

ASSEMBLY, No. 254

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen GARCIA and JONES

1 AN ACT concerning the consolidation of administration and oversight  
2 of private proprietary vocational schools and revising parts of the  
3 statutory law.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. (New section) The Legislature finds and declares that:

9 a. In order to meet anticipated demands of a future world-class  
10 workforce, more workers will require stronger employment, training  
11 and education skills. Proprietary vocational schools will continue to  
12 play a large role in New Jersey's postsecondary occupational education  
13 system as there are over 450 schools annually enrolling at least  
14 100,000 students. However, the quality and stability of proprietary  
15 vocational schools in New Jersey are uncertain because the  
16 monitoring, evaluation, and approval of these school programs are  
17 scattered among six State agencies. Consequently, there are no  
18 common standards among agencies for school monitoring, evaluation  
19 and approval, or education program accountability.

20 b. It is the objective of the State of New Jersey to ensure that all  
21 vocational or technical education students receive educational and  
22 financial protection in the event of business failure or sudden closure  
23 of a school. In furtherance of that goal, the New Jersey State  
24 Employment and Training Commission has recommended the  
25 centralized regulation of certain private trade schools by the State  
26 Department of Education.

27 c. Furthermore, the federal Carl E. Perkins Vocational and Applied  
28 Technology Education Act (20 U.S.C. §2300 et seq.) as amended by  
29 Pub.L. 101-392, requires, among other things, the establishment of  
30 performance standards and measures for evaluation purposes for  
31 secondary and postsecondary vocational education programs.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

- 1 2. (New section) As used in sections 1 through 20 of this act:  
2 "Commissioner" means the Commissioner of Education.  
3 "Fund" means the Private Vocational School Student Tuition  
4 Protection Fund, established pursuant to section 5 of this act.  
5 "Owner" means the person primarily responsible for the formation  
6 and continuation of operation of a qualifying school, including those  
7 individuals who are authorized to sign checks and required to file  
8 reports for the school pursuant to this act.  
9 "Qualifying school" means:  
10 a. A person, firm, corporation, private organization, or business  
11 entity doing business and maintaining facilities within the State which:  
12 (1) offers or maintains a course of instruction or instructional  
13 program to prepare individuals for entry level employment or provides  
14 supplementary instruction in a recognized occupational area;  
15 (2) offers occupational instruction through classroom, shop or  
16 laboratory experience, or correspondence, or both;  
17 (3) offers the instruction to the general public or in conjunction  
18 with "Job Training Partnership Act" (JTPA) providers;  
19 (4) charges tuition or other fees or costs for goods and services;  
20 and  
21 (5) operates for profit or not for profit.  
22 b. "Qualifying school" shall not mean:  
23 (1) public and independent non-profit schools, colleges and  
24 universities licensed by the Commission on Higher Education;  
25 (2) casino training schools operating under the authority of the  
26 Casino Control Commission;  
27 (3) drivers' schools licensed by the Director of Motor Vehicles  
28 pursuant to P.L.1951, c.216 (C.39:12-1 et seq.) unless the school  
29 provides instruction for the purpose of obtaining a commercial driver  
30 license pursuant to P.L.1990, c.103 (C.39:3-10.9 et seq.);  
31 (4) schools offering courses of education in insurance approved by  
32 the Commissioner of Insurance pursuant to the provisions of P.L.1987,  
33 c.293 (C.17:22A-1 et seq.)  
34 (5) schools offering courses of education in real estate appraisal  
35 approved by the State Real Estate Appraiser Board pursuant to the  
36 provisions of P.L.1991, c.68 (C.45:14F-1 et seq.);  
37 (6) schools offering courses of education in real estate and related  
38 subjects approved by the New Jersey Real Estate Commission  
39 pursuant to the provisions of P.L.1966, c.227 (C.45:15-10.1 et seq.);  
40 (7) nonprofit schools owned, controlled, operated and conducted  
41 by bona fide religious, denominational or charitable organizations;  
42 (8) schools which charge no more than \$400 to any student for  
43 tuition, other fees or costs for goods in any calendar year.  
44 Commencing January 1, 1995 and annually thereafter, the State Board  
45 of Education shall adjust the amount set forth in this paragraph in  
46 direct proportion to the rise or fall of the Consumer Price Index for all

1 urban consumers in the New York and Northwestern New Jersey and  
2 Philadelphia areas, as reported by the United States Department of  
3 Labor. The adjustment shall become effective on July 1 in the year in  
4 which it is reported;

5 (9) employers offering instruction to their employees on a no-cost  
6 or not for profit basis;

7 (10) recognized trade, business or professional organizations  
8 offering instruction to their membership;

9 (11) schools offering instruction that is avocational, cultural or  
10 recreational in nature;

11 (12) instruction to four or fewer students per term; or

12 (13) other schools, institutions and entities exempted by the  
13 commissioner pursuant to rules adopted by the State Board of  
14 Education.

15

16 3. (New section) a. A qualifying school shall register with the  
17 commissioner and shall not operate unless it receives a certificate of  
18 approval issued by the commissioner under rules promulgated by the  
19 State Board of Education. A certificate of approval may be renewed  
20 annually and may be revoked or suspended at any time for good cause.

21 b. A qualifying school shall not receive a certificate of approval  
22 pursuant to subsection a. of this section unless the school receives at  
23 least 15% of its revenues from sources other than federal student aid  
24 programs.

25

26 4. (New section) A qualifying school shall obtain a performance  
27 bond payable to the State Treasurer in an amount to be determined by  
28 the commissioner. The Department of Education may establish  
29 alternatives to a performance bond for those qualifying schools which  
30 are unable to obtain a performance bond. The alternatives may include  
31 an additional quarterly payment to the fund until a performance bond  
32 can be secured by the school. The proceeds of the performance bond  
33 may be used to pay approved refunds or to reimburse the fund for  
34 refunds or other payments made to or on behalf of a student.

35

36 5. (New section) A restricted, nonlapsing, revolving Private  
37 Vocational School Student Tuition Protection Fund, to be managed  
38 and invested by the State Treasurer, is hereby established in the  
39 Department of Treasury. The purpose of the fund shall be to provide  
40 for a system of equitable refunds in the event of the closure of a  
41 qualifying school. The State Treasurer shall have full statutory powers  
42 of investment of the fund, except that any interest, income, and  
43 dividends derived from the investment of the fund shall be credited to  
44 the fund. The operating expenses of the fund shall be paid out of the  
45 monies in the fund.

1       6. (New section) a. A qualifying school shall pay to the State  
2       Treasurer, to be deposited into the Private Vocational School Student  
3       Tuition Protection Fund, an amount equal to \$10 annually for each  
4       student enrolled at that school, in the manner set forth below. This  
5       charge shall not be considered a part of tuition.

6       (1) Within 90 days of the effective date of this act, a qualifying  
7       school shall make a payment for each student enrolled at that school  
8       as of the effective date of this act.

9       (2) For newly-enrolled students who start a program of instruction  
10      after the effective date of this act, payments shall be made on a  
11      quarterly basis, on the dates of January 30, April 30, July 30 or  
12      October 30, for students enrolled within a three month period ending  
13      the month immediately preceding the applicable payment dates.

14      b. When the balance in the fund reaches \$2,000,000, and upon  
15      notification from the State Treasurer, all qualifying schools shall cease  
16      contributing to the fund. If the balance in the fund is reduced to an  
17      amount less than \$1,500,000 because of a school or program closure,  
18      the State Treasurer shall notify all qualifying schools, and they shall  
19      resume payment for all newly-enrolled students after the notification  
20      date, according to the schedule in paragraph 2 of subsection a. of this  
21      section until the balance in the fund is recapitalized at the amount of  
22      \$2,000,000.

23      c. Notwithstanding the provisions of subsection b. of this section,  
24      a qualifying school receiving an initial certificate of approval or license  
25      after the effective date of this act, shall make the payments as required  
26      by this section for a period of four years.

27  
28      7. (New section) A qualifying school owner shall notify the  
29      commissioner at least 30 days in advance of the owner's intention to  
30      close a school or cease instructional activity at a school.  
31      Accompanying the notification shall be a plan detailing the procedure  
32      the owner shall follow to protect the educational and financial interests  
33      of students enrolled in the school.

34  
35      8. (New section) A qualifying school owner shall notify the  
36      commissioner in the event that the owner files a petition for  
37      bankruptcy in accordance with federal law. Copies of the petition and  
38      all other relevant documents regarding the action shall be forwarded  
39      to the commissioner within five working days of the filing of the  
40      petition with the court.

41  
42      9. (New section) Whenever a qualifying school ceases to operate,  
43      becomes insolvent or otherwise ceases all instructional activity, the  
44      following shall apply:

45      a. Any student enrolled in the qualifying school who has paid  
46      tuition for a course or unit of instruction at that school, but is unable

1 to complete the course or unit of instruction because of the insolvency  
2 or cessation of operation of the school, or was enrolled in the school  
3 within 90 days of the insolvency or cessation of operation of the  
4 school and is owed a tuition refund from the school, is eligible to apply  
5 to the Department of Education for a refund of any tuition which the  
6 school has not previously refunded to the student. The commissioner  
7 shall seek to notify all students eligible for a refund. The following  
8 payments shall be made from the Private Vocational School Student  
9 Tuition Protection Fund, to the extent monies in the fund are available.

10 (1) If an eligible student is transferring to another qualifying school  
11 to complete the contracted-for courses or instruction, the program  
12 expenses incurred by the receiving school shall be paid to that school  
13 on behalf of the student subject to the approval of the commissioner.

14 (2) If an eligible student is not transferring to another qualifying  
15 school, the amount of refund for which the student is eligible shall be  
16 determined by the Department of Education based on various factors,  
17 including, but not limited to, the percentage of contracted-for services  
18 received and the availability to the student of opportunities to  
19 complete the course or instruction at another school within a  
20 reasonable period of time. In no case shall the amount of refund paid  
21 exceed the amount of tuition paid by a student.

22 b. The Department of Education, in consultation with the Higher  
23 Education Assistance Authority and other appropriate loan guarantors,  
24 shall identify all students who have paid all or part of the tuition with  
25 student loans. Any refund to which the student is entitled shall be  
26 made directly to the Higher Education Assistance Authority or other  
27 appropriate loan guarantor, except that any refund amount which  
28 exceeds the amount due any lending institution shall be distributed  
29 directly to the student.

30 c. The Department of Education, in consultation with the Office of  
31 Student Assistance, shall identify all students who are pursuing an  
32 academic degree who have paid all or part of the tuition with State  
33 grant or scholarship funds. Any refund to which the student is entitled  
34 shall be made directly to the Office of Student Assistance, except that  
35 any refund amount which exceeds the amount of State grant or  
36 scholarship funds shall be distributed directly to the student.

37 d. The Department of Education shall pay claims approved  
38 pursuant to this section from the performance bond required pursuant  
39 to section 4 of this act whenever possible. When the bond is  
40 insufficient to pay all approved claims, the department shall direct the  
41 State Treasurer to issue a refund check drawn against the available  
42 funds in the Private Vocational School Student Tuition Protection  
43 Fund. If a student is a minor, payment shall be made to the student's  
44 parent or legal guardian. A student who receives a refund or on  
45 whose behalf a refund is paid pursuant to this section, or if the student  
46 is a minor, the parent or legal guardian of the student, shall assign all

1 rights to the State of any action against the school or its owner for  
2 tuition amounts reimbursed. Upon the assignment, the State may take  
3 appropriate action against the school or its owner in order to  
4 reimburse the Private Vocational School Student Tuition Protection  
5 Fund for any expenses or claims that are paid from the fund and to  
6 reimburse any expenses the State incurs in undertaking the action.

7

8 10. (New section) A qualifying school shall maintain a permanent  
9 student record for each student enrolled which shall include, but not  
10 be limited to, name, social security number, and course completion  
11 information. A qualifying school shall submit a plan to the  
12 commissioner that describes the method by which a student or other  
13 legitimate requester may obtain a copy of the permanent record  
14 verifying attendance of a student at the school. The plan shall identify  
15 the organization or individual responsible for maintaining and  
16 responding to requests for records in the event that the school ceases  
17 operation or closes.

18

19 11. (New section) A qualifying school shall be open for  
20 monitoring and inspection to any officer designated by the  
21 commissioner. The Department of Education shall conduct at least  
22 biennially a full and complete examination of all facilities and methods  
23 of operating.

24

25 12. (New section) A phased-in schedule for consolidation of  
26 oversight and administration of qualifying schools which are currently  
27 monitored by other agencies shall be developed by the commissioner,  
28 with the exception of degree programs offered by qualifying schools  
29 licensed by the Commission on Higher Education, including the  
30 curricula, institutional organization, and administration of such schools  
31 offering degree programs.

32

33 13. (New section) The State Board of Education shall establish,  
34 upon consultation with the New Jersey State Employment and  
35 Training Commission, suitable standards governing the proper conduct  
36 of qualifying schools and may include recommendations concerning  
37 instruction, qualifications of instructors and supervisors, facilities,  
38 financial responsibilities, business practices, and any other matter  
39 essential to the maintenance of the adequacy of instruction and the  
40 business integrity of private vocational schools. Should Part H,  
41 Subpart I of Title IV of the "Higher Education Act of 1965," Pub.L.  
42 89-329 (20 U.S.C. §1001 et al.), as amended through 1992 be  
43 implemented, any standard established shall be subject to the approval  
44 or modification of New Jersey's State Postsecondary Review Entity  
45 (SPRE) as recognized by the United States Secretary of Education.

1 14. (New section) A qualifying school shall submit an annual  
2 report to the commissioner. The annual report shall include, but not  
3 be limited to, enrollment information, post-training placement  
4 information and tuition received. Failure to furnish the required report  
5 shall be just cause for the commissioner to amend, suspend or revoke  
6 the approval to operate as previously granted by whatever  
7 governmental entity, or to take other appropriate actions.

8 The annual report shall be for the period of July 1 through June 30  
9 of the preceding year and shall be submitted in the format and on the  
10 forms provided by the commissioner. It shall be due no later than 30  
11 calendar days after the close of the reporting period.

12 Such other reports as may be required by the commissioner on a  
13 more frequent basis shall be submitted by a qualifying school as  
14 directed. A qualifying school shall submit the student's name and  
15 social security number for each newly enrolled student on a reporting  
16 basis to be established by the commissioner.

17  
18 15. (New section) Objective performance standards and measures  
19 for evaluating qualifying schools shall be jointly developed and  
20 implemented by the State Board of Education and the New Jersey  
21 State Employment and Training Commission. Should Part H, Subpart  
22 I of Title IV of the "Higher Education Act of 1965," Pub.L. 89-329  
23 (20 U.S.C. §1001 et al.), as amended through 1992 be implemented,  
24 any standards and measures established shall be subject to the approval  
25 or modification of New Jersey's State Postsecondary Review Entity  
26 (SPRE) as recognized by the United States Secretary of Education.  
27 Policymakers and consumers shall be provided with information  
28 concerning approved programs in a "Consumer Guide" to be published  
29 annually.

30  
31 16. (New section) a. An annual fee schedule for qualifying  
32 schools shall be established based on variables which are cost-related  
33 and dedicated to fund the department's supervision and regulation of  
34 private proprietary vocational schools pursuant to an annual  
35 appropriation and an annual plan of expenditure prepared by the State  
36 Board of Education and approved by the Director of the Office of  
37 Management and Budget, Department of the Treasury. The fees shall  
38 be based on an equitable distribution of actual costs to administer the  
39 program, which shall include monitoring, evaluating and approving  
40 institutions and programs. This shall not preclude a graduated fee  
41 schedule. The fees shall be maintained in a separate fund dedicated to  
42 the supervision of private proprietary schools. All fees shall be  
43 submitted to the department no later than 30 days after the beginning  
44 of each calendar year quarter, beginning pursuant to the phase-in  
45 schedule required under section 12 of this act.

46 b. Any State or federal funds which may become available for the

1 implementation of this act, with the exception of funds to be  
2 administered by the State Postsecondary Review Entity (SPRE)  
3 pursuant to Part H, Subpart 1 of Title IV of the "Higher Education  
4 Act of 1965," Pub.L. 89-329 (20 U.S.C.§1001 et al.), as amended  
5 through 1992, shall be appropriated to the Department of Education  
6 for the support of the Office of Private Vocational Schools and its  
7 regulation and oversight of qualifying schools pursuant to the  
8 provisions of this act.

9

10 17. (New section) Any costs incurred by the Department of  
11 Education for the retrieval, storage or processing of student academic  
12 and financial records as a result of a closure of a private vocational  
13 school may be charged against the supervisory fund established  
14 pursuant to section 16 of this act.

15

16 18. (New section) Following the close of each fiscal year, the  
17 commissioner shall advise the State Board of Education if the balance  
18 in the private proprietary school supervision fund for that fiscal year  
19 exceeded or was less than the amount required for the support of the  
20 department's supervisory activities taking into account projected  
21 revenues and expenditures for the subsequent fiscal year. Projected  
22 expenditures shall be proportionate to the number of schools. To the  
23 extent that a surplus or deficit is identified, the State Board of  
24 Education shall reduce or increase the fees.

25

26 19. (New section) a. A non-degree granting private proprietary  
27 school soliciting students in the State which does not maintain a  
28 facility in the State, but otherwise meets the criteria for a qualifying  
29 school, shall not conduct business in the State unless it receives a  
30 certificate of approval from the commissioner pursuant to regulations  
31 to be adopted by the State Board of Education. A certificate of  
32 approval may be renewed or suspended at any time for good cause.  
33 An approval fee for the certificate shall be established annually by the  
34 State Board of Education. The approval fee shall be maintained in the  
35 separate fund in the Department of Education dedicated to the  
36 supervision of private proprietary schools established pursuant to  
37 section 16 of this act.

38 b. The State Board of Education shall prescribe standards  
39 governing the proper operation of private proprietary schools located  
40 outside the State in all matters necessary to ensure the adequacy of  
41 instruction and may require the schools, as a condition of approval, to  
42 furnish such information and reports as the commissioner determines  
43 are necessary.

44 c. A marketing representative or agent of a private proprietary  
45 school which does not maintain a facility in the State shall not solicit  
46 students or transact business in the State unless that individual has

1 registered with the commissioner, pursuant to regulations adopted by  
2 the State Board of Education. An annual fee for registration shall be  
3 established by the State board and the registration fees collected shall  
4 be maintained in the separate fund dedicated to the supervision of  
5 private proprietary schools.

6  
7 20. (New section) a. A person, firm, corporation, private  
8 organization or other business or legal entity that operates or conducts  
9 a private proprietary vocational school and that violates any provision  
10 of this act shall be liable to a civil penalty of an amount to be  
11 determined for each offense, pursuant to a schedule to be established  
12 by the State Board of Education, which shall be collected pursuant to  
13 the provisions of "the penalty enforcement law," N.J.S.2A:58-1 et  
14 seq., except that any funds remitted to the State Treasurer pursuant to  
15 that act shall be deposited into the separate fund dedicated to the  
16 supervision of private proprietary schools established pursuant to  
17 section 16 of this act.

18 b. A person, firm, corporation, private organization or other  
19 business or legal entity that conducts or operates a private proprietary  
20 vocational school shall not make a false statement or misrepresentation  
21 knowingly, fail to disclose a material fact, attempt to defraud another  
22 person or governmental entity, willfully fail or refuse to withhold or  
23 transfer any contribution or other payment, to furnish any report or  
24 information, or to produce or permit the inspection or copying of  
25 records which may be required under this act, or which may be  
26 required by any rule or regulation promulgated pursuant to this act.  
27 A person or entity which takes such action shall be subject to the civil  
28 penalties provided for in this section, as well as any criminal penalties  
29 which may be imposed pursuant to law.

30  
31 21. Section 2 of P.L.1951, c.216 (C.39:12-2) is amended to read  
32 as follows:

33 2. No person shall engage in the business of conducting a drivers'  
34 school, except a private proprietary school offering instruction for the  
35 purpose of obtaining a commercial driver license pursuant to  
36 P.L.1990, c.103 (C.39:3-10.9 et seq.), without being licensed therefor  
37 by the Director of Motor Vehicles. Application therefor shall be in  
38 writing and contain such information therein as he shall require. If the  
39 application is approved, the applicant shall be granted a license upon  
40 the payment of a fee of \$250.00; provided, however, no license fee  
41 shall be charged for the issuance of a license to any board of  
42 education, school board, public, private or parochial school, which  
43 conducts a course in driver education, approved by the State  
44 Department of Education. A license so issued shall be valid during the  
45 calendar year. The annual fee for renewal shall be \$200. The director  
46 shall issue a license certificate or license certificates to each licensee,

1 one of which shall be displayed in each place of business of the  
2 licensee.

3 In case of the loss, mutilation or destruction of a certificate, the  
4 director shall issue a duplicate upon proof of the facts and the payment  
5 of a fee of \$5.

6 (cf: P.L.1994, c.60, s.29)

7

8 22. (New section) Upon the effective date of P.L. , c.  
9 (C. ) (now pending before the Legislature as this bill), a private  
10 proprietary school offering instruction for the purpose of obtaining a  
11 commercial driver license pursuant to the provisions of P.L.1990,  
12 c.103 (C.39:3-10.9 et seq.) shall be approved by the Commissioner of  
13 the Department of Education pursuant to the provisions of P.L. ,  
14 c. (C. ) and in accordance with the schedule developed pursuant  
15 to section 12 of that act; except that the Director of the Division of  
16 Motor Vehicles shall retain the authority to approve the school's  
17 curriculum.

18

19 23. Section 2 of P.L.1984, c.205 (C.45:5B-2) is amended to read  
20 as follows:

21 2. The Legislature finds and declares that it is a valid public  
22 purpose:

23 a. To establish a single board which shall administer, coordinate  
24 and enforce this act and regulations promulgated pursuant to this act  
25 relating to the practices of cosmetology, hairstyling, barbering and  
26 beauty culture~~[,]and~~ the premises at which those services are rendered  
27 [and the schools at which instruction in those practices may be  
28 obtained];

29 b. To protect those persons of the general public who are direct  
30 recipients of the services regulated by this act and registered students  
31 receiving instruction at ~~[licensed]~~ approved schools of cosmetology  
32 and hairstyling from unsafe, fraudulent and deceptive practices, as well  
33 as practices which reduce competition and;

34 c. To maintain and ensure standards of competency and integrity  
35 for the occupations of cosmetology and hairstyling~~[: and]~~.

36 d. ~~[To ensure that registered students at cosmetology and~~  
37 ~~hairstyling schools receive thorough and reliable instruction.](Deleted~~  
38 ~~by amendment, P.L. , c. ).~~

39 (cf: P.L.1984, c.205, s.2)

40

41 24. Section 3 of P.L.1984, c.205 (C.45:5B-3) is amended to read  
42 as follows:

43 3. As used in this act:

44 a. "Barber" means any person who is licensed to engage in any of  
45 the practices encompassed in barbering.

46 b. "Barbering" means any one or combination of the following

1 practices when done on the human body for cosmetic purposes and not  
2 for the treatment of disease or physical or mental ailments and when  
3 done for payment either directly or indirectly or when done without  
4 payment for the general public:

- 5 (1) shaving or trimming of the beard, mustache or other facial hair;
- 6 (2) shampooing, cutting, arranging, relaxing or styling of the hair;
- 7 (3) singeing or dyeing of the hair;
- 8 (4) applying cosmetic preparations, antiseptics, tonics, lotions or  
9 creams to the hair, scalp, face or neck;
- 10 (5) massaging, cleansing or stimulating the face, neck or scalp with  
11 or without cosmetic preparations, either by hand, mechanical or  
12 electrical appliances; or
- 13 (6) cutting, fitting, coloring or styling of hairpieces or wigs, to the  
14 extent that the services are performed while the wig is being worn by  
15 a person.

16 c. "Beautician" means any person who is licensed to engage in any  
17 of the practices encompassed in beauty culture.

18 d. "Beauty culture" means any one or combination of the following  
19 practices when done on the human body for cosmetic purposes and not  
20 for the treatment of disease or physical or mental ailments and when  
21 done for payment either directly or indirectly or when done without  
22 payment for the general public:

- 23 (1) shampooing, cutting, arranging, dressing, relaxing, curling,  
24 permanent waving or styling of the hair;
- 25 (2) singeing, dyeing, tinting, coloring, bleaching of the hair;
- 26 (3) applying cosmetic preparations, antiseptics, tonics, lotions,  
27 creams or makeup to the hair, scalp, face, neck or upper part of the  
28 body;
- 29 (4) massaging, cleansing, or stimulating the face, scalp, neck or  
30 upper part of the body, with or without cosmetic preparations either  
31 by hand, mechanical or electrical appliances;
- 32 (5) removing superfluous hair from the face, neck, arms, legs or  
33 abdomen by the use of depilatories, waxing or tweezers, but not by the  
34 use of electrolysis;
- 35 (6) manicuring the fingernails, nail-sculpturing or pedicuring the  
36 toenails; or
- 37 (7) cutting, fitting, coloring or styling of hairpieces or wigs to the  
38 extent that the services are performed while the wig is being worn by  
39 a person.

40 e. "Board" means New Jersey State Board of Cosmetology and  
41 Hairstyling.

42 f. "Board of Barber Examiners" means the State Board of Barber  
43 Examiners established pursuant to P.L.1938, c.197 (C.45:4-27 et  
44 seq.).

45 g. "Board of Beauty Culture Control" means the Board of Beauty  
46 Culture Control established pursuant to Chapter 4A of Title 45 of the

1 Revised Statutes.

2 h. "Clinic" means a designated portion of [a licensed] an approved  
3 school in which members of the general public may receive  
4 cosmetology or hairstyling services from registered students in  
5 exchange for a fee which shall be calculated to recoup only the cost of  
6 materials used in the performance of those services.

7 i. "Cosmetologist-hairstylist" means any person who is licensed to  
8 engage in the practices encompassed in cosmetology and hairstyling.

9 j. "Cosmetology and hairstyling" means any one or combination of  
10 the following practices when done on the human body for cosmetic  
11 purposes and not for the treatment of disease or physical or mental  
12 ailments and when done for payment either directly or indirectly or  
13 when done without payment for the general public:

14 (1) shaving or trimming of the beard, mustache or other facial hair;

15 (2) shampooing, cutting, arranging, dressing, relaxing, curling,  
16 permanent waving or styling of the hair;

17 (3) singeing, dyeing, tinting, coloring, bleaching of the hair;

18 (4) applying cosmetic preparations, antiseptics, tonics, lotions,  
19 creams or makeup to the hair, scalp, face or neck;

20 (5) massaging, cleansing or stimulating the face, neck or upper part  
21 of the body, with or without cosmetic preparations, either by hand,  
22 mechanical or electrical appliances;

23 (6) removing superfluous hair from the face, neck, arms, legs or  
24 abdomen by the use of depilatories, waxing or tweezers, but not by the  
25 use of electrolysis;

26 (7) manicuring the fingernails, nail-sculpturing or pedicuring the  
27 toenails;

28 (8) cutting, fitting, coloring or styling of hairpieces or wigs to the  
29 extent that the services are being performed while the wig is being  
30 worn by a person; or

31 (9) hairweaving to the extent that the procedure does not involve  
32 the replacement of human hair by means of the insertion of any natural  
33 or synthetic fiber hair into the scalp.

34 k. "Manicurist" means a person who holds a limited license to  
35 engage in only the practice of manicuring.

36 l. "Manicuring" means any one or combination of the following  
37 practices when done on the human body for cosmetic purposes and not  
38 for the treatment of disease or physical or mental ailments and when  
39 done for payment directly or indirectly or when done without payment  
40 for the general public:

41 (1) manicuring of the fingernails;

42 (2) pedicuring of the toenails; or

43 (3) nail sculpturing.

44 m. "Owner" means any person, corporation, firm or partnership  
45 who has a financial interest in a [school or] shop entitling him to  
46 participate in the promotion, management and proceeds thereof. It

- 1 does not include a person whose connection with a [school or] shop  
2 entitles him only to reasonable salary or wages for services actually  
3 rendered.
- 4 n. "Practicing licensee" means any person who holds a license to  
5 practice barbering, beauty culture, cosmetology and hairstyling or  
6 manicuring.
- 7 o. "Registered student" means a person who is engaged in learning  
8 and acquiring a knowledge of the practice of cosmetology and  
9 hairstyling under the direction and supervision of a person duly  
10 authorized under this act to teach cosmetology and hairstyling and  
11 who is enrolled in a program of instruction at [a licensed] an approved  
12 school of cosmetology and hairstyling, completion of which may  
13 render him eligible for licensure pursuant to this act but does not mean  
14 a person who is enrolled in a public school vocational program in  
15 cosmetology and hairstyling approved by the State Board of  
16 Education.
- 17 p. "Registration card" means a document issued by the board to a  
18 registered student upon receipt of documentation from [a licensed] an  
19 approved school of cosmetology and hairstyling that the student is  
20 enrolled.
- 21 q. "School" means [an establishment or place licensed by the board  
22 to be maintained for the purpose of teaching] a private proprietary  
23 school which is approved by the Commissioner of the Department of  
24 Education pursuant to the provisions of P.L. , c. (C. ) (now  
25 pending before the Legislature as this bill) to offer courses of  
26 education in cosmetology and hairstyling to registered students.
- 27 r. "Senior student" means a registered student who has successfully  
28 completed 600 hours of instruction in cosmetology and hairstyling in  
29 a program offered at [a licensed] an approved school of cosmetology  
30 and hairstyling or a student enrolled in an approved vocational training  
31 program in cosmetology and hairstyling who has completed 600 hours  
32 of instruction.
- 33 s. "Student permit" means a permit issued to a senior student which  
34 enables him to practice cosmetology and hairstyling in a school clinic  
35 or shop while a registered student at [a licensed] an approved school  
36 of cosmetology and hairstyling or enrolled in an approved vocational  
37 training program.
- 38 t. "Shop" means any fixed establishment or place where one or  
39 more persons engage in one or more of the practices included in the  
40 definition of cosmetology or hairstyling, barbering, beauty culture or  
41 manicuring.
- 42 u. "Teacher" means any person who is licensed by the board to  
43 give instruction or training in the theory or practice of cosmetology  
44 and hairstyling.

1 v. "Temporary permit" means a permit issued to applicants for  
2 licensure awaiting scheduling or results of an examination.

3 (cf: P.L.1984, c.205, s.3)

4

5 25. Section 4 of P.L.1984, c.205 (C.45:5B-4) is amended to read  
6 as follows:

7 4. There is created within the Division of Consumer Affairs in the  
8 Department of Law and Public Safety the New Jersey State Board of  
9 Cosmetology and Hairstyling. The board shall consist of 11 members  
10 who are residents of the State, three of whom shall be public members,  
11 two appointed pursuant to subsection b. of section 2 of P.L.1971, c.60  
12 (C.45:1-2.2) and one additional public member, and one of whom shall  
13 be a State executive department member appointed pursuant to  
14 subsection c. of section 2 of P.L.1971, c. 60 (C.45:1-2.2). Of the  
15 remaining seven members, six shall hold practicing licenses issued by  
16 the board, by the Board of Barber Examiners or by the Board of  
17 Beauty Culture Control and shall have been engaged in the practice of  
18 beauty culture, barbering or cosmetology and hairstyling for at least  
19 five years prior to their appointments, but shall not have been engaged  
20 in the conduct of or teaching at [a licensed] an approved school of  
21 beauty culture or cosmetology and hairstyling. Three of the practicing  
22 members appointed to the initial board created by this act shall hold a  
23 license to practice barbering issued by the Board of Barber Examiners.  
24 Three of the practicing members appointed to the initial board created  
25 by this act shall hold a license issued by the Board of Beauty Culture  
26 Control. The remaining one member appointed [by] to the board  
27 created by this act shall hold a teacher's license issued by the Board of  
28 Beauty Culture Control or by the board and shall have been engaged  
29 in the teaching of beauty culture or cosmetology and hairstyling or  
30 shall have been involved in the conduct of a [licensed] school of  
31 beauty culture or school of cosmetology and hairstyling in this State  
32 for at least five years prior to their appointment.

33 (cf: P.L.1984, c.205, s.4)

34

35 26. Section 6 of P.L.1984, c.205 (C.45:5B-6) is amended to read  
36 as follows:

37 6. The board shall:

38 a. Review the qualifications of applicants for licensure;

39 b. Devise examinations for licensure which include practical,  
40 written and oral portions;

41 c. Administer and grade examinations or employ competent  
42 examiners to administer and grade examinations but in no case shall  
43 the board permit a person having any affiliation with [a licensed] an  
44 approved school to examine or grade an applicant who has been a  
45 registered student at the school with which the examiner has an  
46 affiliation;

- 1 d. Issue and renew licenses of any cosmetologist-hairstylist,  
2 beautician, barber, manicurist, teacher, or shop[, or school];
- 3 e. Issue student permits to senior students, which permits shall  
4 remain valid during the period that the senior student is registered at  
5 **[a licensed] an approved** school or enrolled in an approved vocational  
6 training program;
- 7 f. Issue temporary permits to applicants for licensure who are  
8 awaiting scheduling for or results from an examination;
- 9 g. Issue registration cards to registered students;
- 10 h. Suspend, revoke or fail to renew a license and exercise  
11 investigative powers pursuant to the provisions of P.L.1978, c.73  
12 (C.45:1-14 et seq.);
- 13 i. Appoint and employ an executive secretary and an assistant  
14 secretary subject to the approval of the Attorney General, and other  
15 employees as necessary to carry out the provisions of this act;
- 16 j. Determine the duties that the executive secretary and the  
17 assistant secretary shall perform;
- 18 k. File with the Attorney General a petition to remove any  
19 executive secretary or assistant secretary for cause, which petition  
20 shall be acted upon by the Attorney General in a manner which he  
21 deems appropriate;
- 22 l. Establish fees for initial licensure, permits, renewals and  
23 restoration of licenses as well as for duplication of lost licenses  
24 pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2);
- 25 m. Maintain records of all practicing licensees and all licensed  
26 teachers. Records shall include the latest work address of each  
27 licensee, as provided on applications for licensure and renewals  
28 thereof;
- 29 n. Maintain a record of all registered students and all persons  
30 holding student permits;
- 31 o. Maintain a record of all shops licensed by the board to offer one  
32 or more of the services encompassed within the definition of  
33 cosmetology and hairstyling;
- 34 p. Maintain a record of all schools **[licensed by the board]**  
35 **approved by the Commissioner of of the Department of Education**  
36 **pursuant to the provisions of P.L. , c. (C. ) (now pending**  
37 **before the Legislature as this bill)** to offer courses of instruction or  
38 training in the practice and theory of cosmetology and hairstyling to  
39 registered students, which courses shall be approved by the board for  
40 the awarding of credit for licensure;
- 41 q. Make available for public inspection all records required to be  
42 kept pursuant to this section;
- 43 r. Promulgate regulations governing practice and teaching of  
44 cosmetology and hairstyling as are necessary to implement this act and  
45 to insure that cosmetology and hairstyling services and instruction in  
46 those services are being offered both in a manner which is sanitary and

- 1 safe and in a manner which is not intended to deceive or mislead the  
2 general public;
- 3 s. Promulgate regulations governing the conduct of shops [and  
4 schools] as are necessary to implement this act and to insure that  
5 cosmetology and hairstyling services [and instruction in those services]  
6 are being offered both in a manner that is sanitary and safe, and in a  
7 manner not intended to deceive or mislead the general public[,  
8 students of the schools, or organizations awarding financial aid to the  
9 students] and to clarify or define any term used in the act and to define  
10 any activity included in hairstyling and cosmetology and beauty  
11 culture;
- 12 t. Review curricula offered by [licensed] approved schools in  
13 courses of instruction offered to registered students and approve those  
14 curricula which offer comprehensive training in cosmetology and  
15 hairstyling;
- 16 u. Direct the conduct of inspections or investigations of all licensed  
17 shops [and schools]; and
- 18 v. Direct the conduct of inspections or investigations of any  
19 premises from which the board may have reason to believe that  
20 cosmetology and hairstyling services are being offered[, or that  
21 courses of instruction are being offered to registered students].

22 (cf: P.L.1984, c.205, s.6)

23

24 27. Section 8 of P.L.1984, c.205 (C.45:5B-8) is amended to read  
25 as follows:

26 8. No person shall render any of the services encompassed within  
27 the definition of cosmetology and hairstyling in a place which is not a  
28 licensed [as a] shop or an approved school, except that a practicing  
29 licensee, duly licensed pursuant to this act, may render the services  
30 which he is licensed to offer:

31 a. Upon patients in hospitals, nursing homes, and other licensed  
32 health care facilities;

33 b. Upon inmates and residents of institutions of the Department of  
34 Corrections or the Department of Human Services;

35 c. Upon an invalid or handicapped person in the person's place of  
36 residence, if the practicing licensee is sponsored by a licensed shop and  
37 a record of those services is maintained by that shop;

38 d. Upon performers or models, prior to, in anticipation of or during  
39 a performance; or

40 e. Upon potential consumers of cosmetic preparations, lotions,  
41 creams, makeup or perfume which are intended for home use if the  
42 application of the product is made for the purposes of effecting a retail  
43 sale and the person neither accepts payment from the consumer for the

1 service, nor makes the provision of the service contingent upon the  
2 purchase of any product or service.

3 (cf: P.L.1984, c.205, s.8)

4

5 28. Section 10 of P.L.1984, c.205 (C.45:5B-10) is amended to  
6 read as follows:

7 10. No person, firm, corporation, partnership or other legal entity  
8 shall operate, maintain or use premises at which courses of instruction  
9 in cosmetology and hairstyling services are offered to registered  
10 students without first having secured a [school license from the board]  
11 certificate of approval from the Commissioner of the Department of  
12 Education pursuant to the provisions of P.L. , c. (C. ) (now  
13 pending before the Legislature as this bill). Nothing herein shall  
14 prohibit the offering of educational programs and courses in  
15 cosmetology and hairstyling to practicing licensees or teachers at  
16 [unlicensed] unapproved premises. However, no course offered at  
17 [an unlicensed] unapproved premises shall be recognized by the board  
18 in satisfaction of licensure eligibility requirements. All educational  
19 programs and courses offered at [unlicensed] unapproved premises  
20 shall be conducted by practicing licensees.

21 (cf: P.L.1984, c.205, s.10)

22

23 29. Section 12 of P.L.1984, c.205 (C45:5B-12) is amended to read  
24 as follows:

25 12. In addition to any practice declared unlawful pursuant to  
26 P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for any person  
27 to engage in the following practices:

28 a. Advertise in a manner which would tend to mislead consumers  
29 of cosmetology or hairstyling services;

30 b. Advertise, practice or attempt to practice under another's name  
31 or trade name;

32 c. Continue to practice while knowingly having an infectious,  
33 contagious or communicable disease;

34 d. Engage in fraudulent practices for the purpose of securing  
35 financial aid from any institution or agency offering that aid to  
36 students of cosmetology or hairstyling;

37 e. Aid, abet, or knowingly permit a person not licensed pursuant  
38 to this act to render any of the services encompassed within the  
39 definition of cosmetology and hairstyling;

40 f. Fail to display a practicing license at any place at which the  
41 licensee renders services; or

42 g. Engage in one or more of the practices included in the definition  
43 of cosmetology and hairstyling in premises which is not a licensed [as  
44 a] shop or [a] an approved school, except as provided in section 8 of  
45 [this act] P.L.1984, c.205 (C.45:5B-8).

46 (cf: P.L.1984, c.205, s.12)

1       30. Section 15 of P.L.1984, c.205 (C.45:5B-15) is amended to  
2 read as follows:

3       15. In addition to any practice declared unlawful pursuant to  
4 P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a licensed  
5 teacher to engage in the following practices:

6       a. Advertise in a manner which would tend to mislead potential  
7 students or consumers of cosmetology or hairstyling services offered  
8 in the school clinic;

9       b. Advertise~~],~~or teach ~~[or attempt to open a school]~~ under another  
10 person's name;

11       c. Knowingly permit students to practice upon each other or  
12 members of the public while having an infectious, contagious or  
13 communicable disease;

14       d. Demonstrate cosmetology and hairstyling services on students  
15 while knowingly having an infectious, contagious or communicable  
16 disease;

17       e. Engage in fraudulent practices for the purpose of securing  
18 financial aid from any institution or agency offering aid to students of  
19 cosmetology and hairstyling;

20       f. Aid, abet or permit a person not licensed pursuant to this act to  
21 teach any of the services included in the definition of cosmetology and  
22 hairstyling to registered students;

23       g. Teach cosmetology and hairstyling in a manner which is  
24 unsatisfactory or unsafe;

25       h. Fail to display in a conspicuous place a valid teacher's license at  
26 the school; or

27       i. Fail to accurately and truthfully record attendance by registered  
28 students.

29 (cf: P.L.1984, c.205, s.15)

30

31       31. Section 17 of P.L.1984, c.205 (C.45:5B-17) is amended to  
32 read as follows:

33       17. An applicant seeking licensure as a cosmetologist-hairstylist,  
34 who does not at the time of that application hold a license to practice  
35 barbering issued by the Board of Barber Examiners or the board or a  
36 license to practice beauty culture issued by the Board of Beauty  
37 Culture Control or the board, shall:

38       a. Demonstrate successful completion of high school or its  
39 equivalent; and

40       b. Demonstrate successful completion of a course in cosmetology  
41 and hairstyling consisting of:

42       (1) 1,200 hours of instruction at a school of cosmetology and  
43 hairstyling ~~[licensed]~~ approved in this State, or

44       (2) A program in a public school approved by the State Board of  
45 Education to offer a vocational program in cosmetology and  
46 hairstyling, or

1 (3) 1,200 hours of instruction at a school of cosmetology and  
2 hairstyling, beauty culture or barbering licensed in another state or a  
3 foreign country which, in the opinion of the board, offers curricula  
4 which is substantially similar to that offered at [licensed] approved  
5 schools of cosmetology and hairstyling within the State; and

6 c. Take and pass an examination conducted by the board, as  
7 provided by this act.

8 (cf: P.L.1985, c.272, s.1)

9  
10 32. Section 18 of P.L.1984, c.205 (C.45:5B-18) is amended to  
11 read as follows:

12 18. Any applicant holding a license to practice beauty culture  
13 issued by the Board of Beauty Culture Control or by the board, who  
14 is seeking licensure as a cosmetologist-hairstylist shall be given two  
15 opportunities within seven years of the effective date of this act to take  
16 and pass an examination conducted by the board, which shall  
17 demonstrate to the board's satisfaction that the applicant has attained  
18 proficiency in shaving, without undertaking additional training. If the  
19 applicant does not pass the examination on either one of the two  
20 examination opportunities, the applicant may not take the examination  
21 again until the applicant can demonstrate successful completion of a  
22 course in shaving, the length of which is to be established by the board  
23 pursuant to regulation, and which is offered at:

24 a. A school of cosmetology and hairstyling in this State; or

25 b. A public school approved by the State Board of Education to  
26 offer a vocational program in cosmetology and hairstyling; or

27 c. A school of cosmetology and hairstyling, beauty culture or  
28 barbering licensed in another state or foreign county, which, in the  
29 opinion of the board, offers curricula which are substantially similar to  
30 that offered at [licensed] approved schools of cosmetology and  
31 hairstyling within this State.

32 (cf: P.L.1991, c.313, s.1)

33

34 33. Section 19 of P.L.1984, c.205 (C.45:5B-19) is amended to  
35 read as follows:

36 19. An applicant holding a license to practice barbering issued by  
37 the Board of Barber Examiners or the board, who is seeking licensure  
38 as a cosmetologist-hairstylist shall be given two opportunities within  
39 seven years of the effective date of this act to take and pass an  
40 examination conducted by the board, which shall demonstrate to the  
41 board's satisfaction that the applicant has attained proficiency in  
42 services included within the definition of beauty culture which are not  
43 encompassed within the definition of barbering, without undertaking  
44 additional training. If the applicant does not pass that examination on  
45 either one of the two examination opportunities, the applicant may not  
46 take the examination again until the applicant can demonstrate

1 successful completion of a 500-hour course in beauty culture services  
2 offered at:

- 3 a. A school of cosmetology and hairstyling in this State; or
- 4 b. A public school approved by the State Board of Education to  
5 offer a vocational program in cosmetology and hairstyling; or
- 6 c. A school of cosmetology and hairstyling or beauty culture  
7 licensed in another state or foreign county, which, in the opinion of the  
8 board, offers curricula which are substantially similar to that offered  
9 at [licensed] approved schools of cosmetology and hairstyling within  
10 this State.

11 (cf: P.L.1991, c.313, s.2)

12

13 34. Section 22 of P.L.1984, c.205 (C.45:5B-22) is amended to  
14 read as follows:

15 22. An applicant seeking initial licensure as a manicurist who does  
16 not hold a license to practice manicuring issued by the Board of  
17 Beauty Culture Control must:

- 18 a. Demonstrate successful completion of high school or its  
19 equivalent; and
- 20 b. Demonstrate successful completion of a 200 hour course of  
21 instruction in manicuring at:

22 (1) a school of cosmetology and hairstyling [licensed] approved in  
23 this State; or

24 (2) a public school approved by the State Board of Education to  
25 offer a vocational program in cosmetology and hairstyling; or

26 (3) a school of cosmetology and hairstyling, beauty culture or  
27 barbering licensed in another state or foreign country which, in the  
28 opinion of the board, offers curricula which is substantially similar to  
29 that offered at [licensed] approved schools of cosmetology and  
30 hairstyling within this State; and

31 c. Take and pass an examination conducted by the board as  
32 provided by this act.

33 (cf: P.L.1984, c.205, s.22)

34

35 35. Section 23 of P.L.1984, c.205 (C.45:5B-23) is amended to  
36 read as follows:

37 23. An applicant for a license to teach cosmetology and hairstyling  
38 who does not hold a license to teach beauty culture issued by the  
39 Board of Beauty Culture Control shall submit to the board satisfactory  
40 evidence that he:

- 41 a. Is of good moral character;
- 42 b. Is at least 18 years of age;
- 43 c. Does not have a communicable, contagious or infectious disease;
- 44 d. Has successfully completed high school or its equivalent;
- 45 e. Holds a cosmetologist-hairstylist license issued by the board or  
46 an operator's license issued by the Board of Beauty Culture Control

- 1 prior to the effective date of this act or a beautician's license issued  
2 within two years of the effective date of this act;
- 3 f. Has successfully completed a teacher training course of 500  
4 hours consisting of practice and theory of teaching conducted at [a  
5 licensed] an approved school of cosmetology and hairstyling in this  
6 State or a school of cosmetology and hairstyling or beauty culture  
7 licensed in another state or foreign country which, in the opinion of  
8 the board, offers a curriculum which is substantially similar to that  
9 offered at [licensed] approved schools within this State;
- 10 g. Has successfully completed a 30-hour teaching methods course  
11 conducted by a college approved by the <sup>1</sup>[State Board of] Commission  
12 on<sup>1</sup> Higher Education and recognized by the board or a substantially  
13 equivalent teaching methods course conducted by a college in another  
14 state which is approved by the higher education authorities of that  
15 state and recognized by the board;
- 16 h. Has attained six months' employment experience in a licensed  
17 shop within this State which may be obtained prior to, at the same time  
18 as, or subsequent to the period during which the applicant is attending  
19 the teacher training course offered by [a licensed] an approved school  
20 of cosmetology and hairstyling of this State or has attained six months'  
21 licensed employment in another state or foreign country; and
- 22 i. Has successfully completed an examination conducted by the  
23 board.

24 (cf: P.L.1987, c.92, s.2)

25

26 36. Section 25 of P.L.1984, c.205 (C45:5B-25) is amended to read  
27 as follows:

28 25. To be eligible to obtain a student permit, an applicant shall  
29 submit to the board satisfactory evidence that he:

30 a. Is a registered student in a course of instruction in cosmetology  
31 and hairstyling or is enrolled on the effective date of this act in a  
32 licensed beauty culture school in this State or is enrolled in a public  
33 school approved by the State Board of Education to offer a vocational  
34 program in cosmetology and hairstyling, and has completed 600 hours  
35 in that course of instruction; and

36 b. Does not have a communicable, contagious or infectious disease.

37 Student permits shall remain valid only during the period that the  
38 student is registered at [a licensed] an approved school of  
39 cosmetology and hairstyling or enrolled in an approved vocational  
40 program and shall expire upon a student's graduation, withdrawal or  
41 leave of absence from the school or program for more than 90  
42 consecutive days.

43 (cf: P.L.1984, c.205, s.25)

44

45 37. Section 34 of P.L.1984, c.205 (C.45:5B-34) is amended to  
46 read as follows:

1       34. All practicing licenses and teachers' licenses issued shall  
2 automatically expire on September 30 of the next odd numbered year  
3 following the date of license issuance. Shop [and school] licenses  
4 shall automatically expire on July 31 of the next odd numbered year  
5 following the date of license issuance.

6 (cf: P.L.1984, c.205, s.34)

7

8       38. Section 35 of P.L.1984, c.205 (C.45:5B-35) is amended to  
9 read as follows:

10       35. Any practicing license issued by the Board of Cosmetology and  
11 Hairstyling, the Board of Beauty Culture Control or the Board of  
12 Barber Examiners may be renewable biennially if the expired licenses  
13 are renewed within six months following expiration. Applications shall  
14 be submitted to the board and accompanied by the fee to be  
15 determined by the board. Applications for renewal submitted more  
16 than six months after the expiration of a license shall be accompanied  
17 by a restoration fee to be determined by the board. Applicants seeking  
18 restoration of a license more than five years after the license has  
19 expired shall be required to make application for initial licensure. Shop  
20 [and school] licenses shall be renewed within 90 days following  
21 expiration. [Applicants for renewal of school licenses shall provide  
22 satisfactory evidence that a bond required pursuant to section 32 of  
23 this act has been secured and shall remain valid through the next  
24 licensing period.] No shop [or school] license may be restored after 90  
25 days and an application for initial licensure shall be submitted.

26 (cf: P.L.1987, c.92, s.3)

27

28       39. Section 36 of P.L.1984, c.205 (C.45:5B-36) is amended to  
29 read as follows:

30       36. A shop [or school] owner shall notify the board prior to  
31 undertaking a change of location or undergoing a change of  
32 ownership. The shop [or school] shall submit to the board an initial  
33 application for licensure. If a change of ownership results from the  
34 death or disability of a principal shareholder in a corporation, or  
35 partner in a partnership which holds a shop [or school] license, the  
36 new owner shall notify the board within six months after the change  
37 has been effected. For purposes of this section, a change of ownership  
38 shall be deemed to have occurred if more than 50% of the outstanding  
39 stock or other financial interest is transferred.

40 (cf: P.L.1984, c.205, s.36)

41

42       40. Section 37 of P.L.1984, c.205 (C.45:5B-37) is amended to  
43 read as follows:

44       37. Nothing in this act shall be construed to preclude the lawful  
45 sale of merchandise or the provision of services related to the  
46 beautification of the body or the enhancement of personal appearance

1 which are not enumerated in the definition of cosmetology and  
2 hairstyling pursuant to section 3 of [this act] P.L.1984, c.205  
3 (C.45:5B-3), from being undertaken within a licensed shop or  
4 approved school. To the extent that the board determines that certain  
5 ancillary beautification services pose a health hazard to the public, it  
6 may adopt regulations prohibiting the services, placing restrictions on  
7 the manner in which the services are offered or designating appropriate  
8 training levels which those offering the services shall have to attain.  
9 (cf: P.L.1984, c.205, s.37)

10  
11 41. (New section) a. Upon the effective date of P.L. , c.  
12 (C. ) (now pending before the Legislature as this bill), a private  
13 proprietary school offering courses of education in cosmetology and  
14 hairstyling shall be approved by the Commissioner of the Department  
15 of Education pursuant to the provisions of that act and in accordance  
16 with the schedule developed pursuant to that act; except that the New  
17 Jersey State Board of Cosmetology and Hairstyling shall retain the  
18 authority to approve the school's curriculum.

19 b. The Commissioner of the Department of Education may delegate  
20 to the New Jersey State Board of Cosmetology and Hairstyling such  
21 oversight and review of the operation of schools of cosmetology and  
22 hairstyling as the commissioner deems appropriate.

23  
24 42. (New section) The State Board of Education shall promulgate,  
25 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
26 (C.52:14B-1 et seq.), the rules and regulations necessary to effectuate  
27 the purposes of this act.

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29 43. The following sections are repealed:  
30 N.J.S.18A:69-1 through 18A:69-16 inclusive;  
31 Sections 3, 4, 5, and 6 of P.L.1987, c.375 (C.18A:69-6.1 through  
32 18A:69-6.4);  
33 Sections 14, 32, and 33 of P.L.1984, c.205 (C.45:5B-14, 45:5B-32,  
34 and 45:5B-33.

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36 44. This act shall take effect on the 90th day following enactment.

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39 **STATEMENT**

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41 The bill provides for the consolidation of the oversight and  
42 regulation of certain private vocational schools in the Department of  
43 Education and for the establishment of standards and procedures for  
44 the approval and operation of such schools.

45 Under the provisions of the bill, a private proprietary school which  
46 conducts business and maintains facilities within the State would be

1 required to register with the Commissioner of Education and to  
2 receive a certificate of approval. The school would also be required  
3 to obtain a performance bond in an amount determined by the  
4 commissioner and made payable to the State Treasurer.

5 The bill establishes a restricted, nonlapsing, revolving Private  
6 Vocational School Student Tuition Protection Fund in the Department  
7 of Treasury. The purpose of the fund is to provide for a system of  
8 equitable refunds in the event of the closure of a private proprietary  
9 school. Each school is to pay to the State Treasurer for deposit in the  
10 fund an amount equal to \$10 annually for each student enrolled in the  
11 school. Once the balance of the fund reaches \$2,000,000, and upon  
12 notification from the State Treasurer, contributions to the fund will  
13 cease but will resume if the fund is reduced to an amount less than  
14 \$1,500,000. The bill establishes procedures to be followed for  
15 payments from the fund in the event that a private proprietary school  
16 ceases operation but also stipulates that approved claims for refunds  
17 shall be paid from a school's performance bond whenever possible.  
18 When the bond is insufficient to pay approved claims, a refund check  
19 shall be issued from the fund and the recipient of the refund shall  
20 assign all rights to the State of any action against the school or its  
21 owner for tuition amounts reimbursed.

22 The bill requires a private proprietary school to notify the  
23 commissioner of any proposed closing of the school and to submit a  
24 plan outlining the procedure the school will follow to protect the  
25 educational and financial interests of enrolled students. The bill also  
26 requires notification to the commissioner in the event of the filing of  
27 a bankruptcy petition by a private proprietary school.

28 The bill directs the Department of Education, upon consultation  
29 with the New Jersey State Employment and Training Commission, to  
30 establish standards governing the proper conduct of private vocational  
31 schools and jointly to develop and implement performance standards  
32 and measures which can be used for evaluating schools. Information  
33 on the quality of school programs would then be available to the public  
34 in the form of a "Consumer Guide."

35 The bill provides that a fee schedule shall be established to fund the  
36 Department of Education's supervision and regulation of private  
37 vocational schools. The fees are to be maintained in a separate fund  
38 dedicated to the supervision of private proprietary schools and the  
39 State Board of Education is to annually reduce or increase the fees in  
40 accordance with the expenses incurred by the department.

41 The bill also provides that a private proprietary school which does  
42 not maintain a facility within the State, but which solicits students in  
43 the State, shall not conduct business in the State unless it receives a  
44 certificate of approval from the commissioner and pays an approval fee  
45 for the certificate as established by the State Board of Education. In  
46 addition, each marketing representative or agent of an out-of-state

1 school shall not solicit students within the State unless he has  
2 registered with the commissioner and paid an annual registration fee.

3 The bill revises the statutes regarding the approval process for  
4 driving schools providing instruction for commercial driver licenses  
5 and schools of cosmetology and hairstyling to clarify that upon the  
6 bill's effective date, private proprietary schools offering instruction in  
7 these subjects shall require the approval of the Department of  
8 Education pursuant to the bill's provisions. Under current law, these  
9 schools are approved by the Director of the Division of Motor  
10 Vehicles and the New Jersey State Board of Cosmetology and  
11 Hairstyling. The bill provides, however, that these entities shall retain  
12 their authority to approve the schools' curricula. The bill exempts  
13 certain private proprietary schools from its provisions due to the fact  
14 that these schools are currently regulated by other State entities and  
15 because they generally charge rather minimal tuition rates. The bill  
16 also exempts schools which charge no more than \$400 to any student  
17 in any calendar year and provides for the annual adjustment of this  
18 amount by the State Board of Education in proportion to the change  
19 in the Consumer Price Index.

20 The bill repeals the statutes which regulate private vocational and  
21 correspondence schools as well as several sections of the statutes  
22 concerning the current authority of the New Jersey State Board of  
23 Cosmetology and Hairstyling to license schools of cosmetology and  
24 hairstyling.

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29 Establishes the Private Vocational School Student Tuition Protection  
30 Fund; consolidates administration of private vocational schools.