hundred twenty-five days;~~one thousand hours.
- 14      2.    Paying an original licensure fee as set forth in section 43-11-28; ~~and~~.
- 15      3.    Complying with the other requirements of this chapter applicable to a  
16           manager-operator.

17      **SECTION 11. AMENDMENT.** Section 43-11-31 of the North Dakota Century Code is  
18    amended and reenacted as follows:

19      **43-11-31. License - Refusal to grant - Grounds.**

20      The board may ~~refuse to grant a license which may be issued under this chapter to any~~  
21 ~~person who~~deny an application or discipline a licensee on any of the following grounds:

- 22      1.    ~~Is guilty of fraud~~Fraud in passing the examination; ~~;~~
- 23      2.    ~~Is guilty~~Conviction of an offense determined by the board to have a direct bearing  
24           upon a person's ability to serve the public ~~as a cosmetologist~~in a profession licensed  
25           by the board, or ~~who~~, following conviction of any offense, the board determines the  
26           person is not sufficiently rehabilitated under section 12.1-33-02.1; ~~;~~
- 27      3.    ~~Is guilty of grossly~~Grossly unprofessional or dishonest conduct; ~~;~~
- 28      4.    ~~Is addicted~~Addiction to the use of intoxicating liquor or drugs to such an extent as to  
29           render the person unfit to practice cosmetology; ~~;~~
- 30      5.    ~~Advertises~~Advertising by means of knowingly false or deceptive statements;
- 31      6.    ~~Fails~~Failure to display the license as provided in this chapter; ~~or~~.

Sixty-second  
Legislative Assembly

- 1        7. ~~Violates~~Violation of the provisions of this chapter or the rules adopted by the board.
- 2        8. Permitting an unlicensed person to practice cosmetology, manicuring, skin care, or
- 3        teaching in a cosmetology salon or school of cosmetology.