

VIRGINIA ACTS OF ASSEMBLY -- 2002 RECONVENED SESSION

CHAPTER 869

An Act to amend and reenact §§ 54.1-700 through 54.1-703 and 54.1-704.1 through 54.1-706 of the Code of Virginia, relating to the regulation of body piercing and tattooing.

[H 531]

Approved April 17, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-700 through 54.1-703 and 54.1-704.1 through 54.1-706 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Body-piercer" means any person who for remuneration penetrates the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing" means the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing school" means a place or establishment licensed by the Board to accept and train students in body-piercing.

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

"Cosmetology instructor" means a person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of cosmetology.

"Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

"Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation and may include the

training of apprentices under regulations of the Board.

"Nail school" means a place or establishment licensed by the board to accept and train students in nail care.

"Nail technician" means any person who for compensation manicures or pedicures natural nails, or who performs artificial nail services for compensation, or any combination thereof.

"Nail technician instructor" means a licensed nail technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of nail care.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

"Tattoo parlor" means any place in which tattooing is offered or practiced.

"Tattoo school" means a place or establishment licensed by the Board to accept and train students in tattooing.

"Tattooer" means any person who for remuneration practices tattooing.

"Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

§ 54.1-701. Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of ~~this~~ the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;

2. Registered nurses licensed to practice in ~~this~~ the Commonwealth;

3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of the mentally ill or mentally deficient or for care and treatment of geriatric patients, as barbers, cosmetologists, nail technicians, barber instructors, cosmetology instructors, or nail technician instructors who practice only on inmates of or patients in such sanatoria or institutions;

4. Persons licensed as funeral directors or embalmers in ~~this~~ the Commonwealth;

5. Gratuitous services as a barber, nail technician, ~~or~~ cosmetologist, *tattooer, or body-piercer*;

6. Students enrolled in an approved school taking a course in barbering, nail care, ~~or~~ cosmetology, *tattooing, or body-piercing*;

7. Persons working in a cosmetology salon whose duties are expressly confined to the shampooing and cleansing of human hair under the direct supervision of a cosmetologist or barber;

8. Apprentices serving in a barbershop, nail salon or cosmetology salon licensed by the Board in accordance with the Board's regulations; and

9. Schools of barbering, nail care or cosmetology in public schools.

§ 54.1-702. Board for Barbers and Cosmetology; membership; officers; quorum.

A. Except as provided in subsections B and C, the Board for Barbers and Cosmetology shall be composed of ~~seven~~ *eight* members, of whom two members shall be licensed barbers, one of whom may be an owner or operator of a barber school; two members shall be licensed cosmetologists, one of whom may be an owner or operator of a cosmetology school; and one member shall be a licensed nail technician or a licensed cosmetologist engaged primarily in the practice of nail care, each of whom shall have been licensed in their respective professions for at least three years immediately prior to appointment, *one member who shall be either a licensed tattooer or a licensed body-piercer* and two citizen members. The terms of Board members shall be four years. No member shall serve for more than two full successive terms. The Board shall elect a chairman and a vice-chairman. A majority of the Board shall constitute a quorum.

B. Appointments to the Board of Cosmetology which expire on March 14, of 2000, 2001 and 2002, shall be extended to June 30 of the same year of expiration.

C. All members of the Board for Barbers and the Board for Cosmetology with unexpired terms, as of July 1, 2000, shall continue as members of their respective boards and shall complete their terms of appointment. Two positions on the Board for Cosmetology shall expire on June 30, 2001, and three positions shall expire on June 30, 2002. Two positions on the Board for Barbers shall expire on June 30, 2001, and one position shall expire on June 30, 2002.

D. The Governor shall appoint to the Board for Barbers and Cosmetology one licensed nail technician and two citizen members effective July 1, 2000; one licensed barber, who may be an owner or operator of a barber school, effective July 1, 2001; one licensed barber effective July 1, 2002; and two licensed cosmetologists, one of whom may be an owner or operator of a cosmetology school, effective July 1, 2002.

E. *The Governor shall appoint to the Board for Barbers and Cosmetology either a tattooer or body-piercer who has practiced as a tattooer or body-piercer for at least five consecutive years immediately prior to appointment, effective July 1, 2002. The tattooer or body-piercer member shall not vote on any matters before the Board except matters related to tattooing and body-piercing until July 1,*

2004.

§ 54.1-703. License required.

No person shall offer to engage in or engage in barbering, cosmetology, ~~or~~ nail care, *tattooing, or body-piercing* without a valid license issued by the Board, except as provided in § 54.1-701.

§ 54.1-704.1. License required for barbershop, cosmetology salon, nail care salon, tattoo parlor, and body-piercing salon.

No individual or entity shall operate a barbershop, cosmetology salon, ~~or~~ nail care salon, *tattoo parlor, or body-piercing salon* without a valid license issued by the Board.

The provisions of this section shall not apply to a licensed barber, cosmetologist, ~~or~~ nail technician, *tattooer, or body-piercer* who does not have an ownership interest in a licensed barbershop, cosmetology salon, ~~or~~ nail care salon, *tattoo parlor, or body-piercing salon* in which he is employed.

§ 54.1-704.2. License required for schools of barbering, cosmetology, nail care, tattooing, or body-piercing.

Except as provided in § 54.1-701, no person, firm or corporation shall operate or attempt to operate a school of barbering, cosmetology, ~~or~~ nail care, *tattooing, or body-piercing* unless licensed by the Board pursuant to its regulations.

§ 54.1-705. Inspections.

A. Inspectors and sanitarians of the State Department of Health, or an affiliated local health department, may inspect each barbershop, cosmetology salon, ~~and~~ nail care salon, *tattoo parlor, and body-piercing salon* in the Commonwealth regularly. Any infractions shall be immediately reported to the Health Department and the Director of the Department of Professional and Occupational Regulation for disciplinary action.

B. The Board may inspect barbershops, barber schools, cosmetology salons and schools, ~~and~~ nail care salons and schools, *tattoo parlors and schools, and body-piercing salons and schools* for compliance with regulations promulgated by the Board.

C. *The Board shall specify procedures for enforcement of compliance with the disease control and disclosure requirements of § 18.2-371.3, including unannounced inspections by appropriate personnel.*

D. *The Board or the Virginia Department of Health, or an affiliated local health department, may regulate the sanitary condition of the personnel, equipment and premises of tattoo parlors and body-piercing salons.*

§ 54.1-706. Different requirements for licensure.

The Board shall have the discretion to impose different requirements for licensure for the practice of barbering, cosmetology, ~~and~~ nail care, *tattooing, and body-piercing*.

2. That the provisions of this act shall become effective on July 1, 2004, except that § 54.1-702 shall become effective on July 1, 2002.

3. That the Board shall adopt final regulations to implement the provisions of this act to be effective by July 1, 2004.