

**REPORT OF THE
BOARD FOR PROFESSIONAL AND
OCCUPATIONAL REGULATION ON**

**REPORT ON THE NEED FOR CERTIFICATION OF
CARPENTERS AND MASONS**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation

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December 1, 1995

TO: The Honorable George Allen, Governor of Virginia
Members of the Virginia General Assembly

The Board for Professional and Occupational Regulation is pleased to submit the following report pursuant to Senate Joint Resolution 321 which requested the Board to study the feasibility of including carpenters and masons in the Tradesman Certification Program.

The Board determined that the current contractor licensing structure provides the necessary public protection and that additional government requirements are unnecessary.

The enclosed report outlines the Board's findings and conclusions and the supporting data. Members of the Board for Professional and Occupational Regulation would be pleased to answer any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald E. Sours, Sr.", written over a horizontal line.

Donald E. Sours, Sr.
Chairman of the Board for Professional and
Occupational Regulation

*Board for Professional and
Occupational Regulation*

**Report on the Need for
Certification of
Carpenters and Masons**

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Board for Professional and Occupational Regulation

Report on the Need for Certification of Carpenters and Masons

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I. INTRODUCTION

A. Authority for the Study

The Board for Professional and Occupational Regulation has the statutory authority to evaluate the need for regulation of occupations and making recommendations to the Governor and members of the General Assembly.

Section 54.1-100 of the Code of Virginia (1950, as amended) states that:

No regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or endanger the health, safety, or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;
2. The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work and labor;
3. The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and
4. The public is not effectively protected by other means.

B. Purpose of Report

Senate Joint Resolution 321, as approved by the 1995 session of the Virginia General Assembly, requested the Board for Professional and Occupational Regulation to study the feasibility of including carpenters and masons in the Tradesman Certification Program. The Board, by means of public hearings and surveys to involved and interested parties, studied the nature of

these occupations, their effect on public health, safety and welfare, and the feasibility of including them in the Tradesman Certification Program. The Board's findings, conclusions and recommendations are based on an analysis of the information gathered. In accordance with the study resolution the Board is hereby submitting its findings and recommendations to the Governor and the 1996 Session of the General Assembly. (See APPENDIX A for a copy of Senate Joint Resolution 321.)

II. FINDINGS

A. Public Protection

There was no evidence presented to the Board that the unlicensed activity of carpenters or masons is a threat to public health, safety or welfare. In the construction industry, the general contractor or subcontractor who is required to be licensed when doing any work in excess of \$1,500 is and has been responsible for the workmanship of his carpenters and masons. The work of carpenters and masons is subject to supervision and inspection by the construction manager, the building inspector, the architect, the structural engineer and finally the general contractor who is ultimately responsible for the accuracy and compliance of their work with the building plans and specifications. This current system allows for responsibility to rest with the larger entity, the licensed contractor, and if substandard work is performed, the consumer has recourse.

The Board questioned whether there was a consumer outcry or perception among consumers that carpenters and masons should be regulated. No evidence of such consumer concern was presented to the Board. In addition, the patron of the study resolution noted in his public hearing testimony that the impetus for introducing the resolution was from constituents who questioned why these occupations were not regulated. Only one of these constituents voiced specific concerns regarding the quality of workmanship.

B. Trade Union Support

The primary support for certification of carpenters and masons came from the occupations' unions. Testimony provided at the public hearings by union representatives focused on the need to give an increased aura of

professionalism to these trades, thus making them more attractive to young people choosing a career. Union representatives spoke of the need to give these trades the recognition they deserve for the knowledge, skill and art involved. While the Board recognizes these valid arguments in terms of the relationship of these occupations to society, the Board's purview is to deal with regulation as a means of protecting the health, safety, and welfare of the public.

Trade union representatives posited that homeowners are paying for their home and they expect the carpentry and masonry work to last. While the law states that regulation of an occupation may be necessary to provide the public with assurances of initial and continuing occupational ability, the Board finds that such assurance exists for projects of \$1,500 or more where a contractor must be licensed by the Virginia Board for Contractors.

C. Training Programs

Proponents of certification argue that state certification promotes more education and training opportunities. However, the Virginia Department of Labor and Training, in conjunction with businesses and vocational schools throughout the state, currently offers journeyman certificates for carpenters and masons. Opportunities are also available through the trade unions' apprenticeship programs. It appears, therefore, that adequate training programs are available to provide the industry with a skilled work force.

D. Impact on the Housing Industry

Many of the home builders, developers and masonry contractors participating in this study perceived a certification program for carpenters and masons as unnecessary government regulation in their business. Testimony at the public hearings and written comments received urged the Board to consider how additional regulation increases the cost of doing business and how such costs would affect affordable housing for Virginia's consumers.

The residential construction industry has also changed significantly in the past twenty-five years. While residential building once consisted of brick construction, block foundations and masonry fireplaces, the industry now sees considerably more poured concrete basements and foundations, aluminum or

vinyl siding, and prefabricated fireplaces. Whether the cost of masonry or the lack of skilled masons has contributed to this trend, representatives of the masonry industry expressed concern that there are fewer and fewer masons and that state imposed entry requirements could further such shortages.

E. Difficulty in Defining the Occupations

Given the different types of work that can be defined as carpentry and masonry, it is difficult to develop estimates on the number of carpenters and masons in the Commonwealth. In order for a regulatory program to comply with the provisions of Virginia Code Section 54.1-201, the licensing fees must cover the full expenses of the program plus a proportionate share of the Department's expenses. This is accomplished by assessing each program participant a license fee. It is difficult to develop an estimated licensing fee without reliable data on the number of potential licensees.

Further, these varying degrees of work would make it difficult to establish competency requirements for state certification of the occupations.

F. Surveys Present No Overwhelming Support for Regulation

The Board identified forty-eight trade associations representing contractors or industry groups affected by licensing requirements for contractors in Virginia. Twenty-four completed surveys were returned and ninety-two percent indicated that their association had never taken a position on increased government regulation of carpenters; eighty-eight percent had never taken a position that there should be increased government regulation of masons/bricklayers.

Consumer complaints filed with the Consumer Affairs Offices and the Better Business Bureaus throughout the Commonwealth did not show an overwhelming need for regulation of these occupations. Three of the eight agencies responding to the survey had received fewer than ten complaints against masons in the past year. Likewise, three of the eight agencies had received fewer than ten complaints against carpenters in the past year. This is a low number of complaints when compared to the several thousand complaints these consumer agencies receive each year.

Finally, the Board was unable to establish any national trend toward regulation of carpenters and masons. In a survey of the forty-nine other states, thirty-two states responded. Of this response, seventy-eight percent (twenty-five) of those states did not have specific regulatory requirements for masons or carpenters. The neighboring states of Maryland, West Virginia and North Carolina do not have specific regulatory requirements for carpenters or masons.

Section V. of this report, "Supporting Data," provides a summary of all public hearing testimony, written comments and these survey results.

III. CONCLUSIONS

1. The Board finds no evidence of carpenters or masons posing a threat to public health, safety or welfare. State certification of an occupation should not be used as a means of protecting or enhancing that occupation. State regulation should only be imposed to protect the public. Lacking any public harm, the Board sees no reason for state government to intervene.

2. Virginia Code Section 54.1-100.4 states that no regulation shall be imposed upon any profession or occupation unless the public is not effectively protected by other means. The Board believes that the current contractor licensing structure provides that means of protection. When there are problems with work performed by carpenters and masons, the responsibility rests with the licensed contractor. The creation of additional requirements is simply unnecessary.

IV. RECOMMENDATION

The Board for Professional and Occupational Regulation strongly recommends that the General Assembly not include carpenters and masons in the Tradesman Certification Program.

V. SUPPORTING DATA

A. Public Hearings

Due to the high direct and indirect costs inherent in establishing any new or expanded level of occupational regulation, the Board for Professional and Occupational Regulation believed it was necessary to elicit public opinion relating to the need for a licensing program. This was achieved through public hearings and surveys.

The Board for Professional and Occupational Regulation conducted three public hearings to gather information about the nature of these occupations and opinions on the need for state regulation. The following is a summary of these public hearings.

Fredericksburg Public Hearing, June 12, 1995

Speakers including representatives from the Virginia Home Builders Association and area masonry firms argued that certification is unnecessary, costly and would not benefit the public. Union representatives for carpenters and masons spoke of the need to give credibility to the trades and argued that certification would mean better qualified tradesmen. One building inspector also supported certification as a means of ensuring that carpenters and masons have passed an examination on the building code requirements.

Roanoke Public Hearing, July 13, 1995

Representatives from the Roanoke Valley Masonry Contractors Association as well as the Roanoke Regional Home Builders Association expressed opposition to further regulation. The organizations argued that the responsibility should rest with the licensed contractor and questioned whether certification would add to the existing shortage of workmen in these trades. The International Union of Bricklayers and Allied Craftsmen representatives supported certification as a means of increasing public safety and strengthening the value and dignity of bricklaying craftsmanship.

Norfolk Public Hearing, July 19, 1995

A representative of the Carpenters Union Local #613 and a representative of the Bricklayers Union #1 urged the Board to support certification because there are many poorly trained carpenters and masons performing all kinds of work which could be harmful to the public. A representative of a masonry firm strongly supported the Right To Work law in Virginia and questioned the enforceability, grandfathering provisions and cost of a certification program for these trades.

B. Written Comments

The public was encouraged to submit written comments in lieu of or in addition to public testimony.

The Board received thirty-two written comments of which only two were in favor of including carpenters and masons in the Tradesman Certification Program. Letters of opposition were received from many carpenters and masons as well as trade associations such as the Virginia Manufacturers Association, the Virginia Road and Transportation Builders Association, the Better Business Bureau of Central Virginia, Roanoke Regional Home Builders Association, the Home Builders Association of Virginia, and the Associated General Contractors of Virginia, Inc.

The masons who contacted the Board stated that a mason is either a contractor or works for a contractor who is already licensed by the state and that additional regulation would be too costly.

In summary, the comments received at the public hearings and via mail and facsimile were overwhelmingly opposed to additional regulation by way of certification.

C. Surveys

Survey of Contractor Trade Associations

The Board for Professional and Occupational Regulation identified forty-eight associations representing contractors or industry groups affected by licensing requirements for contractors in Virginia. Twenty-five completed surveys were returned. The following summarizes the responses:

1. Should carpenters be included in the Tradesman Certification Program which would require formal education, passage of an examination and an annual state license renewal fee?

32.0%	8	Yes
24.0%	6	Uncertain
40.0%	10	No
4.0%	1	No answer

2. Should masons/bricklayers be included in the Tradesman Certification Program which would require formal education, an examination and an annual state license renewal fee?

32.0%	8	Yes
20.0%	5	Uncertain
48.0%	12	No

3. Do you think the current licensing structure for Class A, B and C contractors adequately protects the public?

56.0%	14	Yes
16.0%	4	Uncertain
28.0%	7	No

4. Has your association ever taken a position that there should be increased government regulation of carpenters?

0.0%	0	Yes
8.0%	2	Uncertain
92.0%	23	No

5. Has your association ever taken a position that there should be increased government regulation of masons/bricklayers?

4.0%	1	Yes
8.0%	2	Uncertain
88.0%	22	No

6. Would entry requirement fees and annual renewal fees deter carpenters from entering the marketplace?

36.0%	9	Yes
40.0%	10	Uncertain
24.0%	6	No

7. Would entry requirement fees and annual renewal fees deter masons/bricklayers from entering the marketplace?

44.0%	11	Yes
32.0%	8	Uncertain
24.0%	6	No

Survey of Consumer Affairs and Better Business Bureaus

Seven Consumer Affairs Offices and four Better Business Bureaus in Virginia received surveys requesting information about consumer complaints filed against carpenters and masons. The following represents the data received from the five Consumer Affairs Offices which responded to the survey.

1. Has your agency received complaints filed against carpenters as individuals or as a group?

40.0%	2	Yes
20.0%	1	Uncertain
40.0%	2	No

2. How many complaints were filed against carpenters in the past year?

40.0%	2	None
20.0%	1	1 - 10 complaints
20.0%	1	More than 20 complaints
20.0%	1	No answer

3. Has your agency received complaints filed against masons/bricklayers as individuals or as a group?

40.0%	2	Yes
20.0%	1	Uncertain
40.0%	2	No

4. How many complaints against masons/bricklayers were filed in the past year?

40.0%	2	None
40.0%	2	1- 10 complaints
20.0%	1	No answer

5. Do you think a state certification program similar to that required for electricians should be required for carpenters?

40.0%	2	Yes
20.0%	2	No
20.0%	1	Uncertain

6. Do you think a state certification program similar to that required for electricians should be required for masons/bricklayers?

20.0%	1	Yes
40.0%	2	Uncertain
40.0%	2	No

The following represents the responses received from three Virginia Better Business Bureaus.

1. Has your agency received complaints filed against carpenters as individuals or as a group?

33.1%	1	Yes
33.1%	1	Uncertain
33.1%	1	No

2. How many complaints were filed against carpenters in the past year?

33.1%	1	None
33.1%	1	1 - 10 complaints
33.1%	1	No Answer

3. Has your agency received complaints filed against masons/bricklayers as individuals or as a group?

66.7%	2	Yes
33.3%	1	Uncertain
0.0%	0	No

4. *How many complaints against masons/bricklayers were filed in the past year?*

33.1%	1	1 - 10
33.3%	1	1 - 11
33.3%	1	No Answer

5. *Do you think a state certification program similar to that required for electricians should be required for carpenters?*

33.1%	1	Yes
66.7%	2	No
0.0%	0	Uncertain

6. *Do you think a state certification program similar to that required for electricians should be required for masons/bricklayers?*

66.7%	2	Yes
33.1%	1	No
0.0%	0	Uncertain

Survey of Other States

Section 54.1-311.B of the Code of Virginia states that in determining the proper degree of regulation, if any, the Board should consider several factors including the number of states which have regulatory provisions similar to those proposed. The Board surveyed the forty-nine other states and the following information was received.

1. States Responding:

Indiana, Massachusetts, South Carolina, Connecticut, Rhode Island, Nevada, Louisiana, Minnesota, Oregon, Hawaii, Arkansas, Ohio, Utah, Colorado, Arizona, Oklahoma, Texas, South Dakota, North Dakota, Michigan, Mississippi, North Carolina, Maine, Nebraska, Maryland, Georgia, Vermont, Tennessee, New Mexico, New Hampshire, West Virginia, Wisconsin.

2. Does your state currently have specific regulatory requirements (similar to those for electricians) for masons and/or bricklayers?

21.9% 7 Yes
78.1% 25 No

3. If yes, which of the following best describes such requirements?

21.4% 6 Licensure
0.0% 0 Certification
0.0% 0 Registration
3.1% 1 Other
78.1% 25 No Answer

4. If yes to #2, approximately how many masons and/or bricklayers are regulated by your state's program?

Massachusetts - 60,000 licensees
Nevada - 185 licensees
Arizona - 447 licensees
Michigan - 498 licensees
Minnesota - not available
South Carolina - not available
Wisconsin - expecting 20,000 licensees

5. If yes, what is the initial and annual fee for a mason/bricklayer?

Massachusetts - \$150.00 initial; \$150.00 renewal
Nevada - \$335.00 initial; \$150.00 renewal
Arizona - \$400.00 initial; \$270.00 renewal
Michigan - \$95.00 initial; \$60.00 renewal
Minnesota - not available
South Carolina - \$110.00 initial
Wisconsin - \$40.00 initial; \$30.00 renewal

6. Does your state currently have specific regulatory requirements (similar to those for electricians) for carpenters?

21.9% 7 Yes
78.1% 25 No

7. *If yes, which of the following best describes such requirements?*

18.8%	6	Licensure
3.1%	1	Other
78.1%	25	No Answer

8. *If yes to #6, approximately how many carpenters are regulated by your state?*

Massachusetts - 19,000 licensees

Nevada - 830 licensees

Minnesota - 7,300 licensees

Arizona - 522 licensees

Michigan - 1008 licensees

South Carolina - not available

Wisconsin - not available

9. *If yes to #6, what is the initial and annual fee for carpenters?*

Massachusetts - \$100.00 initial; renewal not available

Nevada - \$335.00 initial; \$150.00 renewal

Minnesota - \$75.00 initial plus recovery fund fee based on gross receipts

Arizona - \$400.00 initial; \$270.00 renewal

Michigan - \$95.00 initial; \$60.00 biennial renewal

South Carolina - \$20.00 initial; renewal not available

Wisconsin - \$40.00 initial; \$30.00 renewal

SENATE JOINT RESOLUTION NO. 321

Requesting that the Department of Professional and Occupational Regulation study the feasibility of including carpenters and masons in the Tradesmen Certification Program.

Agreed to by the Senate, February 23, 1995

Agreed to by the House of Delegates, February 22, 1995

WHEREAS, the Tradesmen Certification Program was created by Chapter 895 of the 1994 Acts of Assembly (House Bill 472); and

WHEREAS, the Department of Professional and Occupational Regulation (DPOR) administers the Tradesmen Certification Program pursuant to § 54.1-1128 et seq. of the Code of Virginia; and

WHEREAS, a "tradesman" is defined as a person who works in the electrical, plumbing and heating, ventilation and air-conditioning trades; and

WHEREAS, carpenters and masons were not included in the Tradesmen Certification Program as the legislation worked its way through the legislative process in 1994; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Professional and Occupational Regulation study the feasibility of including carpenters and masons in the Tradesmen Certification Program.

The Department of Professional and Occupational Regulation shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

