

Report From Agency

STATE OF WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
DEPARTMENT OF SAFETY AND : **CLEARINGHOUSE RULE 13-026**
PROFESSIONAL SERVICES :

I. THE PROPOSED RULE:

The proposed rules, including the analysis and text, are attached.

II. REFERENCE TO APPLICABLE FORMS:

Application forms are required for the following credentials: a barbering-establishment license, under s. SPS 50.242 (1); an apprenticeship, under s. SPS 50.310 (1) (a); a barber's license, under s. SPS 50.340 (1) (a); a manager's license, under s. SPS 50.340 (1) (b); and license renewals, under s. SPS 50.400 (1).

III. FISCAL ESTIMATE AND EIA:

The Fiscal Estimate and Economic Impact Analysis is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

These rules address the elements needed to implement the barbering components of 2011 Wisconsin Act 190. This Act primarily separated the previously combined barbering and cosmetology professions, through comprehensive changes to chapter 454 of the Statutes, and transferred the authority for regulation of the barbering profession from the Barbering and Cosmetology Examining Board to the Department of Safety and Professional Services. Act 190 also changed the education requirements for initial licensure of barbers, and the continuing-education requirements for renewal of barber licenses – and these rules are consistent with those changes. The rules also contain the changes that are needed in chapters SPS 60 to 65 for separating the curriculum requirements and licensure for schools of barbering, from the curriculum requirements and licensure for schools of cosmetology.

V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, AND EXPLANATION OF MODIFICATIONS TO THE PROPOSED RULES PROMPTED BY THE PUBLIC COMMENTS:

The Department held a public hearing on April 30, 2013. No one testified at the hearing, and no one submitted written comments.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment: 1.a.

Response: The practical demonstration that a person must satisfactorily complete to become a barber satisfies the requirement for a “practical demonstration” by a barbering manager in s. 454.24 (2), Stats. Under s. 454.23 (3), Stats., becoming a barber is a prerequisite to becoming a barbering manager. The Department has similarly not required a subsequent, second practical examination for a cosmetology (or barbering) manager for more than 20 years.

Comment: 1.c.

Response: SECTION 102 (1) of 2011 Wisconsin Act 190 requires the Department to allow this conversion until March 31, 2013, but does not prohibit the Department from allowing this conversion after that date. Based on its experience in administering licensing programs, the Department believes that the justification for allowing this conversion until March 31, 2013, also exists for up to two years (which is one renewal cycle) after that date. The Department’s barbering advisory committee unanimously supports allowing this conversion for this additional two-year period.

Comments: 4.d. and f.

Response: The Department prefers to not abbreviate “section,” “Statutes,” “chapter,” and “chapters” in the Notes throughout chapter SPS 50 because the purpose of Notes is to be explanatory, and the corresponding abbreviations may be less than fully explanatory to some readers of this chapter.

Comment: 4.j.

Response: The Department prefers to have its inspectors continue to look for compliance with its requirements in ss. SPS 50.300 and 50.310, such as the requirements in s. SPS 50.310 (1) (e) to provide necessary equipment to each apprentice and to keep records of all apprentice practical hours.

All of the remaining recommendations suggested in the Clearinghouse Report have been accepted in whole.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:

These rules were not submitted to the Small Business Regulatory Review Board.

These rules will not have a significant economic impact on a substantial number of small businesses.

File reference: SPS 50/Legislative Report2ac