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HOUSE BILL NO. 790

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact §§ 54.1-700 and 54.1-701 of the Code of Virginia, relating to licensed barbers and cosmetologists; exemptions.

Patrons—Kearney, Webert, Miyares and Ransone

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That §§ 54.1-700 and 54.1-701 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 *blow drying, cleansing, styling,* hair braiding or 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.

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59 "Esthetician" means a person who engages in the practice of esthetics for compensation.

60 "Esthetics" includes, but is not limited to, the following practices of administering cosmetic
61 treatments to enhance or improve the appearance of the skin: cleansing, toning, performing effleurage or
62 other related movements, stimulating, exfoliating, or performing any other similar procedure on the skin
63 of the human body or scalp by means of cosmetic preparations, treatments, or any nonlaser device,
64 whether by electrical, mechanical, or manual means, for care of the skin; applying make-up or eyelashes
65 to any person, tinting or perming eyelashes and eyebrows, and lightening hair on the body except the
66 scalp; and removing unwanted hair from the body of any person by the use of any nonlaser device, by
67 tweezing, or by use of chemical or mechanical means. However, "esthetics" is not a healing art and shall
68 not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic
69 medicine, or chiropractic. The terms "healing arts," "practice of medicine," "practice of osteopathic
70 medicine," and "practice of chiropractic" shall mean the same as those terms are defined in §
71 54.1-2900.

72 "Esthetics instructor" means a licensed esthetician who has been certified by the Board as having
73 completed an approved curriculum and who meets the competency standards of the Board as an
74 instructor of esthetics.

75 "Esthetics spa" means any commercial establishment, residence, vehicle, or other establishment,
76 place, or event wherein esthetics is offered or practiced on a regular basis for compensation under
77 regulations of the Board.

78 "Master esthetician" means a licensed esthetician who, in addition to the practice of esthetics, offers
79 to the public for compensation, without the use of laser technology, lymphatic drainage, chemical
80 exfoliation, or microdermabrasion, and who has met such additional requirements as determined by the
81 Board to practice lymphatic drainage, chemical exfoliation with products other than Schedules II through
82 VI controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), and
83 microdermabrasion of the epidermis.

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

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

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

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

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

95 "Physical (wax) depilatory" means the wax depilatory product or substance used to remove
96 superfluous hair.

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

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

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

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

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

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

109 "Wax technician" means any person licensed by the Board who removes hair from the hair follicle
110 using a physical (wax) depilatory or by tweezing.

111 "Wax technician instructor" means a licensed wax technician who has been certified by the Board as
112 having completed an approved curriculum and who meets the competency standards of the Board as an
113 instructor of waxing.

114 "Waxing" means the temporary removal of superfluous hair from the hair follicle on any area of the
115 human body through the use of a physical (wax) depilatory or by tweezing.

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

119 "Waxing school" means a place or establishment licensed by the Board to accept and train students
120 in waxing.

§ 54.1-701. Exemptions.

The provisions of this chapter shall not apply to:

1. Persons authorized by the laws of the Commonwealth to practice medicine and surgery or osteopathy or chiropractic;
2. Registered nurses licensed to practice in the Commonwealth;
3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or institutions for care and treatment of individuals with mental illness or intellectual disability, or for care and treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail technicians, estheticians, barber instructors, cosmetology instructors, wax technician instructors, nail technician instructors, or esthetics instructors who practice only on inmates of or patients in such sanatoria or institutions;
4. Persons licensed as funeral directors or embalmers in the Commonwealth;
5. Gratuitous services as a barber, nail technician, cosmetologist, wax technician, tattooer, body-piercer, or esthetician;
6. Students enrolled in an approved school taking a course in barbering, nail care, cosmetology, waxing, tattooing, body-piercing, or esthetics;
7. Persons working in a *barbershop or* cosmetology salon whose duties are expressly confined to the ~~shampooing and blow drying, styling, or~~ cleansing of human hair ~~under the direct supervision of a cosmetologist or barber;~~
8. Apprentices serving in a barbershop, nail salon, waxing salon, cosmetology salon, or esthetics spa licensed by the Board in accordance with the Board's regulations;
9. Schools of barbering, nail care, waxing, or cosmetology in public schools; and
10. Persons whose activities are confined solely to applying make-up, including such activities that are ancillary to applying make-up.