

## MEMORANDUM

<b>DATE</b>	April 10, 2017
<b>TO</b>	Board of Psychology
<b>FROM</b>	 Konnor Leitzell Central Services Student Assistant
<b>SUBJECT</b>	Agenda Item #4(b)(1)(B)(37) – SB 247 (Moorlach) Professions and Vocations: License Requirement: Business: Surety Bond Requirement

**Background:**

This bill would specify that a city, county, or city and county may not impose any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee; but the city, county, or city and county may continue to regulate any profession or vocation that is subject to its licensing requirement or fee. This bill would also make other changes to the licensing laws for various other boards and bureaus under the Department of Consumer Affairs.

Previously this bill was a Spot bill that declared the intent of the Legislature to enact legislation that would reduce occupational licensing requirements within Department of Consumer Affairs' boards and/or bureaus.

**Location:** Senate Committee on Business, Professions and Economic Development

**Status:** 04/06/2017 Senate Committees on Business, Professions and Economic Development set first hearing, cancelled at the request of the Author.

**Action Requested:**

No action is required at this time. Staff will be removing SB 247 (Moorlach) from its watch list as the bill does not impact the Board of Psychology or its licensees.

Attachment A: SB 247 (Moorlach) Text



**SB-247 Professions and vocations: license requirement: business: surety bond requirement.** (2017-2018)

**SECTION 1.** *The Legislature finds and declares as follows:*

(a) *Occupational licensing laws are important tools that, when used correctly, help protect public health and safety. Many current laws, however, do little to help public health or safety and result in barriers to entry that prevent people from making a living in their chosen occupation.*

(b) *The Little Hoover Commission and the President Obama White House both released recent reports that recognized the need for extensive reform to these anticompetitive laws.*

(c) *This act is consistent with recommendations to reduce barriers to entry into occupations that do not pose a significant risk to public health and safety. Thus, this act allows hard-working Californians to enter occupations without first having to comply with prohibitively expensive licensing and education requirements that serve no public good.*

**SEC. 2.** *Section 460.5 is added to the Business and Professions Code, to read:*

**460.5.** (a) *Notwithstanding any other law, on or after January 1, 2018, a city, county, or city and county may not impose any licensing requirement or fee on any profession or vocation if that profession or vocation is not already subject to a city, county, or city and county licensing requirement or fee on January 1, 2018, but the city, county, or city and county may continue to regulate any profession or vocation that is subject to its licensing requirement or fee on January 1, 2018.*

(b) *Except as provided in subdivision (a), it is the intention of the Legislature to occupy the whole field of the licensure and regulation of professions and vocations.*

**SEC. 3.** *Section 2538.20 of the Business and Professions Code is repealed.*

~~2538.20. It is unlawful for an individual to engage in the practice of fitting or selling hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the board under the provisions of this article. Nothing in this article shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this article. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business that engages in the practice of fitting or selling hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust that maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation that is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.~~

**SEC. 4.** *Section 6980.10 of the Business and Professions Code is repealed.*

~~6980.10. (a) No person shall engage within this state in the activities of a locksmith as defined in subdivision (j) of Section 6980, unless the person holds a valid locksmith license, is registered pursuant to the provisions of this chapter, or is exempt from the provisions of this chapter.~~

~~(b) Any person who does any of the following is guilty of a misdemeanor, punishable by a fine of ten thousand dollars (\$10,000), or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment:~~

~~(1) Acts as or represents himself or herself to be a licensee under this chapter when that person is not a licensee under this chapter.~~

~~(2) Falsely represents that he or she is employed by a licensee under this chapter when he or she is not employed by a licensee under this chapter.~~

~~(3) Carries a badge, identification card, or business card, indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.~~

~~(4) Uses a letterhead or other written or electronically generated materials indicating that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.~~

~~(5) Advertises that he or she is a licensee under this chapter when he or she is not a licensee under this chapter.~~

~~(c) A proceeding to impose the fine specified in subdivision (b) may be brought in any court of competent jurisdiction in the name of the people of the State of California by the Attorney General or by any district attorney or city attorney, or with the consent of the district attorney, the city prosecutor in any city or city and county having a full time city prosecutor for the jurisdiction in which the violation occurred. If the action is brought by the district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If the action is brought by a city attorney or city prosecutor, one half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one half to the treasurer of the county in which the judgment was entered. If the action is brought by the Attorney General, all of the penalty collected shall be deposited in the Private Security Services Fund.~~

**SEC. 5.** *Section 7048.5 is added to the Business and Professions Code, to read:*

**7048.5.** *This chapter does not apply to any work or operation by a C-27 landscaping contractor or D-49 tree service contractor on one undertaking or project by one or more contracts, the aggregate contract price which for labor, materials, and all other items is less than twenty five thousand dollars (\$25,000).*

**SEC. 6.** *Section 7316 of the Business and Professions Code is amended to read:*

**7316.** (a) The practice of barbering is all or any combination of the following practices:

- (1) Shaving or trimming the beard or cutting the hair.
- (2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.
- (3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.
- (4) Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, or neck.
- (5) Hairstyling of all textures of hair by standard methods that are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

- (1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.
- (2) Massaging, cleaning, or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, or preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.
- (5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.
- (6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, ~~applying makeup,~~ giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, manicuring, or pedicuring the nails of any person or massaging, cleansing, or beautifying from the elbow to the fingertips or the knee to the toes of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin and the incidental trimming of eyebrow hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

**SEC. 7. Section 7317 of the Business and Professions Code is amended to read:**

**7317.** Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in ~~barbering,~~ cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the board, or in an establishment or mobile unit other than one licensed by the board, or conduct or operate an establishment, or any other place of business in which barbering, cosmetology, or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is subject to an administrative fine and may be subject to a misdemeanor.

**SEC. 8. Section 7533 of the Business and Professions Code is amended to read:**

**7533.** Each licensee shall file with the bureau the complete address of his or her principal place of business including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying the principal place of business. *A California office is not required to comply with this section.*

**SEC. 9. Section 7672 of the Business and Professions Code is repealed.**

~~7672. A person shall not dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to any person having the right to~~

~~control the disposition of the cremated remains of any person or that person's designee if the person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.~~

**SEC. 10. Section 19052 of the Business and Professions Code is repealed.**

~~19052. Every custom upholsterer, unless he or she holds a furniture and bedding manufacturer's license, shall hold a custom upholsterer's license.~~

**SEC. 11. Section 1812.600 of the Civil Code is repealed.**

~~1812.600. (a) Every auctioneer and auction company shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be twenty thousand dollars (\$20,000). A copy of the bond shall be filed with the Secretary of State.~~

~~(b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person or persons damaged by any fraud, dishonesty, misstatement, misrepresentation, deceit, unlawful acts or omissions, or failure to provide the services of the auctioneer or auction company in performance of the auction by the auctioneer or auction company or its agents, representatives, or employees while acting within the scope of their employment.~~

~~(c) (1) No auctioneer or auction company shall conduct any business without having a current surety bond in the amount prescribed by this section and without filing a copy of the bond with the Secretary of State.~~

~~(2) Thirty days prior to the cancellation or termination of any surety bond required by this section, the surety shall send a written notice of that cancellation or termination to both the auctioneer or auction company and the Secretary of State, identifying the bond and the date of cancellation or termination.~~

~~(3) If any auctioneer or auction company fails to obtain a new bond and file a copy of that bond with the Secretary of State by the effective date of the cancellation or termination of the former bond, the auctioneer or auction company shall cease to conduct any business unless and until that time as a new surety bond is obtained and a copy of that bond is filed with the Secretary of State.~~

~~(d) A deposit may be made in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure. When a deposit is made in lieu of the bond, the person asserting the claim against the deposit shall establish the claim by furnishing evidence to the Secretary of State of a money judgment entered by a court together with evidence that the claimant is a person described in subdivision (b).~~

~~(e) When a claimant has established the claim with the Secretary of State, the Secretary of State shall review and approve the claim and enter the date of approval on the claim. The claim shall be designated an "approved claim."~~

~~(f) When the first claim against a particular deposit has been approved, it shall not be paid until the expiration of a period of 240 days after the date of its approval by the Secretary of State. Subsequent claims that are approved by the Secretary of State within the same 240-day period shall similarly not be paid until the expiration of the 240-day period. Upon expiration of the 240-day period, the Secretary of State shall pay all approved claims from that 240-day period in full unless the deposit is insufficient, in which case each approved claim shall be paid a pro-rata share of the deposit.~~

~~(g) When the Secretary of State approves the first claim against a particular deposit after the expiration of a 240-day period, the date of approval of that claim shall begin a new 240-day period to which subdivision (f) shall apply with respect to any amount remaining in the deposit.~~

~~(h) After a deposit is exhausted, no further claims shall be paid by the Secretary of State. Claimants who have had their claims paid in full or in part pursuant to subdivision (f) or (g) shall not be required to return funds received from the deposit for the benefit of other claimants.~~

~~(i) When a deposit has been made in lieu of a bond, the amount of the deposit shall not be subject to attachment, garnishment, or execution with respect to an action or judgment against the auctioneer or auction company, other than as to that amount that is no longer needed or required for the purpose of this section that otherwise would be returned to the auctioneer or auction company by the Secretary of State.~~

~~(j) The Secretary of State shall retain a cash deposit for two years from the date the Secretary of State receives written notification from the assignor of the deposit that the assignor has ceased to engage in the business of an auctioneer or auction company or has filed a bond pursuant to subdivision (a), provided that there are no~~

~~outstanding claims against the deposit. Written notification to the Secretary of State shall include all of the following: (1) name, address, and telephone number of the assignor; (2) name, address, and telephone number of the bank at which the deposit is located; (3) account number of the deposit; and (4) a statement whether the assignor is ceasing to engage in the business of an auctioneer or auction company or has filed a bond with the Secretary of State. The Secretary of State shall forward an acknowledgment of receipt of the written notice to the assignor at the address indicated in the notice, specifying the date of receipt of the written notice and anticipated date of release of the deposit, provided there are no outstanding claims against the deposit.~~

~~(k) A judge of a superior court may order the return of the deposit prior to the expiration of two years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit or order the Secretary of State to retain the deposit for a specified period beyond the two years pursuant to subdivision (j) to resolve outstanding claims against the deposit.~~

~~(l) If an auctioneer or auction company fails to perform any of the duties specifically imposed upon him or her pursuant to this title, any person may maintain an action for enforcement of those duties or to recover a civil penalty in the amount of one thousand dollars (\$1,000), or for both enforcement and recovery.~~

~~(m) In any action to enforce these duties or to recover civil penalties, or for both enforcement and recovery, the prevailing plaintiff shall be entitled to reasonable attorney's fees and costs, in addition to the civil penalties provided under subdivision (l).~~

~~(n) Notwithstanding the repeal of Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code by the act adding this chapter, any cash security in lieu of the surety bond formerly required and authorized by former Chapter 3.7 (commencing with Section 5700) of Division 3 of the Business and Professions Code, shall be transferred to, and maintained by, the Secretary of State.~~

~~(o) The Secretary of State shall charge and collect a filing fee not to exceed the cost of filing the bond or deposit filed in lieu of a bond as set forth in Section 995.710 of the Code of Civil Procedure.~~

~~(p) The Secretary of State shall enforce the provisions of this chapter that govern the filing and maintenance of bonds and deposits in lieu of bonds.~~