



Final Regulation Agency Background Document

Agency name	DPOR/Auctioneers Board
Virginia Administrative Code (VAC) citation	18 VAC 25-21
Regulation title	Rules and Regulations of the Virginia Auctioneers Board
Action title	Develop necessary regulations to implement a mandatory continuing education program
Date this document prepared	January 29, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

Develop necessary regulations to implement a mandatory continuing education program for the renewal/reinstatement of auctioneer licenses as required by HB1022 from the 2004 session of the General Assembly.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On January 18, 2007, the Auctioneers Board adopted final Auctioneers Board Regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The mandatory continuing education program is required by § 54.1-603.1 of the Code of Virginia. In addition, § 54.1-602 provides the Board with its broad authority to establish regulations in order to obtain and retain licenses.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Develop necessary regulations to implement a mandatory continuing education program for the renewal/reinstatement of auctioneer licenses as required by HB1022 from the 2004 session of the General Assembly. Such a program should lead to better educated auctioneers which should, thereby, increase the protection of the health, safety and welfare of the public.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The Board will develop regulations to implement the continuing education program in accordance with the provisions of § 54.1-603.1 of the Code of Virginia which are as follows:

§ 54.1-603.1. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for auctioneers licensed by the Board. Such regulations shall require the completion of the equivalent of at least six hours of Board-approved continuing education courses for any license renewal or reinstatement. The Board shall establish criteria for continuing education courses including, but not limited to (i) content and subject matter of continuing education courses, (ii) curriculum of required continuing education courses, (iii) standards and procedures for the approval of courses, course sponsors, and course instructors, (iv) methods of instruction for continuing education courses, and (v) the computation of course credit. Any continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneer's Institute or participation in the educational programs sponsored by the National Auctioneer's Association or Virginia Auctioneer's Association shall satisfy the continuing education requirement of this section.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The public and the Commonwealth should be better served as licensed auctioneers will have to show compliance with the Board's continuing education requirements which should result in auctioneers being better educated and, therefore, less of a threat to the public due to inadequate knowledge. However, the cost of complying with the new requirements will most likely be passed on by licensed auctioneers to their customers.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

There were no changes made to the text from the proposed regulation since the publication of the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

No comments were received from the public during the public comment period.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

VAC #	SUMMARY
N/A	Change the title of the regulations by deleting "Rules and" as they are just regulations.
18 VAC 25-21-80	Add language stating that individual license holders applying for renewal are required to certify compliance with the continuing education requirements.
18 VAC 25-21-90.B	Add language stating that individual license holders applying for reinstatement are required to provide evidence of compliance with the continuing education requirements.
18 VAC 25-21-90.D	Clarify that the date that a complete renewal application (including fees and all required documentation) is received will determine whether a license will be

VAC #	SUMMARY
	renewed without penalty.
18 VAC 25-21-90.E	Clarify wording.
18 VAC 25-21-180.A.1	Clarify that the Board may discipline someone who reinstates their license through fraud or misrepresentation.
18 VAC 25-21-180.A.5, A.6, and A.7	Add new section (A.7) that allows the Board to discipline an individual who misrepresents any information pertaining to their compliance with the Board's continuing education requirements.
18 VAC 25-21-180.B	Clarify that the Board may deny reinstatement of a license for the same reasons that it may discipline a license holder.
18 VAC 25-21-230 (new section)	Add criteria for continuing education course approval.
18 VAC 25-21-240 (new section)	Add criteria for continuing education course administration.
18 VAC 25-21-250 (new section)	Add criteria for continuing education requirements to be met by license holders for renewal or reinstatement.
18 VAC 25-21-260 (new section)	Add reference to the provisions contained in § 54.1-603.1.B of the Code of Virginia for exemptions, waivers or reduction of continuing education requirements in cases of illness or hardship.
18 VAC 25-21-270 (new section)	Add requirement that approved course providers notify the Board of any changes within 10 days of occurrence. Further, provide that instances of non-compliance with the Board's requirements from such changes shall result in the automatic suspension of the approval until such time as deficiency is corrected and the Board is notified of the correction.
18 VAC 25-21-280 (new section)	Provide that the Board may periodically require approved course providers to provide evidence that they continue to comply with the Board's requirements.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations were developed with consideration that the affected industries consist of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses and are consistent with the regulation of small businesses of other professions.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and

one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The contemplated changes are not anticipated to have any significant impact on Virginia's families.