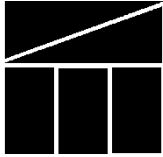


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 41-50 Tattooing Regulations**  
**18 VAC 41-60 Body-Piercing Regulations**  
**Department of Professional and Occupational Regulation**  
**Town Hall Action/Stage: 4846 / 8291**  
August 24, 2018 [fee information updated on August 27, 2018]

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### Summary of the Proposed Amendments to Regulation

The Board for Barbers and Cosmetology (Board) proposes to: 1) add the responsible management system for tracking ownership of tattooing and body piercing businesses, 2) significantly alter the limited-term tattooer license structure, 3) amend training requirements for tattooing schools and tattoo instructors, 4) address the release of tattoo school records, and 5) make other amendments for improved clarity.

### Result of Analysis

The benefits likely exceed the costs for the majority of proposed changes. For other proposed amendments it is uncertain.

### Estimated Economic Impact

#### *Responsible Management*

The Board proposes to add the requirement that applicants for tattoo parlor, limited term tattoo parlor, permanent cosmetic tattoo salon, body piercing salon, or body piercing ear only salon, disclose the names of the firm's responsible management. The proposed regulation defines responsible management as:

1. The sole proprietor of a sole proprietorship;
2. The partners of a general partnership;
3. The managing partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company;
6. The officers or directors of an association or both; and
7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

The applicant and all members of the responsible management would be required to be in good standing as a licensed shop or salon in Virginia and all other jurisdictions where licensed, and disclose any disciplinary action taken in Virginia and all other jurisdictions. This would allow the Board to better identify when individuals previously disciplined by the Board are attempting to re-enter the profession.

#### *Limited-term Tattooer License*

The current regulation contains a limited term tattooer license that is effective for five consecutive days prior to the expiration date. A person may obtain a maximum of five limited term tattooer licenses within a calendar year, and a maximum of two limited term tattooer licenses within 30 consecutive days.

According to the Department of Professional and Occupational Regulation (DPOR), out-of-state tattooers coming to Virginia for tattoo conventions and the licensee hosts of the convention have found the need to reapply for licensure and pay the licensing fee multiple times each year to be onerous. Also according to the agency, potential guest tattooers from out-of-state and the potential hosts of the guest tattooers have often found the five day licensing period inadequate to sufficiently justify traveling to Virginia. Parlor owners at times find having guest tattooers to be good for business. The Board proposes to eliminate the current five-day limited-term tattooer license and replace it with a one-year convention tattooer license and a two-week guest tattooer license.

For both the one-year convention tattooer license and the two-week guest tattooer license, the applicant would need to: 1) present documentation showing out-of-state residency, 2) provide documentation of health education knowledge to include but not limited to blood-borne disease, sterilization, and aseptic techniques related to tattooing, and first aid and CPR that is acceptable to the Board, 3) disclose any disciplinary action taken in Virginia or any other jurisdiction in connection with the applicant's practice, 4) disclose criminal convictions in Virginia and all other jurisdictions and 5) sign a statement certifying that the applicant has read and understands the Virginia tattooing license laws and regulation. The guest tattooer license applicant would also need to show guest tattooer sponsorship, including signature of the sponsor parlor's responsible management. An out of state resident would be able to obtain up to three guest tattooer licenses per calendar year. The proposed requirements help ensure the same level of health, safety and welfare protections as under the current regulation.

Both the existing and proposed regulation contain a \$75 fee for all individual licenses.<sup>1</sup> The one-year convention license reduces administrative hassle and fees expended for applicants who intend to participate in more than one Virginia convention per year. Under the current regulation, licensure for participating at two conventions (that are not entirely within the same five-day period) would cost \$150 in fees, and licensure for participating at three conventions would cost \$225 in fees. With the proposed one-year convention license, the tattooer would only need to apply for one license a year and pay only \$75 in fees. This may encourage greater participation at Virginia tattoo conventions, helping ensure the success and continuation of such conventions.

As mentioned above, the limited term tattooer license that is effective for only five consecutive days has discouraged Virginia tattoo parlors from having out-of-state guest tattooers. The proposed two-week guest tattooer license would likely greatly alleviate that problem by providing sufficient time for the guest tattoo artist to practice and make the trip worthwhile. As some parlor owners may find having guest tattooers to be good for business, this proposal would be beneficial for the Commonwealth.

### *Training Requirements*

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<sup>1</sup> The existing and proposed regulations specify a \$75 fee through August 31, 2020, and a \$105 fee for September 1, 2020, and after.

DPOR reports that there have been numerous complaints concerning tattoo instructors teaching ability. Consequently, the Board proposes to require that tattoo instructor applicants and permanent cosmetic tattoo instructor applicants pass a course on teaching techniques at the post-secondary level. There is presumably variation in the effectiveness of such courses. Thus it is not known whether the benefits would exceed the costs of this proposed requirement. As for cost, DPOR has indicated that it would accept online courses that may cost about \$150 in fees, and 24 hours (spread over six weeks) in time.<sup>2</sup>

The regulation includes an extensive list of topics to be addressed within tattooing school instruction. It currently states that the curriculum requirements shall be taught over a minimum of 750 hours. According to DPOR, there is a consensus that the curriculum requirements cannot be adequately taught within that time. Thus, the Board proposes to increase the minimum hours to 1,000. DPOR does not anticipate any objection to this change.

#### *Tattooing School Records*

DPOR has heard frequent complaints that tattooing schools are withholding progress documentation from their students. In response, the Board proposes to require that schools, within 21 days of a student's request, produce documentation and performances completed by that student. This provision would assist students in obtaining their records, which are needed for licensure applications.

#### **Businesses and Entities Affected**

The proposed amendments potentially affect the 642 tattooers, 242 tattoo parlors, 9 tattooing instructors, 5 tattoo schools, 355 permanent cosmetic tattooers, 7 master permanent cosmetic tattooers, 24 permanent cosmetic tattoo instructors, 105 permanent cosmetic tattooing salons, 14 permanent cosmetic tattooing schools, 127 body piercers, 97 body piercing salons, 304 "ear-only" body piercers, and 62 body piercer ear only salons licensed by the Board. The Board received 191 limited-term tattooer license applications in 2017, which would be replaced by an estimated 100-150 convention and guest tattooer applications under the proposed

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<sup>2</sup> For example, as of August 24, 2018, the URL the ed2go course Teaching Adult Learners indicated a \$149 fee and 24 hours of course time over 6 weeks. <https://www.ed2go.com/courses/teacher-professional-development/child-development/ilc/teaching-adult-learners>

regulatory change.<sup>3</sup> Most, if not all, of the parlors and salons would qualify as small businesses. The proposal to require that tattoo instructor applicants and permanent cosmetic tattoo instructor applicants pass a course on teaching techniques at the post-secondary level would also affect providers of such courses.

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposal to require that tattoo instructor applicants and permanent cosmetic tattoo instructor applicants pass a course on teaching techniques at the post-secondary level may moderately increase employment at private providers of such courses.

### **Effects on the Use and Value of Private Property**

The proposal to require that tattoo instructor applicants and permanent cosmetic tattoo instructor applicants pass a course on teaching techniques at the post-secondary level would increase demand for and perhaps increase the value of private providers of such courses. To the extent that the proposed one-year convention license encourages greater participation at Virginia tattoo conventions, and the proposed two-week guest tattooer license increases the profitable use of such tattoo artists at Virginia parlors, the use and value of Virginia tattoo conventions and tattoo parlors may be positively affected.

### **Real Estate Development Costs**

The proposed amendments do not affect real estate development costs.

### **Small Businesses:**

#### **Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

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<sup>3</sup> Data source: Department of Professional and Occupational Regulation

### **Costs and Other Effects**

The proposal to require that tattoo instructor applicants and permanent cosmetic tattoo instructor applicants pass a course on teaching techniques at the post-secondary level increases costs for these individuals. This would likely add cost for tattooing schools, as they may pay for all or part of the instructor's cost, or find it more difficult to find qualified instructors. The tattooing schools are likely all small businesses.

### **Alternative Method that Minimizes Adverse Impact**

The adverse impact stems from increased cost associated with trying to improve teaching quality at tattooing schools. There is no clear alternative that would achieve this goal at lower cost.

### **Adverse Impacts:**

#### **Businesses:**

The proposal to require that tattoo instructor applicants and permanent cosmetic tattoo instructor applicants pass a course on teaching techniques at the post-secondary level increases costs for these individuals. This would likely add cost for tattooing schools, as they may pay for all or part of the instructor's cost, or find it more difficult to find qualified instructors.

#### **Localities:**

The proposed amendments do not adversely affect localities.

#### **Other Entities:**

The proposal to require that tattoo instructor applicants and permanent cosmetic tattoo instructor applicants pass a course on teaching techniques at the post-secondary level increases costs for these individuals.

### **Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.