

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1042

Introduced by Howard, 9.

Read first time January 17, 2018

Committee:

1 A BILL FOR AN ACT relating to nail technology; to amend sections 38-1038,
2 38-10,128, 38-10,129, 38-10,131, 38-10,135, 38-10,142, 38-10,147,
3 38-10,150, 38-10,152, 38-10,153, 38-10,154, and 38-10,156, Reissue
4 Revised Statutes of Nebraska, and section 38-10,132, Revised
5 Statutes Supplement, 2017; to redefine a term; to change and
6 eliminate provisions relating to licensure requirements,
7 registration, temporary practitioners, nail technology schools,
8 guest educators, student instructors, and transfers; to harmonize
9 provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-1038, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-1038 Nail technology salon means a fixed structure or part
4 thereof licensed under the Cosmetology, Electrology, Esthetics, Nail
5 Technology, and Body Art Practice Act to serve as the site for the
6 performance of the practices of nail technology by persons licensed ~~or~~
7 ~~registered~~ under the act.

8 Sec. 2. Section 38-10,128, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-10,128 In order to be licensed as a nail technician or nail
11 technology instructor by examination, an individual shall meet, and
12 present to the department evidence of meeting, the following
13 requirements:

14 (1) He or she has attained the age of seventeen years on or before
15 the beginning date of the examination for which application is being
16 made;

17 (2) He or she has completed formal education equivalent to a United
18 States high school education;

19 (3) He or she possesses sufficient ability to read the English
20 language to permit the applicant to practice in a safe manner, as
21 evidenced by successful completion of the written examination; and

22 (4) He or she has graduated from a school of cosmetology or nail
23 technology school providing a nail technology program. Evidence of
24 graduation shall include documentation of the total number of hours of
25 training earned and a diploma or certificate from the school to the
26 effect that the applicant has complied with the following:

27 (a) For licensure as a nail technician, the program of studies shall
28 consist of ~~a minimum of not less than one hundred fifty hours and not~~
29 ~~more than~~ three hundred hours, as set by the board; and

30 (b) For licensure as a nail technology instructor, the program of
31 studies shall consist of ~~a minimum of not less than one hundred fifty~~

1 ~~hours and not more than~~ three hundred hours, as set by the board, beyond
2 the program of studies required for licensure as a nail technician and
3 the individual shall be currently licensed as a nail technician in
4 Nebraska as evidenced by possession of a valid Nebraska nail technician
5 license.

6 The department shall grant a license in the appropriate category to
7 any person meeting the requirements specified in this section.

8 Sec. 3. Section 38-10,129, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 38-10,129 No application for any type of licensure ~~or registration~~
11 shall be considered complete unless all information requested on the
12 application form has been supplied, all seals and signatures required
13 have been obtained, and all supporting and documentary evidence has been
14 received by the department.

15 Sec. 4. Section 38-10,131, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 38-10,131 (1) Examinations approved by the board may be national
18 standardized examinations, but in all cases the examinations shall be
19 related to the knowledge and skills necessary to perform the practices
20 being examined and shall be related to the curricula required to be
21 taught in nail technology programs.

22 ~~(2) At least two examinations shall be given annually.~~

23 (2) ~~(3)~~ In order to successfully complete the examination, an
24 applicant shall obtain an average grade of seventy-five percent on the
25 written examination.

26 Sec. 5. Section 38-10,132, Revised Statutes Supplement, 2017, is
27 amended to read:

28 38-10,132 (1) The department may grant a license based on licensure
29 in another jurisdiction to a nail technician or nail technology
30 instructor who presents proof of the following:

31 (a) He or she has attained the age of seventeen years;

1 (b) He or she has completed formal education equivalent to a United
2 States high school education;

3 (c) He or she is currently licensed as a nail technician or its
4 equivalent or as a nail technology instructor or its equivalent in
5 another jurisdiction and he or she has never been disciplined or had his
6 or her license revoked;

7 (d) For licensure as a nail technician, evidence of completion ~~:(i)~~
8 ~~Completion~~ of a program of nail technician studies consisting of a
9 ~~minimum of not less than one hundred fifty hours and not more than three~~
10 ~~hundred hours, as set by the board, and successful passage of a written~~
11 ~~examination. If a written examination was not required for licensure in~~
12 ~~another jurisdiction, the applicant must take the Nebraska written~~
13 ~~examination. Each month of full-time practice as a nail technician within~~
14 ~~the five years immediately preceding application shall be valued as~~
15 ~~equivalent to one hundred hours toward a nail technician license; and~~ ~~;~~
16 ~~or~~

17 ~~(ii) At least twelve months of practice as a nail technician~~
18 ~~following issuance of such license in another jurisdiction; and~~

19 (e) For licensure as a nail technology instructor, evidence of
20 completion ~~:(i) Completion~~ of a program of studies consisting of a
21 ~~minimum of not less than one hundred fifty hours and not more than three~~
22 ~~hundred hours, as set by the board, beyond the program of studies~~
23 ~~required for licensure in another jurisdiction as a nail technician,~~
24 ~~successful passage of a written examination, and current licensure as a~~
25 ~~nail technician in Nebraska as evidenced by possessing a valid Nebraska~~
26 ~~nail technician license. If a written examination was not required for~~
27 ~~licensure as a nail technology instructor, the applicant must take the~~
28 ~~Nebraska written examination. Each month of full-time practice as a nail~~
29 ~~technology instructor within the five years immediately preceding~~
30 ~~application shall be valued as equivalent to one hundred hours toward a~~
31 ~~nail technology instructor license.~~ ~~;~~ ~~or~~

1 ~~(ii) At least twelve months of practice as a nail technology~~
2 ~~instructor following issuance of such license in another jurisdiction.~~

3 (2) An applicant who is a military spouse may apply for a temporary
4 license as provided in section 38-129.01.

5 Sec. 6. Section 38-10,135, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 38-10,135 An applicant for licensure as a nail technology temporary
8 practitioner shall show evidence that his or her completed application
9 for regular licensure has been accepted by the department, that he or she
10 has not failed any portion of the licensure examination, and that he or
11 she has been accepted for work in a licensed nail technology or
12 cosmetology establishment under the supervision of a licensed nail
13 technician or licensed cosmetologist. ~~An individual registered as a~~
14 ~~temporary practitioner on December 1, 2008, shall be deemed to be~~
15 ~~licensed as a temporary practitioner under the Cosmetology, Electrology,~~
16 ~~Esthetics, Nail Technology, and Body Art Practice Act on such date. The~~
17 ~~temporary practitioner may continue to practice under such registration~~
18 ~~as a license until it would have expired under its terms.~~

19 Sec. 7. Section 38-10,142, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 38-10,142 In order to maintain its license in good standing, each
22 nail technology salon shall operate in accordance with the following
23 requirements:

24 (1) The nail technology salon shall at all times comply with all
25 applicable provisions of the Cosmetology, Electrology, Esthetics, Nail
26 Technology, and Body Art Practice Act and all rules and regulations
27 adopted and promulgated under such act;

28 (2) The nail technology salon owner or his or her agent shall notify
29 the department at least thirty days prior to any change of ownership,
30 name, or address, and at least one week prior to closure, except in
31 emergency circumstances as determined by the department;

1 (3) No nail technology salon shall permit any unlicensed or
2 ~~unregistered~~ person to perform any of the practices of nail technology
3 within its confines or employment;

4 (4) The nail technology salon shall display a name upon, over, or
5 near the entrance door distinguishing it as a nail technology salon;

6 (5) The nail technology salon shall permit any duly authorized agent
7 of the department to conduct an operation inspection or investigation at
8 any time during the normal operating hours of the nail technology salon,
9 without prior notice, and the owner and manager shall assist the
10 inspector by providing access to all areas of the nail technology salon,
11 all personnel, and all records requested by the inspector;

12 (6) The nail technology salon shall display in a conspicuous place
13 the following records:

14 (a) The current license or certificate of consideration to operate a
15 nail technology salon;

16 (b) The current licenses ~~or registrations~~ of all persons licensed
17 under the act who are employed by or working in the nail technology
18 salon; and

19 (c) The rating sheet from the most recent operation inspection;

20 (7) At no time shall a nail technology salon employ more employees
21 than permitted by the square footage requirements of the act; and

22 (8) The nail technology salon shall not knowingly permit its
23 employees to use or consume ~~or clients to use, consume, serve, or in any~~
24 ~~manner possess or distribute~~ intoxicating beverages or controlled
25 substances upon its premises.

26 Sec. 8. Section 38-10,147, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 38-10,147 In order to be licensed as a nail technology school by the
29 department, an applicant shall meet, and present to the department
30 evidence of meeting, the following requirements:

31 (1) The proposed school shall be a fixed, permanent structure or

1 part of one;

2 (2) The proposed school shall have a contracted enrollment of
3 students;

4 (3) The proposed school shall contain adequate ~~at least five hundred~~
5 ~~square feet of~~ floor space and facilities, staff, apparatus, and
6 equipment appropriate to its projected enrollment in accordance with the
7 standards established by rule and regulation; and

8 (4) The proposed school shall not have the same entrance as or
9 direct access to a cosmetology salon or nail technology salon.

10 Sec. 9. Section 38-10,150, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 38-10,150 Along with the application, an applicant for a license to
13 operate a nail technology school shall submit:

14 (1) A detailed floor plan or blueprint of the proposed school
15 building sufficient to show compliance with the relevant rules and
16 regulations;

17 (2) Evidence of minimal property damage, personal injury, and
18 liability insurance coverage for the proposed school;

19 (3) A copy of the curriculum to be taught for all courses;

20 (4) A copy of the school rules and the student contract; and

21 (5) A list of the names and credentials of all persons licensed ~~or~~
22 ~~registered~~ under the Cosmetology, Electrology, Esthetics, Nail
23 Technology, and Body Art Practice Act to be employed by the school, and
24 ~~the name and qualifications of the school manager;~~

25 ~~(6) A completed nail technology education evaluation scale;~~

26 ~~(7) A schedule of proposed hours of operation and class and course~~
27 ~~scheduling; and~~

28 ~~(8) Any additional information the department may require.~~

29 ~~A nail technology school's license shall be valid only for the~~
30 ~~location named in the application. When a school desires to change~~
31 ~~locations, it shall comply with section 38-10,158.~~

1 Sec. 10. Section 38-10,152, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 38-10,152 In order to maintain its license in good standing, each
4 nail technology school shall operate in accordance with the following
5 requirements:

6 (1) The school shall at all times comply with all applicable
7 provisions of the Cosmetology, Electrology, Esthetics, Nail Technology,
8 and Body Art Practice Act and all rules and regulations adopted and
9 promulgated under such act;

10 (2) The school owner or owners or their authorized agent shall
11 notify the department at least thirty days prior to any change of
12 ownership, name, or address, and at least sixty days prior to closure,
13 except in emergency circumstances as determined by the department;

14 (3) No school shall permit anyone other than a nail technology
15 student, nail technology student instructor, or nail technology
16 instructor to perform any of the practices of nail technology within its
17 confines or employment employ, except that such restriction shall not
18 prevent a school from inviting guest educators who are not licensed to
19 provide education to students or student instructors if the guest
20 educator does not perform any of the practices of nail technology
21 ~~teachers who are not licensed or registered to provide lectures to~~
22 ~~students or student instructors if the guest lecturer does not perform~~
23 ~~any of the practices of nail technology;~~

24 (4) The school shall display a name upon or near the entrance door
25 designating it as a nail technology school;

26 (5) The school shall display in a conspicuous place within the
27 clinic area a sign reading: All services in this school are performed by
28 students who are training in nail technology. A notice to such effect
29 shall also appear in all advertising conducted by the school for its
30 clinic services;

31 (6) The school shall permit any duly authorized agent of the

1 department to conduct an operation inspection or investigation at any
2 time during the normal operating hours of the school without prior
3 notice, and the owner or manager shall assist the inspector by providing
4 access to all areas of the school, all personnel, and all records
5 requested by the inspector;

6 (7) The school shall display in a conspicuous place the following
7 records:

8 (a) The current license to operate a nail technology school;

9 (b) The current licenses ~~or registrations~~ of all persons licensed ~~or~~
10 ~~registered~~ under the act, except students, employed by or working in the
11 school; and

12 (c) The rating sheet from the most recent accreditation inspection;

13 (8) At no time shall a school enroll more students than permitted by
14 the act or the rules and regulations adopted and promulgated under the
15 act;

16 (9) The school shall not knowingly permit its students, employees,
17 or clients to use, consume, serve, or in any other manner possess or
18 distribute intoxicating beverages or controlled substances upon its
19 premises;

20 (10) No nail technology instructor or nail technology student
21 instructor shall perform, and no school shall permit such person to
22 perform, any of the practices of nail technology on the public in a nail
23 technology school other than that part of the practical work which
24 pertains directly to the teaching of practical subjects to nail
25 technology students or nail technology student instructors, and complete
26 nail technology services shall not be provided for a client unless done
27 in a demonstration class of theoretical or practical studies;

28 (11) The school shall maintain space, staff, library, teaching
29 apparatus, and equipment as established by rules and regulations adopted
30 and promulgated under the act;

31 (12) The school shall keep a daily record of the attendance and

1 clinical performance of each student and student instructor;

2 (13) The school shall maintain regular class and instructor hours
3 and shall require the minimum curriculum;

4 (14) The school shall establish and maintain criteria and standards
5 for student grading, evaluation, and performance and shall award a
6 certificate or diploma to a student only upon completing a full course of
7 study in compliance with such standards, except that no student shall
8 receive such certificate or diploma until he or she has satisfied or made
9 an agreement with the school to satisfy all outstanding financial
10 obligations to the school;

11 (15) The school shall maintain on file the enrollment of each
12 student; and

13 (16) The school shall print and provide to each student a copy of
14 the school rules, which shall not be inconsistent with the act or with
15 the rules and regulations adopted and promulgated under such act and
16 which shall include policies of the school with respect to tuition,
17 reimbursement, conduct, attendance, grading, earning of hours and
18 credits, demerits, penalties, dismissal, graduation requirements, dress,
19 and other information sufficient to advise the student of the standards
20 he or she will be required to maintain. The department may review any
21 school's rules to determine their consistency with the intent and content
22 of the act and the rules and regulations and may overturn any school
23 rules found not to be in accord.

24 Sec. 11. Section 38-10,153, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 38-10,153 In order to maintain its license in good standing, each
27 nail technology school shall operate in accordance with the following
28 requirements:

29 (1) Every person accepted for enrollment as a standard student shall
30 meet the following qualifications:

31 (a) He or she has attained the age of seventeen years on or before

1 the date of his or her enrollment in a nail technology school;

2 (b) He or she has completed the equivalent of a high school
3 education; and

4 (c) He or she has not undertaken any training in nail technology in
5 this state after January 1, 2000, without being enrolled as a nail
6 technology student;

7 (2)(a) Every person accepted for enrollment as a special study nail
8 technology student shall meet the following requirements:

9 (i) He or she has attained the age of seventeen years on or before
10 the date of enrollment in a nail technology school;

11 (ii) He or she has completed the tenth grade; and

12 (iii) He or she is actively continuing his or her formal high school
13 education on a full-time basis as determined by the department.

14 (b) Special study nail technology students shall be limited to
15 attending a nail technology school for no more than eight hours per week
16 during the school year;

17 ~~(3) Proof of age shall consist of a birth certificate, baptismal~~
18 ~~certificate, or other equivalent document as determined by the~~
19 ~~department. Evidence of education shall consist of a high school diploma,~~
20 ~~general educational development certificate, transcript from a college or~~
21 ~~university, or equivalent document as determined by the department. No~~
22 nail technology school shall accept an individual for enrollment who does
23 not provide evidence of meeting the age and education requirements ~~for~~
24 ~~registration;~~

25 (4) Every person accepted for enrollment as a nail technology
26 student instructor shall show evidence of current licensure as a nail
27 technician in Nebraska and completion of formal education equivalent to a
28 United States high school education;

29 (5) The school shall, at all times the school is in operation, have
30 at least one nail technology instructor in the school for each twenty
31 students or fraction thereof enrolled in the school;

1 (6) The school shall not permit any nail technology student to
2 render clinical services on members of the public with or without fees
3 until such student has satisfactorily completed the beginning curriculum,
4 except that the department may establish guidelines by which it may
5 approve such practices as part of the beginning curriculum;

6 (7) No school shall pay direct compensation to any of its nail
7 technology students. Nail technology student instructors may be paid as
8 determined by the school;

9 (8) All nail technology students and nail technology student
10 instructors shall be under the supervision of a cosmetology instructor,
11 nail technology instructor, or nail technology student instructor at all
12 times when nail technology services are being taught or performed;

13 (9) No student shall be permitted by the school to train or work in
14 a school in any manner for more than ten hours a day; and

15 (10) The school shall not credit a nail technology student or nail
16 technology student instructor with hours except when such hours were
17 earned in the study or practice of nail technology in accordance with the
18 required curriculum. Hours shall be credited on a daily basis. Once
19 credited, hours cannot be removed or disallowed except by the department
20 upon a finding that the hours have been wrongfully allowed.

21 Sec. 12. Section 38-10,154, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 38-10,154 Nail technology students or nail technology student
24 instructors may transfer from one nail technology school in Nebraska to
25 another at any time.

26 The school to which the student is transferring shall be entitled to
27 receive from the student's previous school, upon request, any and all
28 records pertaining to the student after all financial obligations of the
29 student to the previous school are met.

30 Sec. 13. Section 38-10,156, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 38-10,156 No nail technology school shall at any time enroll more
2 than three ~~one~~ nail technology student instructors ~~instructor~~ for each
3 full-time nail technology instructor or cosmetology instructor actively
4 working in and employed by the school.

5 Sec. 14. Original sections 38-1038, 38-10,128, 38-10,129,
6 38-10,131, 38-10,135, 38-10,142, 38-10,147, 38-10,150, 38-10,152,
7 38-10,153, 38-10,154, and 38-10,156, Reissue Revised Statutes of
8 Nebraska, and section 38-10,132, Revised Statutes Supplement, 2017, are
9 repealed.