

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1251 Limited Barbering

SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Valdés and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1148

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	11 Y, 0 N, As CS	Wright	Anstead
2) State Administration & Technology Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Barbers and barbershops are regulated by ch. 476, F.S., and licensed by the Barbers' Board under the Department of Business and Professional Regulation (DBPR). 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 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 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, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current 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 is 600 hours training in total 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 14,147 barbers and 7,231 restricted barbers. In Fiscal Year 21-22, for barbers, DBPR received 140 complaints against barbers, and took 15 disciplinary actions. For restricted barbers, DBPR received 79 complaints against barbers, and took 9 disciplinary actions.⁹

Barbershops

¹ S. 476.034(2), F.S.

² S. 476.144(1), F.S.

³ S. 476.114, F.S.

⁴ R. 61-35.006, F.A.C..

⁵ S. 455.2281, F.S.

⁶ S. 476.114(2)(c), F.S.

⁷ S. 476.144(6), F.S.; R. 61G3-16.006, F.A.C.

⁸ R. 61G3-16.006(4), F.A.C.

⁹ Email from Jonas Marquez, Legislative Affairs Director, Florida Department of Business and Professional Regulation, RE: Question (Mar. 14, 2021).

In Florida, barbershops must be registered.¹⁰ Barbershops are inspected periodically by 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 5,791 licensed barbershops. In Fiscal Year 21-22, DBPR received 438 complaints against barbershops, and took 113 disciplinary actions¹³

Unlicensed Practice

Chapter 476, F.S., provides actions that are prohibited under the practice act, which includes 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.

Also, certain prohibited actions under are also criminal violations, including:¹⁶

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

Any person who violates any such provision is guilty of a misdemeanor of the second degree.¹⁷

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

¹⁰ S. 476.184(1), F.S.

¹¹ S. 476.184(2), F.S.

¹² S. 476.188, F.S.

¹³ DBPR, *supra* note 8.

¹⁴ S. 476.204(1), F.S.

¹⁵ S. 476.204(2), F.S.

¹⁶ S. 476.194(1), F.S.

¹⁷ S. 476.194(2), F.S.

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 human immunodeficiency virus and acquired immune deficiency syndrome.¹⁸

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

Effect of the Bill

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 human immunodeficiency virus and acquired immune deficiency syndrome, as required by s. 455.2228.
- 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).
- 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, 2023.

B. SECTION DIRECTORY:

- Section 1: Amends s. 476.144, F.S.; relating to authorized unlicensed limited barbering.
- Section 2: Amends s. 476.188, F.S.; relating to services performed in a barbershop.
- Section 3: Amends s. 476.194, F.S.; relating to prohibited acts.
- Section 4: Amends s. 476.204, F.S.; relating to administrative penalties.
- Section 5: Amends s. 476.214, F.S.; relating to grounds for disciplining a license.
- Section 6: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

¹⁸ S. 455.2228, F.S.
STORAGE NAME: h1251b.RRS
DATE: 3/23/2023

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely reduce revenues to DBPR from licensing fees from people registered to practice limited barbering who would have otherwise obtained a license.¹⁹

2. Expenditures:

The bill may increase expenditures of DBPR for inspections to ensure compliance with the new limited barber requirements.²⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow more people to practice certain barbering services without maintaining a full license or paying for barber education.

The bill may decrease attendance and enrollment at barber schools.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The board will need to promulgate rules related to requirements of the new practice of limited barbering. The board has sufficient authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

¹⁹ DBPR, *supra* note 8.

²⁰ *Id.*

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 22, 2023, the Regulatory Reform & Economic Development Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differed from the underlying bill in the following ways:

- Renames the new practice as “limited barbering” from “restricted barbering,” which has another meaning within ch. 476, F.S.
- Requires a limited barber to take the standard HIV and AIDS education course required of other barber licensees.
- Requires a limited barber to comply with all safety and sanitation requirements of barbershop personnel.
- Defines the scope of limited barbering in statute, instead of having the board determine the scope.
- Limits the disciplinary history look-back period to 3 years, from 5.
- Requires DBPR to issue a registration for an applicant, with no fee, if the applicant does not have disqualifying criminal or disciplinary history.

The analysis is drafted to the committee substitute adopted by the Regulatory Reform & Economic Development Subcommittee