



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

Business Impact Analysis

Agency, Board, or Commission Name: Ohio State Cosmetology and Barber Board

Rule Contact Name and Contact Information:

Jared Yee, jared.yee@cos.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

4713-11

Rule Number(s): 4713-11-05, 4713-11-08, 4713-11-13, 4713-11-14

Date of Submission for CSI Review: 7-30-2021

Public Comment Period End Date: 8-16-2021

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

Amended/ 4 rules (FYR? ___)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

- 1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. Requires specific expenditures or the report of information as a condition of compliance.**
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

- 2. Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

4713-11-05 Restrooms. This rule addresses restroom requirements for licensed facilities. The rule is being amended to change a reference from hot and cold running water, to running water.

4713-11-08 Residential salons. The rule addresses the requirements of persons that establish salon businesses within a residential structure. The rule addresses the facility requirements, including separation of residential living quarters and separate restroom facilities. The rule establishes the application filing requirements and documentation needed to consider the license. The rule is being amended to change a reference from hot and cold running water, to running water.

4713-11-13 Temporary special occasions work permit. This rule addresses the processing of applications for non-resident providers to provide services in the state of Ohio under a temporary work permit. The amendment removes the citizenship requirement to receive the temporary license due to its redundancy with licensure requirements.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

4713-11-14 Mobile salons. This rule addresses standards and requirements that must be met to be considered for a salon license in a mobile unit. The rule is being amended to change the restroom requirements for mobile salons.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

4713-11-05 Restrooms. Sections 4709.05(E)(1), 4709.05(E)(6), 4713.08(A)(1), 4713.08(A)(15), and 4713.08(A)(2) of the Revised Code.

4713-11-08 Residential salons. Sections 4709.05(E)(1), 4709.05(E)(6), 4713.08(A)(1), 4713.08(A)(15), and 4713.08(A)(20) of the Revised Code.

4713-11-13 Temporary special occasion work permits. Section 4713.08 (A)(8).

4713-11-14 Mobile salons. 4709.05(E)(1), 4709.05(E)(6), 4713.08(A)(1), 4713.08(A)(12), 4713.08 (A)(15), and 4713.08(A)(20).

4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

No.

5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Chapter 4713-11 of the Administrative Code addresses the standards and requirements for persons opening and operating a salon or barbershop in a safe and sanitary manner. Without stipulated requirements and/or conditions in which the business can operate and effectively and safely provide customer service, the consumer will face inconsistent and potentially dangerous or unsafe conditions.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

The Board reviews compliance with these rules through the inspection process. Success will be determined by monitoring internal procedures to assure staff and records compliance in processing the application.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The agency sent an email to all licensed entities and persons. Also, the rules were sent to schools, local associations, and societies representing the branches of Cosmetology regulated by the Board.

- 10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

The Board did not receive any input from stakeholders for the rules in this package.

- 11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Scientific data was not used in the development of these rules. These amendments reflect only minor changes to the language of the rules, rather than substantive amendments.

- 12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

Rules created have been previously reviewed and updated to reflect current standards. Alternatives were not deemed necessary as the standards can be universally applied. The Board did not address any alternative regulations in this regard.

- 13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

No, not in the instance of these proposed amendments.

- 14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The rules proposed are authorized under Chapters 4709 and 4713 of the Revised Code and do not duplicate any other existing rules. The rules proposed do not appear in any other part of the Ohio Revised Code or Ohio Administrative Code.

15. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

These rules will be posted on the Board’s website and notification with detail will be sent to all regulated persons and businesses that may be impacted.

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community; and**
- b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**
- c. Quantify the expected adverse impact from the regulation.**

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

The original intent of proposing these rules is to streamline the regulatory requirements for businesses licensed under Chapters 4709 and 4713 of the Revised Code. In some instances, the existing rules represent duplicate standards or requirements contained in current rules under these chapters. In other instances, the rules represent new requirements for barber shops, but not salons. For example, while water supply and waste disposal may be very similar in both codes, the rule on mobile salons and mobile barber shops are different than the current rules in each relevant chapter. In most cases, these rules will not represent any adverse impact for business, because the standards for salons and barber shop are currently the same or very similar. In the case of the mobile salon and mobile barber shop, the cost is extremely variable and voluntary. Those that choose to consider a mobile salon or barber shop will know the standards and the choice of mobile vehicle, scale of the services, etc. will likely dictate the significance of the adverse impact. These amendments will alleviate any adverse impact against mobile barber shops and salons.

As it relates to 4713-11-13, There is a cost of compliance associated with this rule. Under this rule, applicants must submit a fee to obtain a temporary special occasion work permit, which is authorized under ORC 4713.37.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

As it relates to 4713-11-13, Fees associated with this rule are determined to be the only identified adverse impact of the rule. The fee is authorized under ORC 4713.37.

As it relates to the remaining rules in this package, These rules combine the standards and requirements to operate a cosmetology salon or barber shop into a single Chapter of the Administrative Code. In so doing, the standards are uniform and compliance expectations for all is equivalent. In addition, it should be noted that the addition of barber shops to the mobile salon rule significantly expands opportunities for barbers in operating a mobile business.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No, the rules in this packet do not differentiate among business and the regulations would apply equally. Most of the salons and barber shop licensed by the Board are small businesses. The minimal standards for opening and operating these businesses is necessary to protect the public who use them.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The Board uses a violation guidance document that is approved by the Board, taking into consideration the criticality and severity of a violation as it may relate to licensing or public safety. This guidance matrix, which is applied equally to all licensees, provides for warning notices for a number of first-time violations, including paperwork violations.

As it relates to 4713-11-13, There are no violations/fines associated with this rule. This is a procedural rule for the handling of applications for temporary special occasions work permits.

20. What resources are available to assist small businesses with compliance of the regulation?

There are no special resources required to comply with these rules.