

25104314D

SENATE BILL NO. 937

Offered January 8, 2025

Prefiled January 6, 2025

A BILL to amend and reenact §§ 2.2-4006 and 63.2-1707 of the Code of Virginia, relating to Department of Social Services; Administrative Process Act; issuance of provisional licenses; exemption from appeal.

Patron—Craig

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4006 and 63.2-1707 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.

2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days of the law's effective date;

b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or more Board meetings and one public hearing.

6. Regulations of (i) the regulatory boards served by the Department of Labor and Industry pursuant to Title 40.1 and the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 and (ii) the Board of Accountancy that are limited to reducing fees charged to regulants and applicants.

7. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Energy authorized pursuant to §§ 45.2-560 and 45.2-1149.

8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

9. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

10. Regulations of the Board of the Commonwealth Savers Plan adopted pursuant to § 23.1-704.

11. Regulations of the Marine Resources Commission.

12. Regulations adopted by the Board of Housing and Community Development pursuant to (i) Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et seq.), (iii) the

59 Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the Board (a) provides a
60 Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (b) publishes the
61 proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03,
62 and (c) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of
63 the proposed regulations. Notwithstanding the provisions of this subdivision, any regulations promulgated by
64 the Board shall remain subject to the provisions of § 2.2-4007.06 concerning public petitions, and §§
65 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

66 13. Amendments to regulations of the Board to schedule a substance pursuant to subsection D or E of §
67 54.1-3443.

68 14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant to
69 the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01 (§ 62.1-44.19:4 et
70 seq.) of the State Water Control Law, if the Board (i) provides public notice in the Virginia Register; (ii) if
71 requested by the public during the initial public notice 30-day comment period, forms an advisory group
72 composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and
73 (iv) conducts at least one public meeting. Notwithstanding the provisions of this subdivision, any such waste
74 load allocations adopted, amended, or repealed by the Board shall be subject to the provisions of §§ 2.2-4013
75 and 2.2-4014 concerning review by the Governor and General Assembly.

76 15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including
77 regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the
78 Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in
79 subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity
80 for public comment on the regulations prior to adoption.

81 16. Amendments to the State Health Services Plan adopted by the Board of Health following receipt of
82 recommendations by the State Health Services Task Force pursuant to § 32.1-102.2:1 if the Board (i)
83 provides a Notice of Intended Regulatory Action in accordance with the requirements of § 2.2-4007.01, (ii)
84 provides notice and receives comments as provided in § 2.2-4007.03, and (iii) conducts at least one public
85 hearing on the proposed amendments.

86 17. Rules of the Workers' Compensation Commission adopted pursuant to subsection A of § 65.2-201 and
87 subsection B of § 65.2-703, provided the Workers' Compensation Commission provides an opportunity for
88 public comment on the rules prior to adoption.

89 18. *Regulations of the Department of Social Services related to provisional licenses issued pursuant to §*
90 *63.2-1707.*

91 B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will
92 receive, consider and respond to petitions by any interested person at any time with respect to reconsideration
93 or revision. The effective date of regulations adopted under this section shall be in accordance with the
94 provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as
95 provided in subsection B of § 2.2-4012.

96 C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and that is
97 placed before a board or commission for consideration shall be provided at least two days in advance of the
98 board or commission meeting to members of the public that request a copy of that regulation. A copy of that
99 regulation shall be made available to the public attending such meeting.

100 **§ 63.2-1707. Issuance or refusal of license; notification; provisional and conditional licenses.**

101 A. Upon completion of his investigation, the Commissioner shall issue an appropriate license to the
102 applicant if (i) the applicant has made adequate provision for such activities, services, and facilities as are
103 reasonably conducive to the welfare of the residents, participants, or children over whom he may have
104 custody or control; (ii) at the time of initial application, the applicant has submitted an operating budget and
105 at least one credit reference; (iii) he is, or the officers and agents of the applicant if it is an association,
106 partnership, limited liability company, or corporation are, of good character and reputation; and (iv) the
107 applicant and agents comply with the provisions of this subtitle. Otherwise, the license shall be denied.
108 Immediately upon taking final action, the Commissioner shall notify the applicant of such action.

109 B. Upon completion of the investigation for the renewal of a license, the Commissioner may issue a
110 provisional license to any applicant if the applicant is temporarily unable to comply with all of the licensure
111 requirements. The provisional license may be renewed, but the issuance of a provisional license and any
112 renewals thereof shall be for no longer a period than 12 successive months. A copy of the provisional license
113 shall be prominently displayed by the provider at each public entrance of the subject facility and shall be
114 printed in a clear and legible size and style. In addition, the facility shall be required to prominently display
115 next to the posted provisional license a notice that a description of specific violations of licensing standards to
116 be corrected and the deadline for completion of such corrections is available for inspection at the facility and
117 on the facility's website, if applicable. *The issuance of a provisional license shall not be eligible for appeal*
118 *pursuant to the Administrative Process Act (§ 2.2-4000 et seq.).*

119 C. At the discretion of the Commissioner, a conditional license may be issued to an applicant to operate a

120 new facility in order to permit the applicant to demonstrate compliance with licensure requirements. Such
121 conditional license may be renewed, but the issuance of a conditional license and any renewals thereof shall
122 be for no longer a period than six successive months.

INTRODUCED

SB937