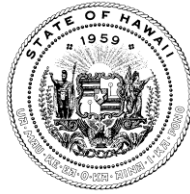


HB1081 HD2

Measure Title: RELATING TO CITATIONS FOR BEAUTY CULTURE VIOLATIONS.
Report Title: Citations; Beauty Culture Violations; Fines
Description: Authorizes the issuance of a citation for specific violations of beauty culture laws by licensees and permittees. Sets forth a process for licensees and permittees to contest the citation and provides for the assessment of fines for each violation. Establishes requirements for persons selling or demonstrating beauty products or techniques for promotional purposes to adhere to licensing requirements with certain exceptions. (HB1081 HD2)
Companion: [SB947](#)
Package: Governor
Current Referral: CPH, JDL
Introducer(s): SOUKI (Introduced by request of another party)



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE
ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2017

TUESDAY, MARCH 14, 2017
9:00 A.M.

TESTIMONY ON HOUSE BILL NO. 1081 H.D.2
RELATING TO CITATIONS FOR BEAUTY CULTURE VIOLATIONS

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND TO THE HONORABLE CLARENCE K. NISHIHARA, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 1081 H.D.2, Relating to Citations for Beauty Culture Violations. My name is Daria Loy-Goto and I am the Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). The Department strongly supports Section 1 of this Administration bill and offers comments on Section 2 of the bill.

Section 1 of House Bill No. 1081 H.D.2 authorizes RICO to issue citations to beauty culture licensees for certain violations of the beauty culture laws. The

citation process requires personal service of the citation upon the licensee and affords the licensee the opportunity to request a hearing to contest the citation within twenty calendar days. Section 1 also provides that failure to pay any assessed fine within thirty calendar days may subject the licensee to further disciplinary action. Section 1 of House Bill No. 1081 H.D.2 will expedite RICO's enforcement of certain technical violations of the beauty culture laws, will promote swift compliance by licensees and permittees, and will enable RICO staff to concentrate its efforts and resources on other violations.

Section 2 of House Bill No. 1081 H.D.2 requires a cosmetology license for persons who sell or demonstrate beauty products or techniques for promotional purposes, unless the person is not compensated and obtains written consent to provide the service from the person receiving the service.

RICO notes HAR §16-78-36(4) specifically exempts manufacturer's representatives or sales persons who sell beauty products or techniques for promotional purposes without compensation from cosmetology licensing requirements. While we appreciate enforcement concerns about the sale and demonstration of beauty products, we are concerned that requiring licensure for anyone who is paid to sell beauty products would require licensure for conduct not traditionally covered under Hawaii law.

RICO notes that this Committee heard the companion measure, Senate Bill No. 947, and passed that bill out with a Senate Draft 1 that contained a RICO-requested amendment. RICO prefers Senate Bill No. 947 S.D.2 over this bill

Testimony on House Bill No. 1081 H.D.2

March 14, 2017

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because the Senate version does not contain Section 2 language and has the preferred effective date of July 1, 2017.

Thank you for the opportunity to testify in strong support of Section 1 of House Bill No. 1081 H.D.2 and to offer comments on Section 2 of the bill. I will be happy to answer any questions the Committee may have.

**PRESENTATION OF THE
BOARD OF BARBERING AND COSMETOLOGY**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

TWENTY-NINTH LEGISLATURE
Regular Session of 2017

Tuesday, March 14, 2017
9:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 1081, H.D. 2, RELATING TO CITATIONS FOR
BEAUTY CULTURE VIOLATIONS.**

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Margaret Williams and I am a member of the Board of Barbering and Cosmetology ("Board"). Thank you for the opportunity to present testimony in support of SECTION 1 of House Bill No. 1081, House Draft 2, Relating to Citations for Beauty Culture Violations, and to provide comments relating to SECTION 2 of the measure. This bill proposes to authorize the Regulated Industries Complaints Office ("RICO") to issue citations to beauty culture licensees and permittees for violations of specific beauty culture laws. The citation process requires personal service of the citation upon the licensee or permittee and affords the licensee or permittee the opportunity to request a hearing to contest the citation within twenty calendar days. The measure also authorizes the assessment of fines for each violation and provides that the failure to pay any assessed fine within thirty calendar days may subject the licensee or permittee to further disciplinary action.

Testimony on House Bill No. 1081, H.D. 2
Tuesday, March 14, 2017
Page 2

House Bill No. 1081, House Draft 2, proposes to establish this citation process to provide an alternative means by which the Board can address specific, technical beauty culture violations, expedite RICO's enforcement efforts, and promote timely compliance by licensees and permittees.

SECTION 2 of the measure proposes to expand the scope of beauty culture licensure to include both the sale and demonstration of beauty culture products or techniques for promotional purposes. The law currently provides specific exemptions from licensing requirements, including exemptions from licensure for a person practicing cosmetology at any place for educational purposes; for a person providing care to patients and residents at health care, nursing, mental, or correctional facilities; and for a person practicing cosmetology at a charitable event. The bill will clearly require that any person selling or demonstrating beauty culture products or techniques for promotional purposes be licensed under HRS chapter 439, unless the person is not compensated and obtains written consent to provide the service from the person receiving the service. The Board has not met to discuss this particular provision of House Bill No. 1081, House Draft 2, but notes that SECTION 2 of the bill will eliminate an exemption from licensure that currently exists.

Thank you for the opportunity to present testimony on House Bill No. 1081, House Draft 2, Relating to Citations for Beauty Culture Violations. I will be available to answer any questions that the Committee may have.



3610 Waialae Ave
Honolulu, HI 96816
P: (808) 592-4200
E: tyamaki@rmhawaii.org

**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
March 14, 2017**

Re: HB 1081 HD 2 RELATING TO CITATIONS FOR BEAUTY CULTURE VIOLATIONS

Good morning Chair Baker and members of the Senate Committee on Commerce Consumer Protection and Health. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) is a statewide, nonprofit trade association committed to the growth and development of the retail industry. Our mission is to promote the welfare of the retail industry, serve as an advocate for the retail industry, and provide information and training to advance the interests of the retail industry.

RMH **STONGLY OPPOSES section 2** of H.B. 1081 HD 2 Relating To Citations For Beauty Culture Violations, which we believe would have a detrimental effect on Hawaii's retail industry. This bill calls for every employee who sells or demonstrates a beauty product or technique to meet cosmetology licensing requirements. The exception is if the employee is not compensated or unless the person obtains prior written consent to provide the service from the person receiving the service.

This bill will affect **ALL** retailers including but not limited to large box, department, hardware, home improvement, discount, grocery and convenience stores who sells beauty products like perfume, shampoo, lotion, nail polish, bath and hand soap, hairspray and makeup to name a few. Every employee from not only "beauty experts" but all who pass out free samples of these types of products as well as cashiers would have to obtain a cosmetology license.

It is our understanding that the requirements for a cosmetology license includes 1800 hours of beauty school instruction and 3600 hours of apprenticeship in addition to being a high school graduate or possess an education equivalent to the completion of high school. Retailers employ cashiers who sometimes are not high school graduates nor possess a GED or are still in high school. Furthermore, there is a significant cost to attend beauty school as well as for the license and a license renewal. This cost will not be absorb by the retailers but passed on to the customers and would attribute to an increase in the cost of living in Hawaii.

Retailers like so many in other industries are finding it difficult to fill the open positions that they have with unemployment being so low. A measure like this would make it even more difficult to find qualified employees or those already employed but who do not qualify for a cosmetology license may be let go.

We also have a concerns about the exemption provision of the customer having to sign a written consent form to provide the service like completing their transaction to purchase such items as lipstick, deodorant, hair gel, skin cleanser ... This is not a customer friendly service. Retailer are already operating on thin margins and face stiff competition from online retailers. This bill may push more customers away from brick and mortar stores and encourage them to purchase items on line.

We respectfully ask that you hold this proposal. Again mahalo for this opportunity to testify.