

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 15.2-912, 54.1-700, 54.1-701, 54.1-703, and 54.1-704.1 through 54.1-706 of*
 3 *the Code of Virginia and to amend the Code of Virginia by adding in Chapter 7 of Title 54.1 a section*
 4 *numbered 54.1-707, relating to regulation of ear-piercers and ear-piercing salons and schools; licensure*
 5 *and training requirements.*

6 [H 2680]

7 Approved

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 15.2-912, 54.1-700, 54.1-701, 54.1-703, and 54.1-704.1 through 54.1-706 of the Code of**
 10 **Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7**
 11 **of Title 54.1 a section numbered 54.1-707 as follows:**

12 **§ 15.2-912. Regulation of tattoo parlors, body-piercing salons, and ear-piercing salons; definitions;**
 13 **exception.**

14 A. Any locality may by ordinance regulate the sanitary condition of the personnel, equipment, and
 15 premises of tattoo parlors ~~and~~, body-piercing salons, *and ear-piercing salons* and specify procedures for
 16 enforcement of compliance with the disease control and disclosure requirements of § 18.2-371.3.

17 B. For the purposes of this section:

18 "Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin to
 19 make a hole, mark, or scar, generally permanent in nature. ~~"Body piercing" does not include the use of a~~
 20 ~~mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.~~

21 "*Ear-piercing salon*" means any place in which a fee is charged for the act of penetrating the ear by the
 22 aid of needles or any other instrument designed to touch or puncture the skin. "*Ear-piercing salon*" does not
 23 include any place in which a fee is charged for the use of a mechanized, pre-sterilized ear-piercing system.

24 "Tattoo parlor" means any place in which is offered or practiced the placing of designs, letters, scrolls,
 25 figures, symbols or any other marks upon or under the skin of any person with ink or any other substance,
 26 resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the
 27 aid of needles or any other instrument designed to touch or puncture the skin.

28 C. This section shall not apply to medical doctors, veterinarians, registered nurses, or any other medical
 29 services personnel licensed pursuant to Title 54.1 in the performance of their professional duties.

30 D. Localities requiring regulation of tattoo parlors ~~and piercing~~, *body-piercing salons, or ear-piercing*
 31 *salons* by ordinance shall include in such ordinance authorization for unannounced inspections by appropriate
 32 personnel of the locality.

33 **§ 54.1-700. Definitions.**

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

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

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

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

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

50 "Board" means the Board for Barbers and Cosmetology.

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

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

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

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

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

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

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

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

78 "*Ear-piercer*" means any person who for remuneration penetrates the ear of a person to make a hole,
79 mark, or scar, generally permanent in nature.

80 "*Ear-piercing*" means the act of penetrating the ear of a person to make a hole, mark, or scar, generally
81 permanent in nature.

82 "*Ear-piercing salon*" means any place in which a fee is charged for the act of penetrating the ear by the
83 aid of needles or any other instrument designed to touch or puncture the skin.

84 "*Ear-piercing school*" means a place or establishment licensed by the Board to accept and train students
85 in ear-piercing.

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

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

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

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

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

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

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

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

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

118 "Nail technician" means any person who for compensation manicures or pedicures natural nails, or who

119 performs artificial nail services for compensation, or any combination thereof.

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

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

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

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

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

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

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

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

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

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

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

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

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

149 **§ 54.1-701. Exemptions.**

150 The provisions of this chapter shall not apply to:

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

153 2. Registered nurses licensed to practice in the Commonwealth;

154 3. Persons employed in state or local penal or correctional institutions, rehabilitation centers, sanatoria, or
155 institutions for care and treatment of individuals with mental illness or intellectual disability, or for care and
156 treatment of geriatric patients, as barbers, cosmetologists, wax technicians, nail technicians, estheticians,
157 barber instructors, cosmetology instructors, wax technician instructors, nail technician instructors, or esthetics
158 instructors who practice only on inmates of or patients in such sanatoria or institutions;

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

160 5. Gratuitous services as a barber, nail technician, cosmetologist, wax technician, tattooer, body-piercer,
161 *ear-piercer*, or esthetician;

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

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

166 8. Apprentices serving in a barbershop, nail salon, waxing salon, cosmetology salon, *ear-piercing salon*,
167 or esthetics spa licensed by the Board in accordance with the Board's regulations;

168 9. Schools of barbering, nail care, waxing, or cosmetology in public schools; and

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

171 **§ 54.1-703. License required.**

172 No person shall offer to engage in or engage in barbering, cosmetology, nail care, waxing, tattooing,
173 body-piercing, *ear-piercing*, or esthetics without a valid license issued by the Board, except as provided in §
174 54.1-701.

175 **§ 54.1-704.1. License required for barbershop, cosmetology salon, nail care salon, waxing salon,
176 tattoo parlor, body-piercing salon, ear-piercing salon, and esthetics spa.**

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

180 The provisions of this section shall not apply to a licensed barber, cosmetologist, nail technician, waxing

181 technician, tattooer, body-piercer, *ear-piercer*, or esthetician who does not have an ownership interest in a
182 licensed barbershop, cosmetology salon, nail care salon, waxing salon, tattoo parlor, body-piercing salon,
183 *ear-piercing salon*, or esthetics spa in which he is employed.

184 **§ 54.1-704.2. License required for schools of barbering, cosmetology, nail care, waxing, tattooing,**
185 **body-piercing, ear-piercing, or esthetics.**

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

189 **§ 54.1-705. Inspections.**

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

195 B. The Board may inspect barbershops, barber schools, cosmetology salons and schools, waxing salons
196 and schools, nail care salons and schools, tattoo parlors and schools, body-piercing salons and schools, *ear-*
197 *piercing salons and schools*, and esthetics spas and schools for compliance with regulations promulgated by
198 the Board.

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

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

204 **§ 54.1-706. Different requirements for licensure.**

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

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

208 1. An individual who holds a valid, unexpired license as a barber issued by the Board prior to December
209 8, 2017; or

210 2. An applicant who has successfully (i) completed the educational requirements as required by the Board,
211 (ii) completed the experience requirements as required by the Board, and (iii) passed the examination
212 approved by the Board.

213 C. *The Board may develop different classes of ear-piercing licenses.*

214 **§ 54.1-707. Training and apprenticeship programs; ear-piercers.**

215 *The Board shall develop specific training and apprenticeship programs for ear-piercers to ensure safety*
216 *and competency.*