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HOUSE BILL NO. 994

Offered January 8, 2020

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A BILL to amend and reenact §§ 54.1-700, 54.1-701, 54.1-703, 54.1-704.1, 54.1-704.2, and 54.1-706 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation; Board for Barbers and Cosmetology; hair styling license.

Patron—Convirs-Fowler

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-700, 54.1-701, 54.1-703, 54.1-704.1, 54.1-704.2, 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:

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, 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, 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, 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. The term "cosmetologist" shall not include hair braiding upon human hair, or a wig or hairpiece.

"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, 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 hair braiding upon human hair, or a wig or hairpiece, 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.

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

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

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

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

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

80 "*Hair styling*" means arranging, dressing, curling, waving, cutting, shaping, singeing, shaving,
81 bleaching, coloring, relaxing, or straightening, or performing similar work upon, human hair, or a wig
82 or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances. "*Hair*
83 *styling*" does not include hair braiding upon human hair, or a wig or hairpiece, or such acts as
84 adjusting, combing, or brushing pre-styled wigs or hairpieces when such acts do not alter the pre-styled
85 nature of the wig or hairpiece.

86 "*Hair styling instructor*" means a person who has been certified by the Board as having completed
87 an approved curriculum and who meets the competency standards of the Board as an instructor of hair
88 styling.

89 "*Hair styling salon*" means any establishment or place of business within which the practice of hair
90 styling is engaged in or carried on by one or more hair stylists.

91 "*Hair stylist*" means a person who engages in the practice of hair styling for compensation.

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

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

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

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

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

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

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

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

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

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

118 "*School of hair styling*" means a place or establishment licensed by the Board to accept and train
119 students and which offers a hair styling curriculum approved by the Board.

120 "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.

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

"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.

"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.

§ 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, *hair stylists*, wax technicians, nail technicians, estheticians, barber instructors, cosmetology instructors, *hair styling 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, *hair stylist*, wax technician, tattooer, body-piercer, or esthetician;

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

7. Persons working in a cosmetology salon whose duties are expressly confined to the blow drying, arranging, dressing, curling, or cleansing of human hair;

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, *hair styling*, 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.

§ 54.1-703. License required.

No person shall offer to engage in or engage in barbering, cosmetology, *hair styling*, nail care, waxing, tattooing, body-piercing, or esthetics 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, hair styling salon, nail care salon, waxing salon, tattoo parlor, body-piercing salon, and esthetics spa.

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

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

§ 54.1-704.2. License required for schools of barbering, cosmetology, hair styling, 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, *hair styling*, nail care, waxing, tattooing, body-piercing, or esthetics unless licensed by the Board pursuant to its regulations.

§ 54.1-706. Different requirements for licensure.

- 182 A. The Board shall have the discretion to impose different requirements for licensure for the practice
183 of barbering, cosmetology, *hair styling*, nail care, waxing, tattooing, body-piercing, and esthetics.
184 B. The Board shall issue a license to practice as a master barber in the Commonwealth to:
185 1. An individual who holds a valid, unexpired license as a barber issued by the Board prior to
186 December 8, 2017; or
187 2. An applicant who has successfully (i) completed the educational requirements as required by the
188 Board, (ii) completed the experience requirements as required by the Board, and (iii) passed the
189 examination approved by the Board.