

HOUSE BILL NO. 742
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on General Laws
on _____)
(Patron Prior to Substitute—Delegate Williams)

A BILL to amend and reenact §§ 54.1-700, 54.1-701, and 54.1-706 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 7 of Title 54.1 a section numbered 54.1-708, relating to barbers and cosmetologists; barbershop trainees.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-700, 54.1-701, and 54.1-706 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7 of Title 54.1 a section numbered 54.1-708 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 *and may include the training of barbershop trainees under regulations of the Board.*

"Barbershop trainee" means any person who practices barbering under the direct supervision of one or

32 *more licensed barbers in a barbershop through a training program pursuant to § 54.1-708 and registers as a*
33 *trainee with the Board.*

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

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

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

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

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

43 "Cosmetologist" means any person who administers hair removal treatments; administers basic facial
44 treatments to enhance or improve the appearance and care of the skin using lotions, oils, cleansers, or other
45 preparations by manual practices only; manicures or pedicures the nails of any person; arranges, dresses,
46 curls, waves, cuts, shapes, singes, waxes, tweezes, trims, bleaches, colors, relaxes, straightens, or performs
47 similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or
48 electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or
49 hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for
50 compensation. The term "cosmetologist" does not include hair braiding upon human hair or a wig or
51 hairpiece.

52 "Cosmetology" includes the following practices: administering hair removal treatments; administering
53 basic cleansing facial treatments to enhance or improve the appearance and care of the skin, which only
54 includes a cleanse, tone, and application of a mask or moisturizer; manicuring or pedicuring the nails of any
55 person; arranging, dressing, curling, waving, cutting, shaping, singeing, waxing, tweezing, trimming,
56 bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any
57 means, including hands or mechanical or electrical apparatus or appliances, but shall not include hair braiding
58 upon human hair, or a wig or hairpiece, or such acts as adjusting, combing, or brushing prestyled wigs or
59 hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

60 "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.

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

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

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

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

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

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

"Esthetics instructor" means a licensed esthetician 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 esthetics.

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

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

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

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

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

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

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

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

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

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

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

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

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

119 "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.

"Training barbershop" means a barbershop registered with the Board pursuant to § 54.1-708 to employ and train barbershop trainees.

"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, 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;

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

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

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

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

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

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

160 **§ 54.1-706. Different requirements for licensure.**

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

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

164 1. An individual who holds a valid, unexpired license as a barber issued by the Board prior to December
165 8, 2017; or

166 2. An applicant who has successfully (i) completed the educational requirements as required by the Board,
167 (ii) completed the experience requirements as required by the Board, and (iii) passed the examination
168 approved by the Board. *The Board shall issue a license to a barbershop trainee who satisfies the*
169 *requirements pursuant to § 54.1-708.*

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

171 **§ 54.1-708. Competency-based licensure for barbering.**

172 A. Any licensed barbershop may register with the Board as a training barbershop to employ and train
173 barbershop trainees under the supervision of one or more licensed barbers. Any person seeking to become a
174 barbershop trainee shall register individually with the Board and shall identify the training barbershop at
175 which such person will train. The Board shall record the date of initial registration for each barbershop
176 trainee. A training barbershop shall notify customers before receipt of a barbering service that such service
177 will be completed by a barbershop trainee. The owner of a training barbershop shall be responsible for the
178 education, training, skills, and competence of employed barbershop trainees. Training provided pursuant to

179 *this section shall include instruction and supervised practice in all competencies tested on the examination*
180 *approved by the Board for barber licensure. A training barbershop shall ensure each barbershop trainee*
181 *possesses (i) a supply kit, (ii) a full-size mannequin head, (iii) the Board-approved examination bulletin, and*
182 *(iv) a Board-approved barbering textbook. A training barbershop shall maintain a ratio of at least one*
183 *licensed barber present to supervise no more than four barbershop trainees.*

184 *B. A barbershop trainee shall be eligible to take the examination approved by the Board after (i) at least*
185 *six months of registered trainee status and (ii) submission to the Board of a signed statement from the*
186 *training barbershop owner or the licensed barber acting as supervisor attesting that such trainee has*
187 *demonstrated competency in all areas tested on the examination approved by the Board and possesses the*
188 *necessary skills to competently and safely practice barbering. Any barbershop trainee who fails the*
189 *examination may retest in accordance with Board regulations. The Board shall issue a license to any*
190 *barbershop trainee who passes the examination.*

191 *C. A barbershop trainee's registration shall expire four years after the date of initial registration. Upon*
192 *expiration, such person shall not practice barbering as a trainee or otherwise until such person obtains a*
193 *license pursuant to this chapter. A person whose trainee registration has expired may take the examination*
194 *approved by the Board within 90 days of expiration, and the Board shall issue a license to any such person*
195 *who passes the examination within this period. A person who does not obtain licensure within 90 days of*
196 *trainee registration expiration shall not be eligible for subsequent registration as a barbershop trainee but*
197 *may pursue licensure through a school of barbering or registered apprenticeship. A barbershop trainee shall*
198 *not simultaneously participate in a registered apprenticeship while registered as a barbershop trainee*
199 *pursuant to this section.*

200 *D. Nothing in this section shall be construed to prohibit any person who does not qualify for licensure*
201 *pursuant to this section from seeking licensure through a school of barbering or registered apprenticeship.*

202 *E. The Board may (i) develop forms for training barbershop registration, barbershop trainee registration,*
203 *and the attestation required for examination eligibility; (ii) waive any part of the examination requirement*
204 *for good cause; and (iii) establish penalties for any violation of this section. The Board shall not penalize a*
205 *training barbershop owner or licensed barber acting as a supervisor to a barbershop trainee if such*
206 *barbershop trainee fails the examination approved by the Board.*

207 *F. Any person who participated in a barbering training program or an organized program providing*
208 *barbering services while enrolled in a public secondary school or career and technical education program or*
209 *while incarcerated in a federal, state, or local correctional facility may apply to the Board to take the*

210 *examination approved by the Board upon submission of documentation from the school, school division,*
211 *correctional facility, or the entity administering the program verifying that such person participated in the*
212 *program and is qualified to sit for the examination. The Board shall issue a license to any person who passes*
213 *the examination pursuant to this subsection. The Board may develop regulations to implement this*
214 *subsection, including requirements for acceptable documentation.*

215 **2. That the Board for Barbers and Cosmetology shall promulgate regulations to implement the**
216 **provisions of this act to be effective within 280 days of its enactment.**