

CHAPTER 458

COSMETOLOGY LAW

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458.01 Definitions. In this chapter:

(1) "Apprentice" is any person who is not a manager, itinerant cosmetologist, operator, or student who is engaged in learning and acquiring the practice of cosmetology under the direction and supervision of a licensed managing cosmetologist. "Student" is any person engaged in learning cosmetology in a licensed school of cosmetology.

(2) "Beauty salon" embraces and includes any establishment or place of business wherein cosmetology is practiced. "Electrolysis salon" is any establishment or place of business wherein electrolysis only is practiced.

(3) "Cosmetologist" means a person who practices cosmetology while holding a current license. The holder of a manager's, beauty operator's or instructor's license shall have the right and privilege to place the initials "R. C." immediately following his name to designate him as a registered cosmetologist.

(4) "Cosmetology" means any one or combination of practices generally performed by beauty culturists, cosmeticians, cosmetologists or hairdressers and shall include but not be limited to: Arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring or similar work upon the hair of any person by any means, with hands or mechanical apparatus, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or otherwise; massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work upon the scalp, face, neck, shoulders or hands; manicuring the nails of any person; or the removal of hair.

(5) "Cosmetology" does not include:

(a) Any practice specified in sub. (4) if performed on the face for the purpose of demonstrating a product and no direct or indirect compensation for the practice, other than sale of the product, is received or expected from the customer or potential customer. In this paragraph, "demonstrating a product" means applying to not more than one-half the face of a customer or potential customer only as much of a product as is necessary to demonstrate its correct use.

(b) The application of make up preparatory to a public performance.

(6) "Electrologist" means any person who removes hair from the human body by the use of an electric needle.

(7) "Examining board" means the cosmetology examining board.

(8) "Instructor", as used in this chapter, is any person who gives instruction or training in theory or practical cosmetology to apprentices or students other than in a beauty salon.

(9) "Itinerant cosmetologist" is any person who practices cosmetology outside of a beauty salon either in going from house to house or from place to place at regular or irregular intervals, within any one municipality.

(10) "Manager" or "managing cosmetologist", as used in this chapter, is defined as any person who has direct supervision over operators or apprentices in a beauty salon.

(11) "Manicurist" is any person who, for compensation, either directly or indirectly or in the expectation thereof practices cosmetology limited to the hands and nails.

(12) "Operator" is any person who is not a manager, itinerant or apprentice cosmetologist, who practices cosmetology under the direction and supervision of a managing cosmetologist.

(13) A "school of cosmetology" is a school established under s. 458.02.

(14) "Training hour" means 60 clock minutes of instruction, except that breaks of not more than a total of 30 minutes in any one day may be allowed as training time by rule of the department.

History: 1973 c. 295; 1975 c. 39; 1977 c. 352, 418; 1979 c. 175 ss. 33, 34, 53; 1979 c. 221 ss. 677, 2202 (45); 1983 a. 189 ss. 280 to 282, 329 (18).

The legislature cannot constitutionally prohibit a cosmetologist from cutting a man's hair. 60 Atty. Gen. 376.

458.015 Limitations and exceptions. (1) Licenses to practice cosmetology shall not confer upon the holders thereof the right to diagnose, prescribe for or treat diseases or conditions other than those indicated in the definition of cosmetology contained in s. 458.01 (4), except that licensed cosmetologists may, under direction of a duly licensed and practicing physician, give treatments for conditions of the skin other than as indicated in s. 458.01 (4), as specified by such directing physician.

(2) The provisions of this chapter shall not apply to:

(a) Persons authorized under the laws of this state to practice medicine and surgery and the branches thereof, podiatrists, masseurs, hospital attendants, funeral directors, nurses and student nurses.

(b) Barbers duly licensed under the laws of this state, in the performance of the usual and ordinary duties of their vocation.

History: 1983 a. 189 ss. 282, 283, 329 (18); 1983 a. 485 s. 33.

458.02 Schools teaching cosmetology; curriculum; requirements; regulation. (1) No person may operate a school for the purpose of teaching cosmetology for compensation unless a proper certificate of registration has been obtained from the examining board.

(2) Application for such certificate shall be filed with the examining board in such form as the examining board prescribes. No school for teaching cosmetology shall be granted a certificate of registration unless it employs and maintains a sufficient number of instructors regularly as such who shall hold an instructor's license.

(3) No school teaching cosmetology shall be granted a certificate of registration unless it requires as a prerequisite to graduation a course of instruction of not less than 1,500 training hours to be completed within a period of at least 9 months or an equivalent period if credit is given for prior related training. Such instruction shall not exceed 8 hours in any one day. The course of instruction shall include subjects prescribed by the examining board.

(4) No school holding a certificate of registration from the examining board shall enroll or admit any student unless such student shall make and file with the examining board a duly verified application in a form to be prepared and furnished by the examining board.

(5) A school shall provide its students with subjects for practical work. A school may advertise for patrons to be used in clinical work if the advertisement clearly states that all services are performed by students under the direction of licensed cosmetology instructors.

(6) Any school teaching cosmetology shall display or cause to be displayed in its entrance, waiting room and in the rooms where patron public service is given, a sign furnished by the examining board, indicating that all work therein is done exclusively by students.

(7) The initial license fee and the biennial renewal fee for a certificate of registration for a school to teach cosmetology for all schools holding a certificate of registration are specified in s. 440.05 (8). The biennial fee for a certificate of registration shall be paid on or before November 30 in odd-numbered years.

(8) Any person may receive a student permit:

(b) Who does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335;

(c) Who is in good physical and mental condition;

(d) Who, as shown by certificate or affidavit, has completed the 12th grade or its equivalent as determined by the university of Wisconsin-extension, or has reached the age of 18, or who is engaged in a vocational education program which uses the cooperative educational method or similar program approved by the department of public instruction; and

(e) Who attends a school teaching cosmetology which has a certificate of registration from the examining board.

History: 1973 c. 295; 1975 c. 39 s. 732 (2); 1977 c. 29; 1979 c. 162 s. 38 (11); 1979 c. 175 s. 33; 1979 c. 221 s. 677; 1981 c. 380; 1981 c. 391 s. 211; 1985 a. 128.

458.03 Supervision by the examining board; regulations.

(1) The examining board shall enforce this chapter and shall prescribe and enforce rules governing beauty and electrolysis salons, and public and private schools teaching cosmetology and for the examining and licensing of managers, operators, manicurists, electrologists and instructors and the registration of apprentices and students, and shall make and enforce rules governing sanitary and hygienic conditions surrounding the practice of cosmetology and the conduct and operation of beauty and electrolysis salons and schools of cosmetology.

(2) The examining board shall keep a record of all students, registered apprentices, licensed managers, operators, itinerant cosmetologists, manicurists, electrologists and instructors and a record of its proceedings relating to reprimands and to issuances, refusals, renewals, limitations, suspensions and revocations of each license with the name, place of business and residence of each licensee and certificate and permit holder. These records shall be open to public inspection at all reasonable times.

(3) If a beauty or electrolysis salon or school teaching cosmetology be found insanitary or if any person working therein be charged with imparting a communicable disease the examining board may immediately order the local health

officer to close such beauty salon or school and the person so charged shall not practice or teach cosmetology until authorized to do so by the examining board.

History: 1971 c. 154 s. 79 (3); 1973 c. 295; 1975 c. 39 s. 732 (2); 1977 c. 418; 1979 c. 175 s. 33; 1979 c. 221 s. 677; 1981 c. 20.

458.05 Inspectors. The department shall appoint inspectors under the classified service to inspect barber shops, beauty and electrolysis salons and schools of barbering and cosmetology, who may be the same persons appointed under s. 457.05.

History: 1973 c. 295; 1975 c. 39; 1979 c. 175 ss. 33, 36; 1979 c. 221 s. 678.

458.06 Examinations. (1) Examinations for the licensing of managers, operators, manicurists, instructors and electrologists shall be held by the examining board at least 4 times a year at such times and in such places as shall be determined by the examining board. All applicants for examination shall complete the requirements necessary to obtain a license, other than the examination, before being eligible for such an examination.

(2) The examination of applicants for manager's, operator's, manicurist's, instructor's and electrologist's licenses shall include tests requiring applicants to demonstrate minimum competency in services and subjects substantially related to public health and safety.

(3) The examining board shall prescribe rules for the conduct of such examinations.

History: 1973 c. 295; 1975 c. 39 ss. 670, 732 (2); 1979 c. 175 s. 33; 1979 c. 221 s. 679; 1981 c. 20, 224.

458.07 Itinerant cosmetologists; new licenses prohibited.

After September 16, 1939 no new licenses shall be issued for itinerant cosmetologists, but licenses in effect at said time may be renewed as provided in this chapter.

History: 1979 c. 175 s. 33; 1979 c. 221 s. 679.

458.08 Applications for licenses; requirements. (1)

All applications for licenses under this chapter shall be filed with the examining board. No license may be issued unless the applicant presents proof that the applicant is in good health, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, and has completed the 12th grade or its equivalent as determined by the university of Wisconsin-extension or has reached the age of 18. All applications for examination shall be on file in the office of the examining board at least 3 weeks prior to the examination. Failure to have the application on file within the required time may necessitate postponement of the applicant's appearance to the next regular examination. All applications shall expire and be canceled after a period of one year if the applicant fails to appear for examination within such period.

(2) A manager's license shall be issued only to one:

(b) Who has practiced cosmetology 4,000 hours in a period of at least 2 years under an operator's license in this state.

(c) Who has satisfactorily passed an examination conducted by the examining board to determine fitness to practice as a managing cosmetologist.

(2a) The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive a manager's license shall be that specified in s. 440.05 (1).

(4) An operator's license shall be issued to one:

(a) Who has successfully completed an apprenticeship as prescribed by s. 458.12, or who has graduated from the course prescribed by s. 458.02 in a registered school of cosmetology.

(b) Who has satisfactorily passed an examination conducted by the examining board to determine fitness to practice cosmetology.

(4a) The fee to be paid by an applicant for an examination to determine the applicant's fitness to receive an operator's license shall be that specified in s. 440.05 (1).

(6) Any cosmetologist or electrologist registered or licensed under the laws of another state or territory of the United States or of a foreign country or province, who can provide evidence satisfactory to the examining board that he or she has met requirements substantially comparable to the requirements of this state may be licensed as follows:

(a) As an operator upon satisfactorily passing an examination conducted by the examining board to determine fitness to practice as an operator or upon providing evidence satisfactory to the examining board of having practiced as an operator for at least 4,000 hours during a 6-year period immediately prior to the application for license in this state.

(b) As a manager upon satisfactorily passing an examination conducted by the examining board to determine fitness to practice as a manager or upon providing evidence satisfactory to the examining board of having practiced as a manager for at least 8,000 hours during a 6-year period immediately prior to application for license in this state and satisfactorily passing an examination on the law and rules governing cosmetology in this state.

(c) As an electrologist upon satisfactorily passing an examination conducted by the examining board to determine fitness to practice as an electrologist, or upon providing evidence of at least 2,000 hours of experience as a practicing electrologist in another state. Credit may be granted on the basis of not more than 100 hours for each month of experience.

(6m) No license to practice that branch of cosmetology, involving the use of the electric needle for the removal of superfluous hair, may be issued unless special application therefor is made to the examining board showing that such applicant:

(a) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335;

(b) Is in good physical and mental condition;

(c) As shown by certificate or affidavit, has completed the 12th grade or its equivalent as determined by the university of Wisconsin-extension, or has reached the age of 18;

(d) Has completed a course of training of at least 350 hours over a period of at least 10 consecutive weeks in a licensed school of cosmetology that teaches electrology and under the supervision of a licensed instructor who holds a current electrologist license, or in a school of electrology under the supervision of a licensed electrologist, or is licensed as a cosmetologist and provides evidence of 100 hours of training in at least 3 consecutive weeks in a school of electrology or school of cosmetology that trains electrologists, or serves as an electrologist trainee for at least 8 consecutive weeks of at least 35 hours per week in a licensed beauty or electrolysis salon under the supervision of a licensed electrologist.

(e) Has satisfactorily passed an examination conducted by the examining board to determine fitness to practice as an electrologist and paid the examination fee provided in s. 440.05 (1).

(f) This section shall not apply to those persons licensed in this state as electrologists or eligible for renewal thereof as of June 16, 1974.

(7) Applicants for a manicurist's license shall be at least 18 years of age; shall have completed a course of instruction of at least 200 hours in not more than 3 months under the supervision of a licensed instructor in a school of cosmetology or under the supervision of a licensed manager in a beauty salon. No license may be issued to an applicant unless the applicant has successfully passed an examination con-

ducted by the examining board to determine fitness to practice as a manicurist and paid the examination fee provided in s. 440.05 (1).

(7m) The examining board may grant a permit to practice manicuring in a licensed barbershop to any person licensed as a cosmetologist in this state.

(8) The examining board may grant a temporary permit to practice as an operator, manicurist, manager or instructor without examination if the applicant meets all the other requirements of this state for licensure and has graduated from a registered school of cosmetology in this state; or is fulfilling reciprocity requirements under sub. (6); or is otherwise eligible for licensure under sub. (6) (a). Each temporary permit shall be valid for not more than 4 months. No more than 3 such temporary permits shall be issued to any one applicant for any one license. The fee for each temporary permit shall be that specified in s. 440.05 (6).

(9) Applicants for a junior instructor's permit shall be high school graduates, or have an equivalent education as determined by the university of Wisconsin-extension, have had at least one year of full-time experience as a cosmetologist and shall complete a minimum of 500 hours of instruction and supervised practice in teaching methods; or shall be high school graduates, or have an equivalent education as determined by the university of Wisconsin-extension, licensed as a cosmetologist and shall complete a minimum of 1,000 hours of instruction and supervised practice in teaching methods in accordance with rules established by the examining board. The fee shall be that specified in s. 440.05 (6). The permit shall be issued for a one-year period beginning with the date of issuance and may be renewed for one additional year upon application and payment of the renewal fee specified in s. 440.05 (6). Applicants for an instructor's license shall be high school graduates, or have an equivalent education as determined by the university of Wisconsin-extension, have had at least 3 years' experience as a cosmetologist and have been licensed as a managing cosmetologist at least one year, or have completed the junior instructor course or an equivalent training as determined by the examining board, and shall pass such examination as the examining board deems appropriate and pay the fee specified in s. 440.05 (1). All persons holding instructor's licenses shall within each 2-year period provide evidence of having completed a minimum of 34 hours of in-service training designed to contribute to their professional growth and development as an instructor. During the time between initial licensure and commencement of a full 2-year licensure period new licensees shall not be required to meet in-service training requirements. The holder of an instructor's license shall have the rights allowed those holding a manager's license.

(10) The subjects of hygiene, histology, anatomy, elementary chemistry and other related subjects as may be designated by the examining board may be taught in schools of cosmetology by persons holding a certificate or license from the department of public instruction authorizing them to teach those subjects in public high schools in Wisconsin, or by vocational, technical and adult education school teachers whose classification status for those subjects is approved by the board of vocational, technical and adult education, or by other persons approved by the examining board, and such persons shall not be required to hold an instructor's license.

(11) If an applicant for licensure under this chapter fails to pass an examination the applicant shall be required in subsequent examinations to pass only the subjects which the applicant failed in the examination preceding each reexami-

nation. Any reexamination shall be taken not more than one year from the date of the original examination.

History: 1971 c. 154 s. 79 (2); 1971 c. 213 s. 5; 1973 c. 295; 1975 c. 39 ss. 671, 732 (2); 1975 c. 199; 1977 c. 29, 203, 418; 1979 c. 162 ss. 1, 38 (11); 1979 c. 175 ss. 33, 53; 1979 c. 221 ss. 679, 2202 (45); 1981 c. 162, 380; 1981 c. 391 s. 211.

An alien is eligible for a manager's license in cosmetology even though his training was in a foreign country which had no citizenship requirement. 60 Atty. Gen. 280.

Student who has successfully completed prescribed courses of study at a registered school has "graduated" under (4) (a) despite nonreceipt of diploma. 65 Atty. Gen. 113.

458.09 Beauty salon and electrolysis salon licenses. (1)

No person may operate a beauty or electrolysis salon unless such salon is licensed by the examining board. Such licenses shall be renewed biennially and shall designate the particular premises licensed.

(2) Before any such license is issued the examining board shall require sworn proof of ownership of the beauty or electrolysis salon business in such form as it may prescribe, and the owner shall pay the required fee. Such licenses and renewals shall expire on November 30 of the odd-numbered years and the licenses shall not be transferable. Changes of ownership of any beauty or electrolysis salon shall be reported to the examining board by the manager of such salon within 5 days after such change of ownership.

(3) The examining board shall establish minimum standards through rules pertaining to the maintenance, equipment and plans and specifications for beauty and electrolysis salons as they relate to the public health and safety. No premises may be licensed for use as such a salon unless it meets the standards established by the examining board. Any person proposing to open such a salon in a new location shall first make application to the examining board for an inspection and approval of the premises, submitting an exact description and floor plan of the proposed location of the premises on a form prescribed by the examining board accompanied by the fee specified in s. 440.05 (8).

(4) Any license granted under this section may be limited, suspended or revoked, or the licensee reprimanded, as provided in s. 458.14, for violating any of the foregoing provisions or if any of the regulations of the examining board are not complied with in the operation of a licensed beauty or electrolysis salon.

History: 1973 c. 295; 1975 c. 39 s. 732 (2); 1977 c. 29, 418; 1979 c. 175 ss. 33, 53; 1979 c. 221 ss. 679, 2202 (45).

458.10 Persons formerly licensed. Any person who held a Wisconsin license as a manager, operator, instructor, electrologist or manicurist and who failed to renew the license on or before the date of its expiration may renew the license after passing such examinations as may be required by the examining board, or by providing evidence of at least 8 hours of in-service training for each year in which the license was not renewed and by paying the fees specified in s. 440.05.

History: 1973 c. 295; 1975 c. 39 s. 732 (2); 1977 c. 29; 1979 c. 175 s. 33; 1979 c. 221 s. 679; 1981 c. 162.

458.11 Licenses and certificates; terms of license. (1) The examining board shall furnish a card in such form as it shall determine to each:

(a) Apprentice, student, operator, manager, manicurist, instructor and electrologist certifying that the holder is entitled to practice cosmetology, manicuring or electrolysis and such license shall be posted in a conspicuous place in the salon or school.

(b) Beauty and electrolysis salon certifying that the owner is entitled to conduct such a salon at the address indicated on the license. Such license shall be posted in a conspicuous place in the said salon by the licensee.

(2) All licenses shall expire on November 30 of the odd-numbered years. Apprentices' permits shall expire at the end of 3 years from the date of issue.

(3) Applications for renewal of licenses issued under this chapter shall be accompanied by the fee specified in s. 440.05.

History: 1973 c. 295; 1975 c. 39; 1977 c. 29; 1979 c. 175 s. 33; 1979 c. 221 s. 67; 1981 c. 162.

458.12 Apprenticeship; experience required. (1) Any person may become an indentured apprentice and receive an apprentice's registration card:

(b) Who does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335.

(c) Who has shown by affidavit or certificate that he or she has completed the 12th grade or its equivalent as determined by the university of Wisconsin-extension or has reached the age of 18 or who is engaged in a vocational education program which uses the cooperative educational method or similar program approved by the department of public instruction.

(2) Apprentices must practice for at least 4,000 hours in a period of not less than 2 years or an equivalent period if credit is given for prior related training before they are eligible to apply to take the examination for operator's license. Apprentices shall be supervised and given instruction by a manager or a qualified designee in all branches of practical work and in the subjects required to be taught in schools of cosmetology as prescribed by the examining board. The examining board may recommend termination of an apprenticeship where there is evidence that the requirements of the examining board are not being met. No apprentice may practice cosmetology unless under the supervision and direction of a licensed manager, except that the manager may designate a temporary replacement who meets the requirements of s. 458.08 (2) (b) and is approved under rules of the examining board. When an apprentice or operator is the owner, director or lessee or has any financial interest in a beauty salon in which he or she is employed and such relationship is used to reduce the effectiveness of the salon manager in carrying out the provisions of this chapter, such action shall be considered cause for reprimand, for termination of the apprenticeship or limitation, suspension or revocation of the operator's license.

(3) All apprentices regardless of age shall be indentured and shall be governed by s. 106.01 and apprenticeship rules of the department of industry, labor and human relations and the examining board.

History: 1973 c. 295; 1975 c. 39 s. 732 (2); 1975 c. 125, 200; 1977 c. 418; 1979 c. 162 ss. 2, 38 (11); 1979 c. 175 ss. 33, 53; 1979 c. 221 s. 680; 1981 c. 380; 1981 c. 391 s. 211.

458.13 Practice. (1) No person may engage in the practice of cosmetology unless the person holds a license issued by the examining board. No cosmetology license is required for personal care type cosmetology services performed in hospitals or licensed nursing homes under the supervision and direction of a person responsible for patient care.

(2) Licenses shall be issued only to such persons who possess the requisite skill and knowledge as cosmetologists. Cosmetologists shall have sufficient knowledge concerning the common diseases of the face and scalp to avoid aggravation and spread of disease in the practice of their profession. Managing cosmetologists, electrologists, instructors, manicurists and itinerant cosmetologists shall notify the examining board of change of address within 5 days thereof.

History: 1973 c. 295; 1975 c. 39 s. 732 (2); 1975 c. 199; 1979 c. 175 s. 33; 1979 c. 221 s. 681.

458.14 Investigations, hearings, reprimands, suspensions, nonrenewals and revocations. (1) Subject to the rules

promulgated under s. 440.03 (1), the examining board may make investigations or conduct hearings to determine whether there is probable cause to believe a violation of this chapter or any rule adopted under this chapter exists.

(2) The examining board may revoke, limit, suspend or refuse to renew, in accordance with the severity of the violation, any certificate, license or permit issued under this chapter or reprimand the holder of such certificate, license or permit if it finds the holder has:

(a) Made a material misstatement in the application for certification, license or permit or the renewal thereof;

(b) Failed to correct or take substantial steps approved by the examining board to correct an alleged violation of any valid sanitary or other rule of the examining board within the proper time limit following notification by the examining board of such violation;

(c) Subject to ss. 111.321, 111.322 and 111.335, been convicted of a crime which in the judgment of the examining board may be detrimental to the welfare of persons affected by this chapter;

(d) Continued practice while knowingly having an infectious, contagious or communicable disease;

(e) Advertised in a manner which significantly misleads persons affected by this chapter;

(f) Advertised, practiced or attempted to practice under another's name or another's trade name;

(g) Been addicted to alcohol or other drugs; or

(h) Violated this chapter or any rule adopted thereunder.

History: 1973 c. 295; 1975 c. 39 s. 732 (2); 1975 c. 199; 1977 c. 125, 418; 1979 c. 175 s. 33; 1979 c. 221 s. 681; 1979 c. 337; 1981 c. 334 s. 25 (1); 1981 c. 380.

458.15 Penalties. Any person who without a license or permit practices cosmetology either as a manager, operator, apprentice, student, itinerant cosmetologist, manicurist, electrologist or instructor or any person who employs an unlicensed manager, operator, manicurist, apprentice, electrologist or instructor or violates or aids or abets any person in violating this chapter or any rule adopted pursuant thereto or obtains a license fraudulently, or falsely pretends to be licensed, shall be fined not less than \$100 nor more than \$1,000, or imprisoned for not less than 10 nor more than 90 days or both.

History: 1973 c. 295; 1979 c. 175 s. 33; 1979 c. 221 s. 681.

458.16 Unlawful contracts. Any owner, proprietor or manager of a beauty salon or school of cosmetology who contracts with any person to train such person in cosmetology or any branch thereof and accepts money in payment, or who sells or rents or offers to sell or rent such beauty salon to any person who is not the holder of a manager's license, without first explaining to such person the provisions of this chapter, shall be punished as provided in s. 458.15.

History: 1979 c. 175 ss. 33, 53; 1979 c. 221 ss. 681, 2202 (45).

458.17 Veterans exempted during service. The time within which any act is required to be done under the provisions of this chapter shall be extended for such period of time as any person affected thereby spends in the armed forces of the United States and 6 months thereafter. During such period payment by such persons of all fees for licenses or renewals thereof required under this chapter shall be suspended.

History: 1979 c. 175 s. 33; 1979 c. 221 s. 681.