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Final Regulation Agency Background Document

Agency name	Department for the Blind and Vision Impaired
Virginia Administrative Code (VAC) Chapter citation(s)	22 VAC <u>45-30</u>
VAC Chapter title(s)	Regulations Governing the Sale and Distribution of Goods and Articles Made by Blind Persons
Action title	22VAC45-30 Amendments
Date this document prepared	10-21-2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Department for the Blind and Vision Impaired (DBVI) seeks to amend 22VAC45-30, Regulations Governing the Sale and Distribution of Goods and Articles Made by Blind Persons, to correct the agency name and incorporate the use of people first language. Additionally, this action brings 22VAC45-30 into alignment with §§ 51.5-101 through 51.5-105 of the Code of Virginia

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DBVI" means Department for the Blind and Vision Impaired.

Statement of Final Agency Action

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.

The Department for the Blind and Vision Impaired is taking final action to amend 22VAC45-30, Regulations Governing the Sale and Distribution of Goods and Articles Made by Blind Persons, on October 21, 2021

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

Executive Order 14 (as amended, July 16, 2018) requires that executive branch agencies consider, review, and promulgate regulations annually. As part of the periodic review process, DBVI staff determined to amend 22VAC45-30 to reflect the accurate agency name, correct Code of Virginia citations from the repealed § 63.1-167 to §§ 51.5-101 through 51.5-105, and to bring the regulation into alignment with the relevant Code of Virginia sections.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

DBVI is the agency initiating this regulatory action. Statutory authority comes from § 51.5-65 of the Code of Virginia, which identifies the functions, duties, and powers of the Commissioner to adopt regulations to carry out the applicable provisions of the chapter.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

This regulation facilitates identification of goods and articles made by persons who are blind and organizations established to assist persons who are blind in the sale of goods or articles by providing a

means of authenticating the source of such goods and articles; the regulation prevents misrepresentation of these same persons.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulatory action updates the agency name, deletes references to repealed sections of the Code of Virginia, and aligns language in 22VAC45-30 with relevant sections of the Code of Virginia, including §§ 51.5-101 through 51.5-105.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

This regulatory action poses no disadvantages to the public or to the Commonwealth. DBVI considered repealing 22VAC45-30 because neither agency administration nor other agency staff have any recollection of the agency receiving applications for registration from persons who are blind to have goods or articles identified as made by persons who are blind in at least 20 years. However, because the statutory authority identified in §§ 51.5-101 through 51.5-105 of the Code of Virginia remain active, DBVI recognizes the advantage of amending 22VAC45-30 to reflect the relevant sections. This regulatory action clarifies the agency name and brings agency Administrative Code into alignment with the Code of Virginia which assures that citizens of the Commonwealth, government officials, and other members of the public do not experience confusion when seeking to understand the relevant Administrative Code and Code of Virginia sections requirements.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements associated with the regulatory change.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected

by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There are no other state agencies, localities, or other entities particularly affected by this regulatory change.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

The agency received no public comment on this action

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

No changes made to the text since the previous stage was published in the Virginia Register of Regulations.

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
22VAC45-30-10		It is the policy of the Commonwealth of Virginia through the Department for the Visually Handicapped to assist blind persons and organizations established to	Changes update the agency name, adds person first language, removes repealed Virginia Code citations, and adds current Virginia Code citations.

		aid blind persons in the sale of goods and articles which are the product of a blind craftsman's labor by providing a means of authenticating the source of such goods and articles and by preventing misrepresentation.	
22VAC45-30-20		Application for registration and permit required to manufacture, sell, or distribute goods or articles purported to be made by blind people.	Changes remove references to a permit; DBVI does not provide or require a permit. Adds people first language. Updates agency name.
22VAC45-30-30		Section outlines the application requirements for applicants seeking to manufacture, sell, or distribute "blind-made" products and the proposed sale price of each such item.	Edits language for clarity, removes reference to forms that do not exist, adds people first language, adds Code of Virginia reference regarding the definition of a "blind person", and details that persons who are blind shall perform at least 75% of the labor to produce the products.
22VAC45-30-40		No organization representing itself as established for the purpose of selling "blind-made" products exclusively shall carry in stock or sell any merchandise which is	Edits section to include people first language, clarify that 75% of the direct labor making the product must be persons who are blind, corrects COV citations, remove the word permits (because DBVI does not provide

		not made by blind persons and so identified.	permits), and replace the word “revalidated” to “registered”. Statutory Authority
22VAC34-30-50		No goods or articles made in this Commonwealth or elsewhere may be displayed, advertised, offered for sale, or sold in this Commonwealth upon the representation that the same are made by blind persons unless such goods or articles are identified as such by a label or symbol prescribed or approved by the department.	Edits grammar and adds relevant COV sections.
22VAC45-30-60		Registration and permits are valid for one year only but may be renewed upon application in writing not less than 60 days prior to expiration.	Edits section to include removal of permits, updates of COV citations, and revisions of language for clarification.
22VAC45-30-70		Suspension of registration or permit.	Edits to include updating COV citations, remove reference to permits, and revises language for clarification.
22VAC34-30-80		Use of permit for the purpose of soliciting money prohibited.	Edits section to improve grammar, remove references to permits, and update COV citations.

22VAC45-30-90		Outlines grounds upon which the department may deny registration or permit.	Edits section to improve grammar, remove references to permits, add relevant COV citations, and incorporates people first language.
22VAC45-30-100		There shall be written on the face of every permit issued to a business organization essentially engaged in profit making "This is a profit making enterprise."	Edits section to improve grammar, remove reference to permits, adds reference to registration issued by the department, and adds relevant COV citation.
22VAC45-30-100		Designates to whom the chapter applies.	Edits remove outdated language and agency practice. Removes reference to repealed section of the COV and replaces with relevant COV section.