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SENATE BILL NO. 906

Offered January 19, 2018

A BILL to amend and reenact §§ 54.1-700, 54.1-701, 54.1-702, 54.1-704.2, 54.1-705, and 54.1-706 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; Board for Barbers and Cosmetology; exemptions; license requirements.

Patron—McClellan

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-700, 54.1-701, 54.1-702, 54.1-704.2, 54.1-705, and 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:

"Approved school" means a place or establishment licensed by the Board to accept and train students in a curriculum, practically or theoretically, of barbering, body-piercing, cosmetology, esthetics, nail care, tattooing, or waxing.

"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, or hair braiding upon human hair 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

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59 cosmetology.

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

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

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

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

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

81 *"Instructor" means an individual who has been certified by the Board as meeting the competency*
82 *standards to teach, conduct classes, and supervise students in an approved school of barbering,*
83 *body-piercing, cosmetology, esthetics, nail care, tattooing, or waxing.*

84 *"Master barber" means a licensed barber who, in addition to the practice of barbering, performs*
85 *waving, shaping, bleaching, relaxing, or straightening upon human hair; performs similar work on a*
86 *wig or hairpiece; or performs waxing limited to the scalp.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 "Wax technician instructor" means a licensed wax 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 waxing.

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

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

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

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

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

§ 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~~ *Public schools that accept and train students in a curriculum, practically or theoretically, of barbering, cosmetology, nail care, or waxing;* and

10. Persons whose activities are confined solely to applying make-up, including such activities that are ancillary to applying make-up.

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

The Board for Barbers and Cosmetology shall be composed of 10 members as follows: two members shall be licensed barbers, one of whom may be an owner or operator of a ~~barber~~ *an approved school of barbering*; two members shall be licensed cosmetologists, at least one of whom shall be a salon owner and one of whom may be an owner or operator of a ~~cosmetology~~ *an approved school of cosmetology*; 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 shall be either a licensed tattooer or a licensed body-piercer; two members shall be licensed estheticians, at least one of whom shall be an esthetics salon owner and one of whom may be an owner, operator, or designated representative of a ~~licensed esthetics~~ *an approved school of esthetics*; 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.

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

Except as provided in § 54.1-701, no person, firm or corporation shall operate or attempt to operate a ~~school of barbering, cosmetology, nail care, waxing, tattooing, body-piercing, or esthetics place or establishment to accept and train students in a curriculum, practically or theoretically, of barbering, body-piercing, cosmetology, esthetics, nail care, tattooing, or waxing~~ 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, waxing salon, nail care salon, tattoo

182 parlor, body-piercing salon, and esthetics spa in the Commonwealth regularly. Any infractions shall be
183 immediately reported to the Health Department and the Director of the Department of Professional and
184 Occupational Regulation for disciplinary action.

185 B. The Board may inspect barbershops, ~~barber schools~~, cosmetology salons ~~and schools~~, waxing
186 salons ~~and schools~~, nail care salons ~~and schools~~, tattoo parlors ~~and schools~~, body-piercing salons ~~and~~
187 ~~schools~~, and esthetics spas, and *approved* schools for compliance with regulations promulgated by the
188 Board.

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

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

194 **§ 54.1-706. Different requirements for licensure.**

195 A. The Board shall have the discretion to impose different requirements for licensure for the practice
196 of barbering, cosmetology, nail care, waxing, tattooing, body-piercing, and esthetics.

197 B. *The Board shall issue a license to practice as a master barber in the Commonwealth to:*

198 1. *An individual who holds a valid, unexpired license as a barber issued by the Board prior to*
199 *December 8, 2017; or*

200 2. *An applicant who has successfully (i) completed the educational requirements as required by the*
201 *Board, (ii) completed the experience requirements as required by the Board, and (iii) passed the*
202 *examination approved by the Board.*

203 **2. That an emergency exists and this act is in force from its passage.**

204 **3. That the Board for Barbers and Cosmetology shall promulgate regulations to implement the**
205 **provisions of this act to be effective no later than July 1, 2018. The Board's initial adoption of**
206 **regulations necessary to implement the provisions of this act shall be exempt from the**
207 **Administrative Process Act (§ 2.2-4000 et seq.), except that the Board shall provide an opportunity**
208 **for public comment on the regulations prior to adoption.**