

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 704

INTRODUCER: Senator Perry

SUBJECT: Limited Barbering

DATE: February 2, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 704 allows persons without a license to practice limited barbering. Barbers and barbershops are regulated by ch. 476, F.S., and licensed by the Barbers' Board (board) under the Department of Business and Professional Regulation. A barber's license is required to perform barbering services.

The bill allows a person without a license to practice barbering to perform services designated by the board as limited barbering, if the person:

- Performs limited barbering under the supervision of a licensed barber in a licensed barbershop;
- Has not been disciplined relating to the practice of barbering in the previous 3 years; and
- Has successfully completed any education course requirements the board requires on sanitation safety, including education on human immunodeficiency virus and acquired immune deficiency syndrome (HIV and AIDS), if such education is a condition of granting a license to practice barbering.

The bill allows a registered person to perform limited barbering in a licensed barbershop.

The bill allows the board to revoke or suspend any registration to practice limited barbering, and requires the board to keep a record of any disciplinary proceedings against persons registered to practice limited barbering.

The bill will have an indeterminate negative fiscal impact on state government, and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Barbering

Barbers and barbershops are regulated by ch. 476, F.S., and licensed by the Barbers' Board (board) under the Department of Business and Professional Regulation (DBPR).

'Barbering' means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances."¹

A barber's license is required to perform barbering services.² To be eligible for licensure, barbers must:³

- Be at least 16 years old,
- Complete the required training,
- Pass the written examination, and
- Pay a \$205.50 application fee,⁴ plus a \$5 unlicensed activity fee.⁵

Generally, barbers must complete 900 hours of education in the profession; however, barber applicants are eligible to take the examination after 600 hours of education. If the examination is not successful, the full 900 hours must be completed.⁶ There is also an option to be a barber with a restricted license, which requires 600 hours of training and restricts such barbers from applying chemical solutions or preparations to hair.⁷ A restricted barber may perform the following services:⁸

- Hair cutting and styling, including the application of hair tonics and hair spray, but not including the application of any other chemical preparations or solutions to the hair,
- Full facial shaves,
- Mustache and beard trimming, and
- Shampooing hair, including the application of shampoos and hair conditioners and blow drying the hair.

There are currently 14,726 barbers and 8,133 restricted barbers. In Fiscal Year 22-23, the DBPR received 137 complaints against barbers and took 28 disciplinary actions. For restricted barbers, DBPR received 96 complaints and took 20 disciplinary actions.⁹

¹ Section 476.034(2), F.S.

² Section 476.144(1), F.S.

³ Section 476.114, F.S.

⁴ Fla. Admin. Code R. 61-35.006.

⁵ Section 455.2281, F.S.

⁶ Section 476.114(2)(c), F.S.

⁷ Section 476.144(6), F.S.; and Fla. Admin. Code R. 61G3-16.006.

⁸ Fla. Admin. Code R. 61G3-16.006(4).

⁹ Email from Derek Miller, Director of Legislative Affairs, Department of Business and Professional Regulation, RE: SB 704, Feb. 1, 2024 (on file with the Regulated Industries Committee).

Barbershops

In Florida, barbershops must be registered.¹⁰ Barbershops are inspected periodically by the DBPR, in accordance with sanitary standards set forth by the board.¹¹

Generally, all barbering services must be performed in registered barbershops by licensed barbers, except services provided:¹²

- In a location other than a registered barbershop, including, but not limited to, a nursing home, hospital, or residence, for a client of ill health who is unable to go to a registered barbershop;
- Arrangements for the performance of such barber services must be made through a registered barbershop;
- In connection with the motion picture, fashion photography, theatrical, or television industry; or
- For a manufacturer trade show demonstration or educational seminar.

However, barbers may shampoo, cut, or arrange hair outside of a registered barbershop at any time, and allows barbers to do so without making arrangements or appointments through a registered barbershop.

There are currently 4,560 licensed barbershops. In Fiscal Year 2022-2023, DBPR received 123 complaints against barbershops and took 109 disciplinary actions.¹³

Unlicensed Practice

Chapter 476, F.S., provides actions that are prohibited under the practice act, which includes a prohibition against a person holding himself or herself out as a barber unless duly licensed.¹⁴ If a person violates this provision, he or she is subject to one or more of the following penalties:¹⁵

- Revocation or suspension of any license or registration issued pursuant to this chapter.
- Issuance of a reprimand or censure.
- Imposition of an administrative fine not to exceed \$500 for each count or separate offense.
- Placement on probation for a period of time and subject to such reasonable conditions as the board may specify.
- Refusal to certify to the department an applicant for licensure.

In addition, s. 476.194, F.S., provides that the following actions are misdemeanors of the second degree:¹⁶

- Engaging in the practice of barbering without an active license as a barber.

¹⁰ Section 476.184(1), F.S.

¹¹ Section 476.184(2), F.S.

¹² Section 476.188, F.S.

¹³ DBPR, *supra* note 9.

¹⁴ Section 476.204(1), F.S.

¹⁵ Section 476.204(2), F.S.

¹⁶ Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

- Hiring or employing any person to engage in the practice of barbering unless such person holds a valid license as a barber.
- Owning, operating, maintaining, opening, establishing, conducting, or having charge of, either alone or with another person or persons, a barbershop:
 - Which is not licensed; or
 - In which a person not licensed as a barber is permitted to perform services.
- Using or attempting to use a license to practice barbering when the license is suspended or revoked.

Instruction on HIV and AIDS

Barber applicants and licensees are required to complete a 2-hour board-approved continuing educational course on human immunodeficiency virus and acquired immune deficiency syndrome (HIV and AIDS) as part of initial licensure and license renewal. The course must consist of education on modes of transmission, infection control procedures, clinical management, and prevention of HIV and AIDS.¹⁷

The board has authority to adopt rules to enforce this requirement.

III. Effect of Proposed Changes:

The bill defines “limited barbering” as the following practices when done for remuneration for the public, but not when done for the treatment of disease or physical or mental ailments:

- Hair cutting and styling, including the application of hair tonics and hair spray, but not including the application of any other chemical preparations or solutions to the hair;
- Mustache and beard trimming; and
- Shampooing hair, including the application of shampoos and hair conditioners and blow drying the hair.

The scope of a limited barber will be the same as a restricted barber, except a restricted barber may perform full facial shaves.

The bill allows a person without a license to practice barbering to perform limited barbering, if:

- The person registers his or her name with the board.
- The person performs limited barbering in a licensed barbershop with a licensed barber present.
- The person has completed a continuing educational course approved by the board on HIV and AIDS, as required by s. 455.2228, F.S.
- The person complies with all safety and sanitation requirements for barbershop personnel while practicing limited barbering at a barbershop.

When the board receives a registration request, the board:

- May not charge a fee for such registration.
- May deny such registration if the person has been disciplined relating to the practice of barbering in the previous 3 years in any jurisdiction or as provided under s. 455.213(3), F.S.

¹⁷ Section 455.2228, F.S.

- Must list the person on department’s website as a limited barber if he or she is granted a registration.

The bill provides that an unlicensed person registered to perform “limited barbering” is not committing unlicensed barbering when providing services.

The bill allows the board to revoke or suspend any registration to practice limited barbering, and requires the board to keep record of any disciplinary proceedings against persons registered to practice limited barbering.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DBPR and the board state that they may experience a reduction in applications and the corresponding fees (including the \$5 unlicensed activity enforcement fee) for restricted barbers and possibly barber licenses as well. The bill does not authorize a fee for a limited barber registrations. In addition, the DBPR and the board state that they may

see an increase in applications for restricted barber registration and an increase in complaints, but the fiscal impact is indeterminate.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 476.144, 476.184, 476.188, 476.194, 476.204, and 476.214.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁸ See Department of Business and Professional Regulation, *2024 Agency Legislative Bill Analysis for SB 704* (Dec. 18, 2023) (on file with the Senate Regulated Industries Committee).