



Empire
Education Group®

WRITTEN
TESTIMONY
from Frank Schoeneman

Chairman & CEO, Empire Education Group

**PENNSYLVANIA PROFESSIONAL
LICENSURE COMMITTEE**

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Good morning Madame Chair and members of the committee.

Thank you for allowing me the opportunity to come before your committee to talk about the important issues you are deliberating.

I am proud to serve as Chairman and CEO of Empire Education Group, the parent company of Empire Beauty Schools, the largest provider of cosmetology education in the United States. Along with my co-workers here in Pennsylvania and across the 23 states where we have campuses, we work hard every day to bring the best possible cosmetology career training to talented and creative people, who are seeking a personally fulfilling and professionally rewarding career in cosmetology.

For the past three generations (and soon to be a fourth), Empire Education Group has provided opportunities for thousands of Pennsylvanians to better their lives.

We continue to grow nationally, but we are committed to our roots right here in Pennsylvania. Recently, we added 30,000 sq ft onto our corporate offices in Schuylkill County, where we expect to add close to 200 additional jobs to fill that new space and support our 20 campuses here in Pennsylvania and 104 campuses (and still growing) across the country.

In addition to my “day job” and Empire, I was honored to have served as a former member and as Chairman of the Pennsylvania State Board of Cosmetology. As such, I recognize and understand the relationship between solid common sense regulations and good public policy.

Regarding Bill 1571 repealing section 8.1 of the Act of May 3, 1933 referred to as the Cosmetology Law, amended July 7, 2006, (P.L. 704 No. 99), I am here to oppose this bill.

Rationale:

We believe that allowing Booth Rental in Pennsylvania would be contrary to good public policy for a variety of reasons:

1. It would be detrimental to consumer protection.

Allowing Booth Rental will open up a new license category that will, by definition, require a whole new set of regulations and an undetermined number of new state inspectors, prosecutors, and support staff to monitor and inspect the compliance of the regulations and laws.

In addition, when a State Board inspector goes in to inspect a booth rental operation, there is great difficulty in determining exactly who is responsible for any violation(s) that may be found. Who gets the violation? Who pays the fine?

This concept opens up the potential for “finger pointing” between the booth renter and the owner/landlord of the booth rental salon.

2. It would be difficult to enforce laws and regulations between government agencies.

It would seem to make sense that the operation of the business and compliance regarding consumer protection and public safety would remain with the State Board of Cosmetology, and that the Tax Status remain with the Department of Revenue. How we facilitate the communications between the two agencies regarding the actual license status (Booth Renter vs. Employee) clearly affects the status of the other and the subsequent license. However, if it is determined by The Department of Revenue that the person does not qualify as a Booth Renter then they would only be required to have an operators license. Of course, this creates additional issues for the "Booth Salon" Owner/Landlord and potential liabilities regarding compliance with Labor and Tax Codes. In the event there is a determination in the Department of Revenue that the status of a booth rental arrangement is not legal, who is liable? The landlord/owner or the booth renter? Likewise in determinations from the State Board. They have a specific code and schedule of fines. How those fines are meted out and who is responsible for their payment remains in question. Example. If a person is operating under the assumption that they are a booth renter and it is determined that they do not qualify because they did not have a proper licensure, the premises would be in violation of several existing codes. Again, who is liable?

The bottom line is that we cannot approve this change in law (effectively legalizing booth rental) without spending significant time and effort to have all of the supporting laws and regulations that we currently have for traditional beauty salons. If we do not do so, there would be confusion and chaos in regulating these types of salons. It is my belief that this whole exercise would be wasteful anyway because Pennsylvania would not be well served with Booth Rental.

3. It would be detrimental to the Commonwealth's Treasury.

The IRS estimates that 90% of all people operating under the status of Booth Rental could not pass an audit under present State or IRS guidelines. The laws for IRS designation of Booth Rental require specific, verifiable components that are absent in most agreements of this type. Which brings a very important concern to light.

Conforming amendments in Pennsylvania Tax Code¹, Loss of Revenue. Presently, Pennsylvania taxes eight different categories of income. The change proposed may have an impact on no less than three of the categories.

1. Compensations.
2. Net profits from the operation of a business, profession or farm.
3. New gains or interest from rents, royalties, patents and copy rights.

At present I am not aware of any proposed amendments to cover this new Tax designation and would submit that prior to doing such we need to determine what the impact on revenues would be.

4. It would be detrimental to existing salon owners and stylists.

The stated purpose of proponents of the "Booth Rental" concept is to allow cosmetologists the option of being more entrepreneurial if they wished. In other words, the attraction is that the stylist could work for themselves to be free of the restrictions of when to open and close, what products to use, etc.

The truth is that a business model already exists in Pennsylvania that would allow any cosmetologist to open their own business, it is called a "cosmetology salon" and it has been legal here since the original Cosmetology Act in 1933². It is the law that all salons in Pennsylvania have honored since the very beginning. There are now 13,973 cosmetology salons in Pennsylvania, and a very large portion of these salons are "single-operator" salons that exist in many neighborhoods across the commonwealth. There simply is no need for any change in the law to allow for, or even encourage, entrepreneurship...it already exists.

As a matter of fact, allowing booth rental would be a great disservice to almost all those salons who have been doing it "right" all these years by opening a whole new competitive business model to which they will not be ready or willing to adapt.

Stylists would also be confronted with their employers "going booth rental", in other words, their employer would choose to become a "landlord" in order to alleviate him/herself of the obligations and liabilities of being a traditional salon owner, and the employee would have no choice but to accept the booth rental arrangement in order to work there. Many booth renters get into this business model because they have little or no choice...even when their first choice would be to work as an "employee".

5. It would be detrimental to cosmetology students and cosmetology schools.

As an "unintended consequence", effective on July 1 of 2011, under the U.S. Department of Education's "Gainful Employment" regulations, schools that train people for the different disciplines covered in this proposal must begin reporting earnings of graduates placed in a job, as it relates to the debt incurred to obtain their education to work in that given field.

Simply put, the formula divides the loan debt incurred for school by the earnings for a given discipline as reported by the Bureau of Labor Statistics (BLS) at the 25th percentile. Unfortunately, the reporting from BLS excludes independent contractors which by definition are what a booth renter is. I mention this because of the negative impact it may have on the ability for schools to continue to meet eligibility based on the debt to income measurement required by the Department of Education. Schools failing this measure may lose their ability to provide funding to students that wish to enter the Professional Beauty Industry leaving scores of jobs unfilled.

In conclusion, Pennsylvania can be very proud of our tradition of rejecting the harmful and costly practice of Booth Rental. As a Commonwealth, we offer plenty of opportunities for cosmetology professionals to own their own successful business if they wish under the current law. At the same time, however, we have the proper laws and regulations in place to safeguard consumer protection and to maximize tax revenues from the practice of Cosmetology.

I respectfully urge you to reject HB 1571.

Bill 1867 Amending Section 9.2 of the act of May 3 1933 (P.L. 242 No. 86) Referred to as the Cosmetology Law, amended June 29, 2002 (P.L. 645, No. 98) and July 7, 2006 (P.L. 704, No. 99)

Empire Education Supports Passage of The Amendments to this Bill with Modifications.

Rationale:

In today's world many people are looking to receive multiple services in a compressed time schedule. Being able to add what would seem to be a logical service, massage, into an existing area that already caters to people receiving like types of services makes sense. The only recommendation we would make is to provide regulations for the area of designation for this service in order to maintain the proper privacy between cosmetological and massage services.

We urge your support of this Bill.

Bill 1868 of the act of May 3, 1933 (P.L. 242 No. 86) Referred to as Cosmetology Law amended July 7, 2006 (P.L.704 No. 99) Proposal to amend Section 4. Eligibility Requirements for Examination.

Empire Education Supports Passage of this Amendment

Rationale:

At present there are a number of graduates of programs of any of the disciplines covered by this act that fail to take the required State Exams even though they have completed all requirements, have been certified by the school and meet all other qualifying criteria. This is not a problem that only exists in the Cosmetology sector. Many licensing bodies that do not allow for the credentialing process to begin until after the student has completed the education will experience a disparity between students graduating and completing the credentialing process.

This flaw, wastes educational dollars and mitigates the Return on Investment for the tax payer. Further, in disciplines where there are jobs waiting to be filled, it creates economic stagnation for job growth and corporate expansion. We believe that the current law unintentionally creates this condition.

HB 1868 would allow students to begin the credentialing process while in attendance at school and will create an environment that is more conducive and comfortable for each student to take the test. It also allows for students that experience difficulty in passing the test to seek remediation from their instructors which in turn will encourage successful re-takes and eventual passage.

At Empire, we create opportunities for people to improve their lives. We do that by enrolling, educating, graduating and placing people in the professional beauty industry. For the students that successfully complete the program, the more accessible that we can make the beginning part of the credentialing process, the easier it is for them to complete the process. Essentially, this allows us to assist those students to fill waiting jobs. In today's market wherever we can amend laws that help people to become eligible for employment without compromising the integrity of the process, we should move swiftly in its passage. This is clearly one of those situations.

We encourage you to support this proposal.

FOOTNOTES

1. http://www.revenue.state.pa.us/portal/server.pt/community/personal_income_tax/11409
2. Pennsylvania State Board of Cosmetology Code Section 7.51, Section 7.62, Section 7.17, Section 7.76.