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By: **Chairman, Economic Matters Committee (By Request - Departmental -  
Labor, Licensing and Regulation)**

Introduced and read first time: February 8, 2005

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2005

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Barbers - State Board of Cosmetologists - Citations**

3 FOR the purpose of authorizing inspectors for the State Board of Barbers and  
4 inspectors for the State Board of Cosmetologists to issue certain citations to and  
5 impose certain civil penalties on licensees and permit holders for violations of  
6 certain laws and regulations; providing for the form, content, and service of the  
7 citations; requiring the civil penalty set forth in the citation to be paid in a  
8 certain period of time; establishing that the failure to pay the citation within a  
9 certain period of time will result in a certain increase of the penalty;  
10 establishing that a citation and civil penalty shall be considered a final order of  
11 the Boards unless the licensee or permit holder contests the citation in a certain  
12 manner; requiring the Boards to hold a certain hearing if the licensee or permit  
13 holder contests the citation; requiring the Boards to adopt regulations  
14 establishing a schedule of certain civil penalties; authorizing the Boards to take  
15 certain disciplinary action against a licensee or permit holder if the licensee or  
16 permit holder fails to pay a civil penalty imposed by the Boards under this Act;  
17 and generally relating to the regulation of licensees and permit holders by the  
18 State Board of Barbers and the State Board of Cosmetologists.

19 BY repealing and reenacting, with amendments,  
20 Article - Business Occupations and Professions  
21 Section 4-314, 4-513, 5-314, and 5-522  
22 Annotated Code of Maryland  
23 (2004 Replacement Volume and 2004 Supplement)

24 BY adding to

1 Article - Business Occupations and Professions  
 2 Section 4-608 and 5-610  
 3 Annotated Code of Maryland  
 4 (2004 Replacement Volume and 2004 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Business Occupations and Professions**

8 4-314.

9 (a) (1) Subject to the hearing provisions of § 4-315 of this subtitle, the Board  
 10 may deny a license to any applicant, reprimand any licensee, or suspend or revoke a  
 11 license if the applicant or licensee:

12 (i) fraudulently or deceptively obtains or attempts to obtain a  
 13 license for the applicant or licensee or for another;

14 (ii) fraudulently or deceptively uses a license;

15 (iii) is incompetent;

16 (iv) habitually is intoxicated or under the influence of any drug;

17 (v) falsifies a record submitted to the Board;

18 (vi) fails to use proper sanitary methods while practicing barbering;

19 (vii) fails to keep a barbershop in a sanitary condition;

20 (viii) under the laws of the United States or of any state, is convicted  
 21 of:

22 1. a felony; or

23 2. a misdemeanor that is directly related to the fitness and  
 24 qualification of the applicant or licensee to practice barbering; [or]

25 (ix) violates any provision of this title or any regulation adopted by  
 26 the Board under this title; OR

27 (X) FAILS TO PAY A CIVIL PENALTY IMPOSED BY THE BOARD  
 28 UNDER § 4-608 OF THIS TITLE.

29 (2) (i) Instead of or in addition to reprimanding a licensee or  
 30 suspending or revoking a license under this subsection, the Board may impose a  
 31 penalty not exceeding \$300 for all violations cited on a single date.

1 (ii) To determine the amount of the penalty under this subsection,  
2 the Board shall consider:

- 3 1. the seriousness of the violation;
- 4 2. the good faith of the violator;
- 5 3. the violator's history of previous violations;
- 6 4. the deleterious effect of the violation on the complainant,  
7 the public, and the barber industry; and
- 8 5. any other factors relevant to the determination of the  
9 financial penalty.

10 (3) The Board shall pay any penalty collected under this subsection into  
11 the General Fund of the State.

12 (b) The Board shall consider the following facts in the granting, denial,  
13 renewal, suspension, or revocation of a license or the reprimand of a licensee when an  
14 applicant or licensee is convicted of a felony or misdemeanor described in subsection  
15 (a)(1)(viii) of this section:

- 16 (1) the nature of the crime;
- 17 (2) the relationship of the crime to the activities authorized by the  
18 license;
- 19 (3) with respect to a felony, the relevance of the conviction to the fitness  
20 and qualification of the applicant or licensee to practice barbering;
- 21 (4) the length of time since the conviction; and
- 22 (5) the behavior and activities of the applicant or licensee before and  
23 after the conviction.

24 (c) The Board shall commence proceedings under this section on a complaint  
25 to the Board by a member of the Board or any person.

- 26 (d) (1) A complaint shall:
- 27 (i) be in writing;
  - 28 (ii) be signed by the complainant;
  - 29 (iii) state specifically the facts on which the complaint is based;
  - 30 (iv) be submitted to the Executive Director of the Board; and
  - 31 (v) be served on the person to whom it is directed:

1                                   1.           personally; or  
2                                   2.           by certified mail, return receipt requested, bearing a  
3 postmark from the United States Postal Service, to the person's last known address  
4 as shown on the Board's records.

5                   (2)       If service is made by certified mail, the person who mails the  
6 document shall file with the Board verified proof of mailing.

7                   (3)       If a complaint is made by any person other than a member of the  
8 Board, the complaint shall be made under oath by the person who submits the  
9 complaint.

10       (e)       (1)       Except as provided in subsection (f) of this section, if the Board finds  
11 that a complaint alleges facts that are adequate grounds for action under this section,  
12 the Board shall act on the complaint as provided under § 4-315 of this subtitle to  
13 deny, suspend, or revoke a license, reprimand a licensee, or assess a penalty.

14                   (2)       If the Board does not make the finding, the Board shall dismiss the  
15 complaint.

16       (f)       (1)       If the Board makes the finding under subsection (e)(1) of this section  
17 for a violation that relates to the sanitary practice of barbering, the Board shall  
18 provide the licensee an opportunity to correct the alleged violation.

19                   (2)       If the licensee fails to correct each alleged violation within 10 days of  
20 written notification of the violation by the Board, the Board shall act on the complaint  
21 as provided under § 4-315 of this subtitle.

22                   (3)       If the licensee corrects each alleged violation within 10 days of notice,  
23 the Board shall:

24                               (i)       dismiss the complaint; and

25                               (ii)      provide the licensee written notification of the dismissal.

26 4-513.

27       (a)       (1)       Subject to the hearing provisions of § 4-514 of this subtitle, the Board  
28 may deny a barbershop permit to any applicant, reprimand any permit holder, or  
29 suspend or revoke a barbershop permit:

30                               (i)       for any applicable ground under § 4-314 of this title;

31                               (ii)      if the applicant or holder fraudulently or deceptively obtains or  
32 attempts to obtain a barbershop permit for the applicant or holder or for another; [or]

33                               (iii)     if the applicant or holder fraudulently or deceptively uses a  
34 barbershop permit; OR

1 (IV) IF THE HOLDER FAILS TO PAY A CIVIL PENALTY IMPOSED BY  
2 THE BOARD UNDER § 4-608 OF THIS TITLE.

3 (2) (i) Instead of or in addition to reprimanding a permit holder or  
4 suspending or revoking a permit under this subsection, the Board may impose a  
5 penalty not exceeding \$300 for all violations cited on a single date.

6 (ii) To determine the amount of penalty imposed under this  
7 subsection, the Board shall consider the following:

- 8 1. the seriousness of the violation;
- 9 2. the good faith of the violator;
- 10 3. the violator's history of previous violations;
- 11 4. the deleterious effect of the violation on the complainant,  
12 the public, and the barber industry; and
- 13 5. any other factors relevant to the determination of the  
14 financial penalty.

15 (3) The Board shall pay any penalty collected under this subsection into  
16 the General Fund of the State.

17 (b) The Board shall commence proceedings under this section on a complaint  
18 to the Board by a member of the Board or any person.

19 (c) (1) A complaint shall:

- 20 (i) be in writing;
- 21 (ii) be signed by the complainant;
- 22 (iii) state specifically the facts on which the complaint is based;
- 23 (iv) be submitted to the Executive Director of the Board; and
- 24 (v) be served on the person to whom it is directed:
  - 25 1. personally; or
  - 26 2. by certified mail, return receipt requested, bearing a  
27 postmark from the United States Postal Service, to the person's last known address  
28 as shown on the Board's records.

29 (2) If service is made by certified mail, the person who mails the  
30 document shall file with the Board verified proof of mailing.

1 (3) If a complaint is made by any person other than a member of the  
2 Board, the complaint shall be made under oath by the person who submits the  
3 complaint.

4 (d) (1) Except as provided in subsection (e) of this section, if the Board finds  
5 that a complaint alleges facts that are adequate grounds for action under § 4-514 of  
6 this subtitle, the Board shall act on the complaint as provided under § 4-514 of this  
7 subtitle to deny, suspend, or revoke a barbershop permit, or reprimand or assess a  
8 penalty against the holder of the permit.

9 (2) If the Board does not make the finding, the Board shall dismiss the  
10 complaint.

11 (e) (1) If the Board makes the finding under subsection (d)(1) of this section  
12 for a violation that relates to the sanitary condition of the barbershop, the Board shall  
13 provide the owner of the barbershop an opportunity to correct the alleged violation.

14 (2) If the barbershop owner fails to correct each alleged violation within  
15 10 days of written notification by the Board, the Board shall act on the complaint as  
16 provided under § 4-514 of this subtitle.

17 (3) If the barbershop owner corrects each alleged violation within 10  
18 days of notice, the Board shall:

19 (i) dismiss the complaint; and

20 (ii) provide the barbershop owner written notification of dismissal.  
21 4-608.

22 (A) FOLLOWING AN INSPECTION OF A BARBERSHOP, IF A BOARD INSPECTOR  
23 DETERMINES THAT A LICENSEE OR PERMIT HOLDER HAS VIOLATED THIS TITLE OR A  
24 REGULATION ADOPTED BY THE BOARD, THE INSPECTOR MAY ISSUE A CITATION TO  
25 THE LICENSEE OR PERMIT HOLDER.

26 (B) A CITATION ISSUED BY A BOARD INSPECTOR SHALL BE IN WRITING AND  
27 SHALL STATE:

28 (1) A BRIEF DESCRIPTION OF EACH VIOLATION;

29 (2) THE AMOUNT OF A CIVIL PENALTY, AS PRESCRIBED BY REGULATION,  
30 FOR EACH VIOLATION; AND

31 (3) AS PROVIDED IN THIS SECTION:

32 (I) THE TIME WITHIN WHICH THE CIVIL PENALTY IS TO BE PAID;

33 (II) THE OPPORTUNITY TO CONTEST THE CITATION;

34 (III) THE FINALITY OF THE CITATION IF IT IS NOT CONTESTED; AND

1 (IV) THAT THE CIVIL PENALTY WILL BE DOUBLED IF NOT PAID OR  
2 CONTESTED WITHIN ~~30~~ 60 DAYS.

3 (C) THE CITATION SHALL BE SERVED ON THE LICENSEE OR PERMIT HOLDER  
4 ALLEGED TO HAVE COMMITTED THE VIOLATION BY:

5 (1) HAND-DELIVERY; OR

6 (2) CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE  
7 OR PERMIT HOLDER.

8 (D) SUBJECT TO SUBSECTIONS (E) AND (F) OF THIS SECTION:

9 (1) THE CIVIL PENALTY SET FORTH IN A CITATION SHALL BE PAID  
10 WITHIN ~~30~~ 60 DAYS OF ITS RECEIPT; AND

11 (2) THE FAILURE TO PAY THE CIVIL PENALTY WITHIN ~~30~~ 60 DAYS OF ITS  
12 RECEIPT SHALL RESULT IN THE AMOUNT OF THE CIVIL PENALTY BEING DOUBLED.

13 (E) A CITATION AND THE APPLICABLE CIVIL PENALTY SHALL BE CONSIDERED  
14 A FINAL ORDER OF THE BOARD UNLESS, WITHIN ~~30~~ 60 DAYS OF BEING SERVED WITH  
15 THE CITATION, THE LICENSEE OR PERMIT HOLDER NOTIFIES THE BOARD IN  
16 WRITING OF AN INTENT TO CONTEST THE CITATION.

17 (F) UPON THE RECEIPT OF A WRITTEN NOTICE OF A LICENSEE OR PERMIT  
18 HOLDER'S INTENT TO CONTEST A CITATION, THE BOARD SHALL HOLD A HEARING, IN  
19 ACCORDANCE WITH § 4-315 OR § 4-514 OF THIS TITLE, REGARDING THE CITED  
20 VIOLATIONS.

21 (G) (1) THE BOARD SHALL ESTABLISH BY REGULATION A SCHEDULE OF  
22 CIVIL PENALTIES FOR VIOLATIONS OF THIS TITLE AND REGULATIONS ADOPTED BY  
23 THE BOARD.

24 (2) THE CIVIL PENALTIES IMPOSED UNDER THIS SUBSECTION MAY NOT  
25 EXCEED \$300 FOR ALL VIOLATIONS CITED ON A SINGLE DAY.

26 5-314.

27 (a) (1) Subject to the hearing provisions of § 5-315 of this subtitle, the Board  
28 may deny a license to any applicant, reprimand any licensee, or suspend or revoke a  
29 license if the applicant or licensee:

30 (i) fraudulently or deceptively obtains or attempts to obtain a  
31 license for the applicant or licensee or for another;

32 (ii) fraudulently or deceptively uses a license;

33 (iii) is incompetent;

34 (iv) engages in dishonest, unethical, immoral, or unprofessional  
35 conduct;

1 (v) is addicted to alcohol or drugs to the extent of being unfit to  
2 practice cosmetology;

3 (vi) advertises by means of knowingly false or deceptive statements;

4 (vii) under the laws of the United States or of any state, is convicted  
5 of:

6 1. a felony; or

7 2. a misdemeanor that is directly related to the fitness and  
8 qualification of the applicant or licensee to practice cosmetology; [or]

9 (viii) violates any provision of this title or any regulation adopted by  
10 the Board under this title; OR

11 (IX) FAILS TO PAY A CIVIL PENALTY IMPOSED BY THE BOARD  
12 UNDER § 5-610 OF THIS TITLE.

13 (2) (i) Instead of or in addition to reprimanding a licensee or  
14 suspending or revoking a license under this subsection, the Board may impose a  
15 penalty not exceeding \$300 for all violations cited on a single day.

16 (ii) To determine the amount of the penalty imposed under this  
17 subsection, the Board shall consider:

18 1. the seriousness of the violation;

19 2. the good faith of the violator;

20 3. the violator's history of previous violations;

21 4. the deleterious effect of the violation on the complainant,  
22 the public, and the cosmetology industry; and

23 5. any other factors relevant to the determination of the  
24 financial penalty.

25 (3) The Board shall pay any penalty collected under this subsection into  
26 the General Fund of the State.

27 (b) The Board shall consider the following facts in the granting, denial,  
28 renewal, suspension, or revocation of a license or the reprimand of a licensee when an  
29 applicant or licensee is convicted of a felony or misdemeanor described in subsection  
30 (a)(1)(vii) of this section:

31 (1) the nature of the crime;

32 (2) the relationship of the crime to the activities authorized by the  
33 license;



1 (3) with respect to a felony, the relevance of the conviction to the fitness  
2 and qualification of the applicant or licensee to practice cosmetology;

3 (4) the length of time since the conviction; and

4 (5) the behavior and activities of the applicant or licensee before and  
5 after the conviction.

6 (c) (1) The Board shall commence proceedings under this section on a  
7 complaint to the Board by a member of the Board or any person.

8 (2) A complaint shall:

9 (i) be in writing;

10 (ii) be signed by the complainant;

11 (iii) state specifically the facts on which the complaint is based;

12 (iv) be submitted to the Executive Director of the Board; and

13 (v) be served on the person to whom it is directed:

14 1. personally; or

15 2. by certified mail, return receipt requested, bearing a  
16 postmark from the United States Postal Service, to the person's last known address  
17 as shown on the Board's records.

18 (3) If service is made by certified mail, the person who mails the  
19 document shall file with the Board verified proof of mailing.

20 (d) (1) Except as provided in subsection (e) of this section, if the Board finds  
21 that a complaint alleges facts that are adequate grounds for action under this section,  
22 the Board shall act on the complaint as provided under § 5-315 of this subtitle to  
23 deny, suspend, or revoke a license, reprimand a licensee, or assess a penalty.

24 (2) If the Board does not make the finding, the Board shall dismiss the  
25 complaint.

26 (e) (1) If the Board makes the finding under subsection (d)(1) of this section  
27 for a violation that relates to the sanitary practice of cosmetology, the Board shall  
28 provide the licensee an opportunity to correct the alleged violation.

29 (2) If the licensee fails to correct each alleged violation within 10 days of  
30 written notification of the violation by the Board, the Board shall act on the complaint  
31 as provided under § 5-315 of this subtitle.

32 (3) If the licensee corrects each alleged violation within 10 days of notice,  
33 the Board shall:

- 1 (i) dismiss the complaint; and  
2 (ii) provide the licensee written notification of the dismissal.

3 5-522.

4 (a) (1) Subject to the hearing provisions of § 5-523 of this subtitle, the Board  
5 may deny a beauty salon permit to any applicant, reprimand any permit holder, or  
6 suspend or revoke a beauty salon permit:

- 7 (i) for any applicable ground under § 5-314 of this title;  
8 (ii) if the applicant or holder fraudulently or deceptively obtains or  
9 attempts to obtain a beauty salon permit for the applicant or holder or for another;  
10 [or]

11 (iii) if the applicant or holder fraudulently or deceptively uses a  
12 beauty salon permit; OR

13 (IV) IF THE HOLDER FAILS TO PAY A CIVIL PENALTY IMPOSED BY  
14 THE BOARD UNDER § 5-610 OF THIS TITLE.

15 (2) (i) Instead of or in addition to reprimanding a permit holder or  
16 suspending or revoking a beauty salon permit, the Board may impose a penalty not  
17 exceeding \$300 for all violations cited on a single date.

18 (ii) To determine the amount of penalty imposed under this  
19 subsection, the Board shall consider:

- 20 1. the seriousness of the violation;  
21 2. the good faith of the violator;  
22 3. the violator's history of previous violations;  
23 4. the deleterious effect of the violation on the complainant,  
24 the public, and the cosmetology industry; and  
25 5. any other factors relevant to the determination of the  
26 financial penalty.

27 (3) The Board shall pay any penalty collected under this subsection into  
28 the General Fund of the State.

29 (b) The Board shall commence proceedings under this section on a complaint  
30 to the Board by a member of the Board or any person.

31 (1) A complaint shall:

- 32 (i) be in writing;

- 1 (ii) be signed by the complainant;
- 2 (iii) state specifically the facts on which the complaint is based;
- 3 (iv) be submitted to the Executive Director of the Board; and
- 4 (v) be served on the person to whom it is directed:
- 5 1. personally; or
- 6 2. by certified mail, return receipt requested, bearing a  
7 postmark from the United States Postal Service, to the person's last known address  
8 as shown on the Board's records.

9 (2) If service is made by certified mail, the person who mails the  
10 document shall file with the Board verified proof of mailing.

11 (c) (1) Except as provided in subsection (d) of this section, if the Board finds  
12 that a complaint alleges facts that are adequate grounds for action under this section,  
13 the Board shall act on the complaint as provided under § 5-523 of this subtitle to  
14 deny, suspend, or revoke a license, reprimand a licensee, or assess a penalty.

15 (2) If the Board does not make the finding, the Board shall dismiss the  
16 complaint.

17 (d) (1) If the Board makes the finding under subsection (c)(1) of this section  
18 for a violation that relates to the sanitary condition of a beauty salon or the sanitary  
19 practice of cosmetology, the Board shall provide the owner of the salon an opportunity  
20 to correct the alleged violation.

21 (2) If the owner fails to correct each alleged violation within 10 days of  
22 written notification of the violation by the Board, the Board shall act on the complaint  
23 as provided under § 5-523 of this subtitle.

24 (3) If the owner corrects each alleged violation within 10 days of notice,  
25 the Board shall:

- 26 (i) dismiss the complaint; and
- 27 (ii) provide the owner written notification of the dismissal.

28 5-610.

29 (A) FOLLOWING AN INSPECTION OF A BEAUTY SALON, IF A BOARD INSPECTOR  
30 DETERMINES THAT A LICENSEE OR PERMIT HOLDER HAS VIOLATED THIS TITLE OR A  
31 REGULATION ADOPTED BY THE BOARD, THE INSPECTOR MAY ISSUE A CITATION TO  
32 THE LICENSEE OR PERMIT HOLDER.

33 (B) A CITATION ISSUED BY A BOARD INSPECTOR SHALL BE IN WRITING AND  
34 SHALL STATE:

1 (1) A BRIEF DESCRIPTION OF EACH VIOLATION;

2 (2) THE AMOUNT OF A CIVIL PENALTY, AS PRESCRIBED BY REGULATION,  
3 FOR EACH VIOLATION; AND

4 (3) AS PROVIDED IN THIS SECTION:

5 (I) THE TIME WITHIN WHICH THE CIVIL PENALTY IS TO BE PAID;

6 (II) THE OPPORTUNITY TO CONTEST THE CITATION;

7 (III) THE FINALITY OF THE CITATION IF IT IS NOT CONTESTED; AND

8 (IV) THAT THE CIVIL PENALTY WILL BE DOUBLED IF NOT PAID OR  
9 CONTESTED WITHIN ~~30~~ 60 DAYS.

10 (C) THE CITATION SHALL BE SERVED ON THE LICENSEE OR PERMIT HOLDER  
11 ALLEGED TO HAVE COMMITTED THE VIOLATION BY:

12 (1) HAND-DELIVERY; OR

13 (2) CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE LICENSEE  
14 OR PERMIT HOLDER.

15 (D) SUBJECT TO SUBSECTIONS (E) AND (F) OF THIS SECTION:

16 (1) THE CIVIL PENALTY SET FORTH IN A CITATION SHALL BE PAID  
17 WITHIN ~~30~~ 60 DAYS OF ITS RECEIPT; AND

18 (2) THE FAILURE TO PAY THE CIVIL PENALTY WITHIN ~~30~~ 60 DAYS OF ITS  
19 RECEIPT SHALL RESULT IN THE AMOUNT OF THE CIVIL PENALTY BEING DOUBLED.

20 (E) A CITATION AND THE APPLICABLE CIVIL PENALTY SHALL BE CONSIDERED  
21 A FINAL ORDER OF THE BOARD UNLESS, WITHIN ~~30~~ 60 DAYS OF BEING SERVED WITH  
22 THE CITATION, THE LICENSEE OR PERMIT HOLDER NOTIFIES THE BOARD IN  
23 WRITING OF AN INTENT TO CONTEST THE CITATION.

24 (F) UPON THE RECEIPT OF A WRITTEN NOTICE OF A LICENSEE OR PERMIT  
25 HOLDER'S INTENT TO CONTEST A CITATION, THE BOARD SHALL HOLD A HEARING, IN  
26 ACCORDANCE WITH § 5-315 OR § 5-523 OF THIS TITLE, REGARDING THE CITED  
27 VIOLATIONS.

28 (G) (1) THE BOARD SHALL ESTABLISH BY REGULATION A SCHEDULE OF  
29 CIVIL PENALTIES FOR VIOLATIONS OF THIS TITLE AND REGULATIONS ADOPTED BY  
30 THE BOARD.

31 (2) THE CIVIL PENALTIES IMPOSED UNDER THIS SUBSECTION MAY NOT  
32 EXCEED \$300 FOR ALL VIOLATIONS CITED ON A SINGLE DAY.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
34 effect October 1, 2005.

