

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2125**

As Amended by Senate Committee on Public  
Health and Welfare

**Brief\***

HB 2125, as amended, would amend law related to tattooing, cosmetic tattooing, and body piercing and exempt adult care homes and long-term care units of a medical care facilities from statutes governing barbering and cosmetology. The bill would authorize the Kansas State Board of Cosmetology (Board) to create and issue charitable event permits and demonstration permits, require the Board's administrative proceedings to be conducted in accordance with the Kansas Administrative Procedure Act and be reviewable in accordance with the Kansas Judicial Review Act, allow the Board to issue cease and desist orders to persons who are not license holders, and shorten the time period certain case history cards must be retained by licensees.

***Tattooing, Cosmetic Tattooing, and Body Piercing***

***Administrative Proceedings and Appeals***

The bill would require the Board to conduct administrative proceedings in accordance with the Kansas Administrative Procedure Act, and actions in any administrative proceeding would be reviewable in accordance with the Kansas Judicial Review Act.

The bill states judicial review would be taken if a petitioner appealing an order of the Board files a bond with

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

the reviewing court conditioned on payment of assessed costs if the decision of the Board is sustained. The Board would not be required to file any bond.

The bill states if an administrative order of the Board is adverse to an applicant, apprentice, or licensee, costs incurred for any investigation or administrative proceeding could be assessed against the party or parties to the proceeding. If the Board is not the prevailing party, then costs incurred would be paid from the Cosmetology Fee Fund. The Board would be required to include any assessment of costs incurred as part of its final order, along with findings and conclusions in support of the assessment.

The bill would define “costs incurred” to include, but not be limited to:

- Presiding officer fees and expenses, only if the Board has designated or retained the services of an independent contractor or the Office of Administrative Hearings to perform presiding officer functions;
- Costs of preparing any transcripts;
- Reasonable investigation costs;
- Witness fees and expenses; and
- Mileage, travel expenses, and subsistence allowances of Board employees and fees and expenses of agents of the Board who provide services.

Moneys collected by the Board from administrative proceedings would be deposited in the Cosmetology Fee Fund.

### *Charitable Event Permit*

The bill would create a charitable event permit under which licensees would be able to provide tattooing, cosmetic tattooing, or body piercing services at no cost to recipients at the charitable event. The charitable event permit would expire 30 days after issuance by the Board.

The bill would define “charitable event” to mean an event conducted for a charitable purpose held at a specific time and location. The bill would define “charitable purpose” to mean any purpose that promotes, or purports to promote, directly or indirectly, the well-being, in general or limited to certain activities, endeavors, or projects, of the public at large, any number of persons, or any humane purpose.

The bill would require the Board to adopt rules and regulations for the charitable event permit on or before December 31, 2023.

### *Demonstration Permit*

The bill would create a demonstration permit which would authorize a person to provide tattooing, cosmetic tattooing, or body piercing services at a state or national convention or any other event location approved by the Board, or as a guest artist at an establishment licensed by the Board, if:

- The person performing the services is licensed to perform such profession in another jurisdiction; and
- The license has not been revoked, suspended, or conditioned from the practice of such profession.

The bill would require the Board to accept a valid visa or passport identification number for an applicant who is a citizen of a foreign country, has not been issued a Social Security number, and has not been licensed by another state.

The demonstration permit would expire 14 days after issuance by the Board.

The bill would require the Board to adopt rules and regulations for the demonstration permit on or before December 31, 2023.

#### *Cease and Desist Orders*

The bill would amend law to allow the Board to issue cease and desist orders to a person who is not a license holder upon a determination that such person has violated an order or a rule or regulation of the Board. Current law only allows the Board to issue cease and desist orders to licensees.

#### *Case History Card Retention*

The bill would shorten the time period tattoo artists, cosmetic tattoo artists, and body piercers are required to retain case history cards for clients from five years to three years.

### ***Exemptions from Acts Regulating Cosmetologists and Barbers***

#### *Exemptions*

The bill would exempt adult care homes and long-term care units of medical care facilities from:

- Making application to establish a salon or clinic with the Board of Cosmetology;
- Paying the new salon or clinic license fee;
- Submitting to inspection of equipment as to safety and sanitary condition of the premises;

- Holding a salon or clinic license as issued by the Board of Cosmetology; and
- Submitting to inspection by the Kansas Board of Barbering.

### *Definitions*

The provisions would apply to an “adult care home,” defined in continuing law as any nursing facility, nursing facility for mental health, intermediate care facility for people with intellectual disability, assisted living facility, residential healthcare facility, home plus, boarding care home, and adult day care facility, all of which are classifications of adult care homes and are required to be licensed by the Secretary for Aging and Disability Services.

The provisions would also apply to a “medical care facility,” defined in continuing law as a hospital, ambulatory surgical center, or recuperation center, except that “medical care facility” would not include a hospice that is certified to participate in the Medicare program and that provides services only to hospice patients.

The bill would also make technical changes.

### **Background**

The bill was introduced by the House Committee on Commerce, Labor, and Economic Development at the request of Representative Proctor. The Senate Committee on Public Health and Welfare amended the bill to add the contents of HB 2408.

***HB 2125 (Tattooing, Cosmetic Tattooing, and Body Piercing)***

*House Committee on Commerce, Labor and Economic Development*

In the House Committee hearing on the bill, **proponent** testimony was provided by Representative Proctor and the Chairperson of the Board. The proponents stated the bill would allow the Board to issue charitable event and demonstration permits which would bring revenue to local towns and communities that choose to host a qualifying event, such as a tattoo convention. They also stated the bill would allow the Board to issue cease and desist orders against unlicensed persons providing body art services.

No other testimony was provided.

The House Committee amended the bill to require the Board to adopt rules and regulations on or before December 31, 2023, and to clarify that demonstration permits may be granted for any event location approved by the Board.

*House Committee of the Whole*

The House Committee of the Whole amended the bill to reduce the required case history card retention time period.

*Senate Committee on Public Health and Welfare*

In the Senate Committee hearing on March 7, 2023, **proponent** testimony was provided Representative Proctor and a representative of the Board, who generally stated the bill would authorize the Board to issue charitable event or demonstration event permits to artists licensed in other jurisdictions to provide services Kansas on a limited basis.

No other testimony was provided.

The Senate Committee amended the bill to insert the contents of HB 2408, as recommended by the House Committee on Health and Human Services.

***HB 2408 (Exemptions from Acts Regulating  
Cosmetologists and Barbers)***

*House Committee on Health and Human Services*

In the House Committee hearing, **proponent** testimony was provided by representatives of LeadingAge Kansas and the Kansas Department for Aging and Disability Services (KDADS), who generally stated the bill represents a compromise between KDADS and the Board and would reduce regulations for adult care homes, who are routinely inspected by KDADS to ensure areas used for cosmetology purposes are clean and meet basic regulatory requirements.

No other testimony was provided.

*Senate Committee on Public Health and Welfare*

In the Senate Committee hearing on March 14, 2023, **proponent** testimony was provided jointly by representatives of the Kansas Department for Aging and Disability Services and the Board, and by a representative of LeadingAge Kansas. The proponents generally stated the bill would clarify that KDADS would be responsible for regulating and inspecting the beauty and barbershop areas of adult care homes and long-term care units of medical care facilities.

Written-only proponent testimony was provided by a representative of Kansas Hospital Association.

No other testimony was provided.

The Senate Committee inserted the contents of HB 2408, as recommended by the House Committee on Health and Human Services, into HB 2125.

## **Fiscal Information**

### ***HB 2125 (Tattooing, Cosmetic Tattooing, and Body Piercing)***

According to the fiscal note prepared by the Division of the Budget on HB 2125, as introduced, the Board indicates its current administrative staff would work with surrounding states and licensees to create administrative rules and regulations, and its current facility inspectors would inspect convention sites for health, sanitation, and licensure. The agency estimates enactment of the bill could result in additional revenues of \$37,500 in FY 2024. The estimate is based on five conventions with an issuance of 100 demonstration permits per convention, with each permit costing \$75 ( $5 \times \$75 \times 100 = \$37,500$ ). The agency is unable to estimate the fiscal effect of issuing the charitable event permits. The agency indicates it would need to hire 1.00 FTE Senior Administrative Specialist position at a cost of \$40,000 from its Cosmetology Fee Fund. The agency indicates the additional revenue generated under the bill and its existing revenues would cover any additional expenditures and no additional funding would be required.

The Kansas Judicial Branch indicates enactment of the bill would make the Board's administrative actions subject to judicial review which would require filing of bonds and allowing the Board to bring court actions to enforce rules and regulations. The provisions of the bill would increase time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The bill could result in collection of additional docket fees that would be deposited into the State General Fund. The agency indicates that it is unable to estimate a fiscal effect.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities indicate enactment of the bill would have no fiscal effect.

***HB 2408 (Exemptions from Acts Regulating Cosmetologists and Barbers)***

According to the fiscal note prepared by the Division of the Budget on HB 2408, the Board of Cosmetology currently inspects approximately 200 salons and clinics in adult care homes. The bill would exempt the salons and clinics from receiving inspections as well as having to pay the \$50 annual renewal fee. The loss in renewal fees would reduce the Board's fee revenue by \$10,000, specifically reducing revenue to the Cosmetology Fee Fund by \$9,000 and the State General Fund by \$1,000. The Board of Cosmetology would also experience a reduction in inspection expenditures but is unable to estimate the fiscal effect.

The Kansas Board of Barbering indicates since it does not have any shops, schools, or colleges in adult care homes or long-term care units, the bill's provisions would not have a fiscal effect on the Board. The Department of Health and Environment indicates the bill would not have a fiscal effect.

Any fiscal effect associated with enactment of HB 2408 is not reflected in *The FY 2024 Governor's Budget Report*.

Kansas State Board of Cosmetology; charitable event permit; demonstration permit; tattooing; cosmetic tattooing; body piercing; Kansas Administrative Procedure Act; Kansas Judicial Review Act; cease and desist orders; case history card retention; adult care homes; long-term care; board of cosmetology; Board of Barbering