



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 41-20 Barbering and Cosmetology Regulations
18 VAC 41-70 Esthetics Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 5962 / 9637
July 11, 2022

The Department of Planning and Budget (DPB) 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). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

In both 18 VAC 41-20 *Barbering and Cosmetology Regulations* and 18 VAC 41-70 *Esthetics Regulations*, the Board for Barbers and Cosmetology (Board) proposes to eliminate the requirement that the soap provided for clients and employees be antibacterial.

Background

The current *Barbering and Cosmetology Regulations* require that any shop, salon, school, or facility where barber, master barber, cosmetology, or nail or waxing services are delivered to the public must have a fully functional bathroom with a working toilet and sink that are available for clients. Among other requirements, there must be **antibacterial** soap and clean single-use towels or a hand air-drying device for the client's use. The *Esthetics Regulations* have the same requirements for any spa or school where esthetics services are delivered. The Board proposes to eliminate the requirement that the soap be of the antibacterial variety in both regulations.

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

Both the *Barbering and Cosmetology Regulations* and the *Esthetics Regulations* currently require that all employees providing client services cleanse their hands with an **antibacterial** soap product prior to providing services to each client. Again, the Board proposes to eliminate the requirement that the soap be of the antibacterial variety in each regulation.

Estimated Benefits and Costs

According to the U.S. Food and Drug Administration (FDA), antibacterial soaps have not been shown to be more effective than plain soap and water in preventing illnesses.² Additionally, the FDA states that it is not known if the active ingredients in antibacterial soaps are safe for daily use over a long period of time.³ Also, some people are allergic to triclosan, a common active ingredient in antibacterial soap.⁴ Triclosan has also been found to impair the contraction of both cardiac and skeletal muscle.⁵ Based upon searches for the least expensive antibacterial soap and least expensive regular soap on Amazon.com,⁶ it appears that antibacterial soap is slightly more expensive (\$0.10 per fluid ounce versus \$0.09 per fluid ounce). Thus, eliminating the requirement that the soap provided for clients and employees be antibacterial would be beneficial for reasons of health and cost.

Businesses and Other Entities Affected

The proposed amendments affect the 875 barber shops, 72 barber schools, 5,018 cosmetology salons, 160 cosmetology schools, 54 esthetics schools, 823 esthetics spas, 703 nail salons, 43 nail technician schools, 146 waxing salons, and 16 waxing schools licensed in the Commonwealth, as well as their employees, clients, and students.⁷

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ An adverse impact is indicated if there is any increase in net cost or

² See <https://www.fda.gov/consumers/consumer-updates/antibacterial-soap-you-can-skip-it-use-plain-soap-and-water>.

³ Ibid.

⁴ See <https://www.contactdermatitisinstitute.com/pdfs/allergens/Triclosan.pdf> and <https://www.fda.gov/consumers/consumer-updates/antibacterial-soap-you-can-skip-it-use-plain-soap-and-water>.

⁵ See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3435154/>

⁶ The search was conducted on July 11, 2022.

⁷ Data source: Department of Professional and Occupational Regulation

⁸ Pursuant to Code § 2.2-4007.04(D): 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. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. No adverse impact is indicated for the proposed removal of the requirement that the soap provided for clients and employees be antibacterial.

Small Businesses⁹ Affected:¹⁰

The proposed amendments do not adversely affect small businesses.

Localities¹¹ Affected¹²

The proposed amendments neither disproportionately affect particular localities, nor introduce costs for local governments.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property

The proposed removal of the requirement that the soap provided for clients and employees be antibacterial may, as described above, modestly reduce costs for barber shops, barber schools, cosmetology salons, cosmetology schools, esthetics schools, esthetics spas, nail salons, nail technician schools, waxing salons, and waxing schools. The value of these businesses and schools that are private may thus commensurately increase. The proposed amendments do not affect real estate development costs.

⁹ 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.”

¹⁰ 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.

¹¹ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹² § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.