

Introduced by Senator Karnette

February 26, 1999

An act to add Article 3.5 (commencing with Section 7331.8) to Chapter 10 of Division 3 of the Business and Professions Code, relating to barbering and cosmetology.

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, as introduced, Karnette. Barbering and cosmetology: independent contractors.

Existing law, the Barbering and Cosmetology Act, provides a comprehensive scheme of regulation and licensure for persons practicing barbering, cosmetology, or electrolysis.

This bill would set forth certain independent contractor guidelines and required contractual provisions with respect to persons (booth renters) doing independent contract work in barbering, cosmetology, or electrolysis in an establishment. The bill would also direct the Department of Consumer Affairs to establish a mini-salon license to be issued to independent contractors for those specified purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Article 3.5 (commencing with Section
- 2 7331.8) is added to Chapter 10 of Division 3 of the Business
- 3 and Professions Code, to read:
- 4

1 Article 3.5. Independent Contractor Guidelines

2
3 7331.8. (a) Any establishment, including any mobile
4 unit as defined in Section 7354, at all times at which
5 barbering, cosmetology, or electrolysis is being
6 performed by an independent contractor, shall have a
7 sign posted in the establishment making the consumer
8 aware that some or all work being performed within the
9 establishment may be performed by independent
10 contractors.

11 (b) The establishment shall furnish a written contract
12 to each independent contractor that clearly explains the
13 day-to-day working relationship between and by each
14 party to the contract, including the establishment owner,
15 landlord, and the independent contractor (booth
16 renter), pursuant to any applicable Employment
17 Development Department guidelines. The contract shall
18 be signed and dated by the parties thereto. A copy of the
19 contract shall remain on file at the establishment. The
20 contract shall contain, at a minimum, the following terms
21 and provisions:

22 (1) The establishment owner shall be prohibited from
23 controlling the hours worked by a booth renter.

24 (2) The establishment owner shall not impose a
25 uniform dress code.

26 (3) The establishment owner may only charge a flat
27 rate of rent. Rent may not be based upon a percentage or
28 commission of the booth renters' earnings.

29 (4) The establishment owner shall not control or set
30 the price structure of services offered by booth renters.

31 (5) The establishment owner shall not exercise any
32 control over the booth renters' appointment book or
33 schedule.

34 (6) The establishment owner shall not collect the
35 booth renters' income when services to customers are
36 rendered.

37 (7) The establishment may not provide training for
38 the booth renter.



1 (8) The establishment owner may only provide that
2 which is specifically included in the contract as a part of
3 rent amount.

4 (9) The establishment owner shall not require a booth
5 renter sell a retail item.

6 (10) The establishment owner may not provide new
7 clients to a booth renter.

8 (11) The establishment owner shall possess a valid
9 establishment license to do business within this state, as
10 issued by the board.

11 (12) The establishment owner shall possess a valid city
12 or county business license, where applicable.

13 (13) The establishment owner shall not pay the booth
14 renters' insurance.

15 (14) The establishment owner shall not accept the
16 booth renters' clients' checks as payment for rent.

17 (15) The establishment owner shall not pay workers'
18 compensation insurance for booth renters if the booth
19 renter's independent contractors status is verified.

20 (16) The establishment owner shall not be responsible
21 for the booth renters' business telephone numbers.

22 (17) The establishment owner shall file at the end of
23 the calendar year all 1099 tax forms from their booth
24 renters.

25 7731.9. (a) Any person licensed under this chapter
26 working as an independent contractor in an
27 establishment described in Section 7731.8 and
28 performing barbering, cosmetology, or electrolysis shall,
29 as a booth renter, have a signed contract with the
30 establishment evidencing a clear separation between the
31 establishment owner or landlord, with respect to the
32 day-to-day operation of the business in accordance with
33 any applicable guidelines of the Employment
34 Development Department. The contract shall contain, at
35 a minimum, the following terms and provisions:

36 (1) The booth renter shall have control of the hours
37 worked.

38 (2) The booth renter shall not be obligated to comply
39 with any uniform dress code.



- 1 (3) The booth renter shall only pay rent based upon a
2 flat rate.
- 3 (4) The booth renter shall establish his or her own
4 prices for services rendered.
- 5 (5) The booth renter shall be responsible for his or her
6 appointment book.
- 7 (6) The booth renter shall collect his or her own
8 income and be responsible for making change for his or
9 her own clients.
- 10 (7) The booth renter shall be responsible for his or her
11 own education and training.
- 12 (8) The booth renter shall provide his or her own tools
13 and supplies for generating income.
- 14 (9) The booth renter shall not be obligated to sell any
15 retail products for the establishment.
- 16 (10) The booth renter shall be responsible for his or
17 her own clients, including recruitment.
- 18 (11) The booth renter shall possess a valid cosmetology
19 license issued in this state.
- 20 (12) The booth renter shall possess a valid city or
21 county business license, where applicable.
- 22 (13) It shall be the booth renters' responsibility to have
23 his or her own professional and general liability insurance
24 coverage.
- 25 (14) Since the booth renter is an independent
26 contractor and not covered by workers' compensation
27 insurance, he or she shall maintain disability insurance
28 coverage.
- 29 (15) The booth renter shall maintain his or her own
30 business account for depositing income.
- 31 (16) The booth renter shall be responsible for the
32 advertising and promotion of his or her own business,
33 including business cards.
- 34 (17) The booth renter shall be responsible for all taxes,
35 fines, and penalties levied by any state, federal, county,
36 and city agency, including the filing of tax forms 540 and
37 1040.
- 38 (18) The booth renter shall be responsible for
39 providing to the establishment a tax form 1099 at the end
40 of the calendar year according to federal regulations for



1 rent paid over six hundred dollars (\$600) within that year
2 to the establishment owner or landlord.

3 (19) The booth renter shall be responsible for all other
4 fines and penalties, including those received under this
5 chapter.

6 (20) The booth renter shall be responsible for his or
7 her own telephone for the purpose of booking
8 appointments.

9 (21) The booth renter shall be responsible for the
10 cleaning and maintenance of the rented or leased area,
11 including, but not limited to, the common area.

12 7731.10. The department shall establish, by
13 regulation, a mini-salon license specifically for booth
14 renters, for the purpose of being registered with the
15 Board of Barbering and Cosmetology in the Department
16 of Consumer Affairs, for consumer protection, for the
17 filing of a compliant, and for insurance and tax purposes.
18 A fee may be charged to the booth renter in an amount
19 sufficient to cover the cost implications of issuance of a
20 mini-salon license by the department.

