

By: West

H.B. No. 1403

Substitute the following for H.B. No. 1403:

By: Cook of Colorado

C.S.H.B. No. 1403

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of barbers and cosmetologists by the
3 Texas Commission on Barbering and Cosmetology and the abolition of
4 the State Board of Barber Examiners and the Texas Cosmetology
5 Commission.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Title 9, Occupations Code, is amended by adding
8 Chapter 1603 to read as follows:

9 CHAPTER 1603. TEXAS COMMISSION ON BARBERING AND COSMETOLOGY

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 1603.001. GENERAL DEFINITIONS. In this chapter:

12 (1) "Commission" means the Texas Commission on
13 Barbering and Cosmetology.

14 (2) "Executive director" means the executive director
15 of the commission.

16 Sec. 1603.002. APPLICATION OF SUNSET ACT. The Texas
17 Commission on Barbering and Cosmetology is subject to Chapter 325,
18 Government Code (Texas Sunset Act). Unless continued in existence
19 as provided by that chapter, the commission is abolished and this
20 chapter, Chapter 1601, and Chapter 1602 expire September 1, 2015.

21 [Sections 1603.003-1603.050 reserved for expansion]

22 SUBCHAPTER B. TEXAS COMMISSION ON BARBERING AND COSMETOLOGY

23 Sec. 1603.051. COMMISSION; MEMBERSHIP. (a) The Texas
24 Commission on Barbering and Cosmetology consists of nine members

1 appointed by the governor as follows:

2 (1) three members who hold licenses issued under
3 Chapter 1601, one of whom must hold a Class A barber license, one of
4 whom must own a barbershop, and one of whom must own a barber
5 school;

6 (2) three members who hold licenses issued under
7 Chapter 1602, one of whom must hold an operator license, one of whom
8 must own a beauty or specialty shop, and one of whom must own a
9 private beauty culture school; and

10 (3) three public members.

11 (b) For the purposes of Section 1603.154 only, the executive
12 director of the Texas Workforce Commission or that official's
13 designee is an ex officio member of the commission with voting
14 privileges.

15 (c) Appointments to the commission shall be made without
16 regard to the race, color, disability, sex, religion, age, or
17 national origin of the appointees.

18 Sec. 1603.052. PUBLIC MEMBER ELIGIBILITY. A person may not
19 be a public member of the commission if the person or the person's
20 spouse:

21 (1) is registered, certified, or licensed by a
22 regulatory agency in the field of barbering or cosmetology;

23 (2) is employed by or participates in the management
24 of a business entity or other organization regulated by or
25 receiving money from the commission;

26 (3) owns or controls, directly or indirectly, more
27 than a 10 percent interest in a business entity or other

1 organization regulated by or receiving money from the commission;
2 or

3 (4) uses or receives a substantial amount of tangible
4 goods, services, or money from the commission, other than
5 compensation or reimbursement authorized by law for commission
6 membership, attendance, or expenses.

7 Sec. 1603.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)

8 In this section, "Texas trade association" means a cooperative and
9 voluntarily joined association of business or professional
10 competitors in this state designed to assist its members and its
11 industry or profession in dealing with mutual business or
12 professional problems and in promoting their common interest.

13 (b) A person may not be a member of the commission and may
14 not be a commission employee employed in a "bona fide executive,
15 administrative, or professional capacity," as that phrase is used
16 for purposes of establishing an exemption to the overtime
17 provisions of the federal Fair Labor Standards Act of 1938 (29
18 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

19 (1) the person is an officer, employee, or paid
20 consultant of a Texas trade association in the field of barbering or
21 cosmetology; or

22 (2) the person's spouse is an officer, manager, or paid
23 consultant of a Texas trade association in the field of barbering or
24 cosmetology.

25 (c) A person may not be a member of the commission or act as
26 the general counsel to the commission if the person is required to
27 register as a lobbyist under Chapter 305, Government Code, because

1 of the person's activities for compensation on behalf of a
2 profession related to the operation of the commission.

3 Sec. 1603.054. TERMS; VACANCY. (a) Commission members
4 serve staggered six-year terms, with the terms of three members
5 expiring on February 1 of each odd-numbered year.

6 (b) If a vacancy occurs during a member's term, the governor
7 shall appoint a replacement to fill the unexpired term.

8 Sec. 1603.055. GROUNDS FOR REMOVAL. (a) It is a ground for
9 removal from the commission that a member:

10 (1) does not have at the time of taking office the
11 qualifications required by Section 1603.051;

12 (2) does not maintain during service on the commission
13 the qualifications required by Section 1603.051;

14 (3) is ineligible for membership under Section
15 1603.052 or 1603.053;

16 (4) cannot, because of illness or disability,
17 discharge the member's duties for a substantial part of the member's
18 term; or

19 (5) is absent from more than half of the regularly
20 scheduled commission meetings that the member is eligible to attend
21 during a calendar year without an excuse approved by a majority
22 vote of the commission.

23 (b) The validity of an action of the commission is not
24 affected by the fact that it is taken when a ground for removal of a
25 commission member exists.

26 (c) If the executive director has knowledge that a potential
27 ground for removal exists, the executive director shall notify the

1 presiding officer of the commission of the potential ground. The
2 presiding officer shall then notify the governor and the attorney
3 general that a potential ground for removal exists. If the
4 potential ground for removal involves the presiding officer, the
5 executive director shall notify the next highest ranking officer of
6 the commission, who shall then notify the governor and the attorney
7 general that a potential ground for removal exists.

8 Sec. 1603.056. PRESIDING OFFICER. The governor shall
9 designate a member of the commission as the presiding officer of the
10 commission to serve in that capacity at the will of the governor.

11 Sec. 1603.057. COMMISSION MEMBER TRAINING. (a) A person
12 who is appointed to and qualifies for office as a member of the
13 commission may not vote, deliberate, or be counted as a member in
14 attendance at a meeting of the commission until the person
15 completes a training program that complies with this section.

16 (b) The training program must provide the person with
17 information regarding:

18 (1) this chapter and Chapters 1601 and 1602;
19 (2) the programs operated by the commission;
20 (3) the role and functions of the commission;
21 (4) the rules of the commission, with an emphasis on
22 the rules that relate to disciplinary and investigatory authority;

23 (5) the current budget for the commission;
24 (6) the results of the most recent formal audit of the
25 commission;

26 (7) the requirements of:
27 (A) the open meetings law, Chapter 551,

1 Government Code;

2 (B) the public information law, Chapter 552,

3 Government Code;

4 (C) the administrative procedure law, Chapter

5 2001, Government Code; and

6 (D) other laws relating to public officials,
7 including conflict-of-interest laws; and

8 (8) any applicable ethics policies adopted by the
9 commission or the Texas Ethics Commission.

10 (c) A person appointed to the commission is entitled to
11 reimbursement, as provided by the General Appropriations Act, for
12 the travel expenses incurred in attending the training program
13 regardless of whether the attendance at the program occurs before
14 or after the person qualifies for office.

15 [Sections 1603.058-1603.100 reserved for expansion]

16 SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL

17 Sec. 1603.101. EXECUTIVE DIRECTOR AND OTHER PERSONNEL. (a)
18 The commission may employ an executive director.

19 (b) The executive director may hire other personnel as
20 necessary to implement this chapter.

21 Sec. 1603.102. DIVISION OF RESPONSIBILITIES. The
22 commission shall develop and implement policies that clearly
23 separate the policy-making responsibilities of the commission and
24 the management responsibilities of the executive director and staff
25 of the commission.

26 Sec. 1603.103. QUALIFICATIONS AND STANDARDS OF CONDUCT
27 INFORMATION. The executive director or the executive director's

1 designee shall provide to members of the commission and to agency
2 employees, as often as necessary, information regarding the
3 requirements for office or employment under this chapter, including
4 information regarding a person's responsibilities under applicable
5 laws relating to standards of conduct for state officers or
6 employees.

7 Sec. 1603.104. EQUAL EMPLOYMENT OPPORTUNITY POLICY;
8 REPORT. (a) The executive director or the executive director's
9 designee shall prepare and maintain a written policy statement that
10 implements a program of equal employment opportunity to ensure that
11 all personnel decisions are made without regard to race, color,
12 disability, sex, religion, age, or national origin.

13 (b) The policy statement must include:

14 (1) personnel policies, including policies relating
15 to recruitment, evaluation, selection, training, and promotion of
16 personnel, that show the intent of the commission to avoid the
17 unlawful employment practices described by Chapter 21, Labor Code;
18 and

19 (2) an analysis of the extent to which the composition
20 of the commission's personnel is in accordance with state and
21 federal law and a description of reasonable methods to achieve
22 compliance with state and federal law.

23 (c) The policy statement must:

24 (1) be updated annually;

25 (2) be reviewed by the Commission on Human Rights for
26 compliance with Subsection (b)(1); and

27 (3) be filed with the governor's office.

1 Sec. 1603.105. TRAINING FOR EMPLOYEES ON STATE INCENTIVE
2 PROGRAM. The executive director or the executive director's
3 designee shall provide to agency employees information and training
4 on the benefits and methods of participation in the state employee
5 incentive program under Subchapter B, Chapter 2108, Government
6 Code.

7 [Sections 1603.106-1603.150 reserved for expansion]

8 SUBCHAPTER D. COMMISSION POWERS AND DUTIES

9 Sec. 1603.151. RULES. The commission shall adopt rules
10 consistent with this chapter for:

11 (1) the administration of this chapter and the
12 operation of the commission;

13 (2) the administration of Chapter 1601; and

14 (3) the administration of Chapter 1602.

15 Sec. 1603.152. FEES. The commission shall adopt
16 application, examination, licensing, and renewal fees in amounts
17 that are reasonable and necessary to provide sufficient revenue to
18 cover the costs of administering the programs under the authority
19 of the commission. The fees set by the commission may be adjusted
20 so that the total fees collected are sufficient to meet the expenses
21 of administering the commission's responsibilities.

22 Sec. 1603.153. BARBERS. (a) In administering Chapter 1601,
23 only the public members, the ex officio member, and the three
24 members appointed under Section 1603.051(a)(1) may adopt rules or
25 participate in disciplinary proceedings under this chapter.

26 (b) The presence of four of those members is required for a
27 quorum under this section.

1 Sec. 1603.154. COSMETOLOGISTS. (a) In administering
2 Chapter 1602, only the public members, the ex officio member, and
3 the three members appointed under Section 1603.051(a)(2) may adopt
4 rules or participate in disciplinary proceedings under this
5 chapter.

6 (b) The presence of four of those members is required for a
7 quorum under this section.

8 [Sections 1603.155-1603.200 reserved for expansion]

9 SUBCHAPTER E. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

10 Sec. 1603.201. PUBLIC PARTICIPATION. The commission shall
11 develop and implement policies that provide the public with a
12 reasonable opportunity to appear before the commission and to speak
13 on any issue under the jurisdiction of the commission.

14 Sec. 1603.202. COMPLAINTS. (a) The commission shall
15 maintain a file on each written complaint filed with the
16 commission. The file must include:

17 (1) the name of the person who filed the complaint;

18 (2) the date the complaint is received by the
19 commission;

20 (3) the subject matter of the complaint;

21 (4) the name of each person contacted in relation to
22 the complaint;

23 (5) a summary of the results of the review or
24 investigation of the complaint; and

25 (6) an explanation of the reason the file was closed,
26 if the commission closed the file without taking action other than
27 to investigate the complaint.

1 (b) The commission shall provide to the person filing the
2 complaint and to each person who is a subject of the complaint a
3 copy of the commission's policies and procedures relating to
4 complaint investigation and resolution.

5 (c) The commission, at least quarterly until final
6 disposition of the complaint, shall notify the person filing the
7 complaint and each person who is a subject of the complaint of the
8 status of the investigation unless the notice would jeopardize an
9 undercover investigation.

10 SECTION 2. Sections 1601.001(a)(3), (4), (5), and (8),
11 Occupations Code, are amended to read as follows:

12 (3) "Commission" ["Board"] means the Texas Commission
13 on Barbering and Cosmetology [State Board of Barber Examiners].

14 (4) "Certificate" means a certificate of registration
15 issued by the commission under this chapter [~~board~~].

16 (5) "License" means a license issued by the commission
17 under this chapter [~~board~~].

18 (8) "Permit" means a permit issued by the commission
19 under this chapter [~~board~~].

20 SECTION 3. Section 1601.003, Occupations Code, is amended
21 to read as follows:

22 Sec. 1601.003. APPLICATION OF CHAPTER. This chapter does
23 not apply to a person who:

24 (1) does not represent or advertise to the public
25 directly or indirectly that the person is authorized by the
26 commission [~~board~~] to practice barbering; and

27 (2) is:

1 (A) a physician or registered nurse licensed in
2 this state and operating within the scope of the person's license;

3 (B) a commissioned or authorized medical or
4 surgical officer of the United States armed forces;

5 (C) a person regulated under Chapter 1602, if the
6 person practices within the scope of a license or certificate
7 issued by the commission under that chapter [~~Texas Cosmetology~~
8 ~~Commission~~]; or

9 (D) an inmate in the institutional division of
10 the Texas Department of Criminal Justice who performs barbering
11 during the person's incarceration.

12 SECTION 4. Section 1601.151, Occupations Code, is amended
13 to read as follows:

14 Sec. 1601.151. GENERAL POWERS AND DUTIES OF COMMISSION
15 [~~BOARD~~]. (a) The commission [~~board~~] shall maintain an office in
16 Austin.

17 (b) The commission [~~board~~] shall adopt rules for the
18 transaction of the commission's [~~board's~~] business.

19 (c) The commission [~~board~~] shall adopt a seal for the
20 authentication of its orders, certificates, and records.

21 (d) The commission [~~board~~] may:

22 (1) adopt and enforce all rules necessary for the
23 performance of its duties under this chapter;

24 (2) establish standards of conduct and ethics for
25 persons practicing under this chapter; and

26 (3) regulate any area of the practice or teaching of
27 barbering to implement the purposes and intent of this chapter, or

1 to ensure strict compliance with and enforcement of this chapter.

2 (e) The commission [~~board~~] by rule may define any term
3 necessary to administer or enforce this chapter.

4 SECTION 5. Section 1601.152, Occupations Code, is amended
5 to read as follows:

6 Sec. 1601.152. SANITATION RULES. (a) The commission
7 [~~board~~] shall adopt reasonable rules on sanitation for the
8 operation of barbershops, specialty shops, and barber schools.

9 (b) The executive director of the commission [~~board~~] shall
10 send a copy of the rules to each barber, barber school, or license
11 holder.

12 SECTION 6. Section 1601.153, Occupations Code, is amended
13 to read as follows:

14 Sec. 1601.153. RULES RESTRICTING ADVERTISING OR
15 COMPETITIVE BIDDING. (a) The commission [~~board~~] may not adopt
16 rules restricting advertising or competitive bidding by a person
17 regulated by the commission under this chapter [~~board~~] except to
18 prohibit false, misleading, or deceptive practices by that person.

19 (b) The commission [~~board~~] may not include in its rules to
20 prohibit false, misleading, or deceptive practices by a person
21 regulated by the commission under this chapter [~~board~~] a rule that:

- 22 (1) restricts the use of any advertising medium;
- 23 (2) restricts the person's personal appearance or the
24 use of the person's voice in an advertisement;
- 25 (3) relates to the size or duration of an
26 advertisement by the person; or
- 27 (4) restricts the use of a trade name in advertising by

1 the person.

2 SECTION 7. Section 1601.154, Occupations Code, is amended
3 to read as follows:

4 Sec. 1601.154. INSPECTION BY COMMISSION [~~BOARD~~]. (a) The
5 commission [~~board~~] may enter and inspect at any time during
6 business hours:

7 (1) any barbershop, specialty shop, or barber school;
8 or

9 (2) any place in which the commission [~~board~~] has
10 probable cause to believe that any certificate, license, or permit
11 holder is practicing illegally.

12 (b) The commission [~~board~~] may inspect the premises of a
13 certificate, license, or permit holder to investigate a complaint
14 at any time during business hours on receipt of a formal written
15 complaint that a person holding a certificate, license, or permit
16 has violated this chapter.

17 SECTION 8. Section 1601.155, Occupations Code, is amended
18 to read as follows:

19 Sec. 1601.155. AUTHORITY TO SET FEES. The commission
20 [~~board~~] by rule shall set fees required by this chapter in amounts
21 necessary to cover the costs of administering the programs to which
22 the fees relate.

23 SECTION 9. Section 1601.156, Occupations Code, is amended
24 to read as follows:

25 Sec. 1601.156. COMMISSION [~~BOARD~~] RECORDS. (a) The
26 commission [~~board~~] shall keep a record of its proceedings relating
27 to the issuance, refusal, renewal, suspension, and revocation of

1 certificates, licenses, or permits.

2 (b) The commission [~~board~~] shall include in the record the
3 name, residence address, and business address of each Class A
4 barber and license or permit holder and the date and number of the
5 certificate, license, or permit.

6 (c) The record is open to public inspection at all
7 reasonable times.

8 SECTION 10. Section 1601.157(a), Occupations Code, is
9 amended to read as follows:

10 (a) The commission [~~board~~] shall file annually with the
11 governor and the presiding officer of each house of the legislature
12 a complete and detailed written report accounting for all funds
13 received and disbursed by the commission under this chapter [~~board~~]
14 during the preceding fiscal year.

15 SECTION 11. Section 1601.252, Occupations Code, is amended
16 to read as follows:

17 Sec. 1601.252. APPLICATION PROCESS. (a) An application
18 for a certificate, license, or permit must be made on a form
19 prescribed and provided by the commission [~~board~~].

20 (b) The application must contain sworn statements relating
21 to the applicant's education and providing other information
22 required by the commission [~~board~~].

23 SECTION 12. Section 1601.253, Occupations Code, is amended
24 to read as follows:

25 Sec. 1601.253. ELIGIBILITY FOR CLASS A BARBER
26 CERTIFICATE. (a) An applicant for a Class A barber certificate
27 must:

1 (1) be at least 16 years of age; and

2 (2) pass a written and practical examination
3 demonstrating to the commission's [~~board's~~] satisfaction the
4 applicant's fitness and competence to practice barbering.

5 (b) The commission [~~board~~] shall issue a Class A barber
6 certificate to an applicant who:

7 (1) complies with the application requirements of this
8 chapter;

9 (2) passes the examination with an average grade of at
10 least 75 percent;

11 (3) pays a fee not to exceed \$100; and

12 (4) possesses the other qualifications required by
13 this chapter.

14 SECTION 13. Section 1601.254(c), Occupations Code, is
15 amended to read as follows:

16 (c) The commission [~~board~~] shall issue a teacher's
17 certificate to an applicant who:

18 (1) passes the appropriate examination; and

19 (2) pays a certificate fee not to exceed:

20 (A) \$100, if the applicant fulfills the
21 certificate requirements during the period beginning November 1 of
22 an odd-numbered year and extending through October 31 of the
23 following year; or

24 (B) \$50, if the applicant fulfills the
25 certificate requirements during the period beginning November 1 of
26 an even-numbered year and extending through October 31 of the
27 following year.

1 SECTION 14. Sections 1601.256(b) and (d), Occupations Code,
2 are amended to read as follows:

3 (b) An applicant for a barber technician license must:

4 (1) be at least 16 years of age;

5 (2) have completed the seventh grade or the equivalent
6 of the seventh grade;

7 (3) have completed a course of instruction in a
8 commission-approved [~~board-approved~~] training program consisting
9 of not less than 300 hours in a period of not less than eight weeks;
10 and

11 (4) submit a \$10 administration fee with the
12 application.

13 (d) The commission [~~board~~] shall issue a barber technician
14 license to an applicant who:

15 (1) possesses the qualifications described by
16 Subsection (b);

17 (2) passes the appropriate examination;

18 (3) pays a license fee not to exceed \$100; and

19 (4) has not committed an act that is a ground for
20 denial of a license.

21 SECTION 15. Sections 1601.257(b) and (c), Occupations Code,
22 are amended to read as follows:

23 (b) An applicant for a manicurist license must:

24 (1) be at least 16 years of age;

25 (2) have completed the seventh grade or the equivalent
26 of the seventh grade;

27 (3) have completed a commission-approved

1 ~~[board-approved]~~ training program consisting of 600 hours of
2 instruction in manicuring; and

3 (4) submit a \$10 administration fee with the
4 application.

5 (c) The commission ~~[board]~~ shall issue a manicurist license
6 to an applicant who:

7 (1) possesses the qualifications described by
8 Subsection (b);

9 (2) passes the appropriate examination;

10 (3) pays a license fee not to exceed \$30; and

11 (4) has not committed an act that is a ground for
12 denial of a license.

13 SECTION 16. Section 1601.260, Occupations Code, is amended
14 to read as follows:

15 Sec. 1601.260. ELIGIBILITY FOR STUDENT PERMIT. (a) An
16 applicant for a permit to be a student in a barber school must:

17 (1) submit an enrollment application to the commission
18 ~~[board]~~ in the form prescribed by the commission ~~[board]~~;

19 (2) have completed the seventh grade;

20 (3) satisfy other requirements specified by the
21 commission ~~[board]~~; and

22 (4) submit with the application a nonrefundable
23 application fee in an amount not to exceed \$25.

24 (b) A separate application is required for each enrollment,
25 reenrollment, or transfer enrollment. The application fee applies
26 only to the first enrollment. The commission ~~[board]~~ may not charge
27 the application fee for any later enrollment, reenrollment, or

1 transfer enrollment.

2 SECTION 17. Section 1601.261, Occupations Code, is amended
3 to read as follows:

4 Sec. 1601.261. EXAMINATION APPLICATION. (a) An applicant
5 for an examination must submit to the commission [~~board~~] a sworn
6 application on a form prescribed and provided by the commission
7 [~~board~~] accompanied by:

8 (1) two photographs of the applicant, one of which
9 accompanies the application and one of which is to be returned to
10 the applicant to be presented at the examination; and

11 (2) the appropriate fee required under this chapter.

12 (b) The commission [~~board~~] shall set the fee for an
13 examination necessary to receive a certificate to practice
14 barbering or to practice as a barber technician in an amount not to
15 exceed \$50.

16 SECTION 18. Section 1601.262, Occupations Code, is amended
17 to read as follows:

18 Sec. 1601.262. EXAMINATION FOR CLASS A BARBER AND TEACHER'S
19 CERTIFICATES. (a) The commission [~~board~~] shall examine applicants
20 for a Class A barber certificate and a teacher's certificate at
21 least four times annually, at times and places designated by the
22 commission [~~board~~].

23 (b) The certification examination must include a practical
24 examination and a written examination selected by the commission
25 [~~board~~]. The written examination must be:

26 (1) validated by an independent testing professional;

27 or

1 (2) purchased from a national testing service.

2 (c) The commission [~~board~~], on written request by a student,
3 may provide for the early written examination of an applicant for a
4 Class A barber certificate or a teacher's certificate who has
5 completed at least 1,000 hours of instruction in a
6 commission-approved [~~board-approved~~] training program. A
7 commission [~~board~~] inspector may administer an examination under
8 this subsection at barber schools throughout the state.

9 (d) An examination may not be held at a barber school or
10 barbershop owned, managed, or operated by a commission [~~board~~]
11 member.

12 SECTION 19. Section 1601.263, Occupations Code, is amended
13 to read as follows:

14 Sec. 1601.263. EXAMINATION RESULTS. (a) The commission
15 [~~board~~] shall notify each examinee of the results of the
16 examination not later than the 30th day after the date an
17 examination is administered. If an examination is graded or
18 reviewed by a national testing service, the commission [~~board~~]
19 shall notify each examinee of the results of the examination not
20 later than the 14th day after the date the commission [~~board~~]
21 receives the results from the testing service.

22 (b) If the notice of examination results graded or reviewed
23 by a national testing service will be delayed for longer than 90
24 days after the examination date, the commission [~~board~~] shall
25 notify each examinee of the reason for the delay before the 90th
26 day.

27 (c) If requested in writing by a person who fails the

1 examination, the commission [~~board~~] shall furnish the person with
2 an analysis of the person's performance on the examination.

3 SECTION 20. Section 1601.264, Occupations Code, is amended
4 to read as follows:

5 Sec. 1601.264. HEALTH CERTIFICATE REQUIREMENT. The
6 commission [~~board~~] may not issue a certificate or license until an
7 applicant presents a health certificate from a physician, advanced
8 practice nurse, or licensed physician assistant stating that the
9 applicant does not have an infectious or contagious disease.

10 SECTION 21. Section 1601.265, Occupations Code, is amended
11 to read as follows:

12 Sec. 1601.265. WAIVER OF LICENSE REQUIREMENTS; PERSONAL
13 INTERVIEW. (a) The commission [~~board~~] may waive any license
14 requirement for an applicant holding a license from another state
15 or country that has license requirements substantially equivalent
16 to those of this state.

17 (b) The commission [~~board~~] may not require a personal
18 interview as part of the application process.

19 SECTION 22. Section 1601.266, Occupations Code, is amended
20 to read as follows:

21 Sec. 1601.266. DUPLICATE CERTIFICATE. The commission
22 [~~board~~] may issue a duplicate certificate on written application of
23 the certificate holder and payment of a fee not to exceed \$10.

24 SECTION 23. Section 1601.267(b), Occupations Code, is
25 amended to read as follows:

26 (b) The person shall:

27 (1) submit an application for the license,

1 certificate, or permit to the commission [~~board~~];

2 (2) pay a fee in an amount prescribed by the commission
3 [~~board~~]; and

4 (3) pay the applicable license, certificate, or permit
5 fee.

6 SECTION 24. Section 1601.301(b), Occupations Code, is
7 amended to read as follows:

8 (b) A person who owns, operates, or manages a barbershop or
9 specialty shop must:

10 (1) submit an application to the commission [~~board~~]
11 for an appropriate permit for each shop; and

12 (2) register with the commission [~~board~~] the person's
13 full name and the location of each shop.

14 SECTION 25. Section 1601.302, Occupations Code, is amended
15 to read as follows:

16 Sec. 1601.302. TEMPORARY BARBERSHOP PERMIT. (a) A person
17 who opens a new barbershop shall submit, not later than the third
18 day after the date the shop opens, an application to the commission
19 [~~board~~] for a temporary barbershop permit accompanied by an
20 inspection fee not to exceed \$70.

21 (b) The application must provide:

22 (1) the permanent address of the barbershop;

23 (2) the legal description of the premises to be
24 licensed; and

25 (3) other information required by the commission
26 [~~board~~].

27 SECTION 26. Section 1601.303, Occupations Code, is amended

1 to read as follows:

2 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The
3 commission [~~board~~] shall issue a barbershop permit to an applicant
4 if:

- 5 (1) the applicant holds a Class A barber certificate;
6 (2) the applicant has practiced barbering for at least
7 12 months; and
8 (3) the shop meets the minimum health standards for
9 barbershops set by the commission [~~board~~] and all other rules of the
10 commission [~~board~~].

11 SECTION 27. Sections 1601.304(b) and (c), Occupations Code,
12 are amended to read as follows:

13 (b) An applicant for a manicurist specialty shop permit must
14 submit:

- 15 (1) an application that includes:
16 (A) the shop's address;
17 (B) the legal description of the premises for
18 which the permit is sought; and
19 (C) any other information required by the
20 commission [~~board~~]; and

21 (2) an inspection fee in an amount not to exceed \$50.

22 (c) As soon as practicable after receipt of the application
23 and fee, the commission [~~board~~] shall issue a temporary manicurist
24 specialty shop permit to the applicant. The applicant may operate
25 the applicant's shop under the temporary permit until a permanent
26 permit is issued.

27 SECTION 28. Section 1601.305, Occupations Code, is amended

1 to read as follows:

2 Sec. 1601.305. ISSUANCE OF MANICURIST SPECIALTY SHOP
3 PERMIT. The commission [~~board~~] shall issue a permanent manicurist
4 specialty shop permit to an applicant if:

5 (1) the applicant holds a manicurist license; and

6 (2) the shop meets the minimum health standards for
7 manicurist specialty shops set by the commission [~~board~~], as
8 determined by a commission [~~board~~] inspection, and any other
9 requirements imposed by commission [~~board~~] rule.

10 SECTION 29. Section 1601.309, Occupations Code, is amended
11 to read as follows:

12 Sec. 1601.309. PRACTICE BY COSMETOLOGIST AT SPECIALTY SHOP
13 PROHIBITED. A person who holds a license, permit, or certificate
14 issued by the commission under Chapter 1602 [~~Texas Cosmetology~~
15 ~~Commission~~] may not practice under that authority at a specialty
16 shop regulated under this chapter.

17 SECTION 30. Section 1601.310, Occupations Code, is amended
18 to read as follows:

19 Sec. 1601.310. RELOCATION OF SPECIALTY SHOP. (a) The
20 holder of a specialty shop permit may move the person's specialty
21 shop to a different location if the person receives commission
22 [~~board~~] approval for the new location.

23 (b) The permit holder must notify the commission [~~board~~] of
24 the move not later than the 10th day before the date the move is
25 scheduled to occur.

26 SECTION 31. Section 1601.352, Occupations Code, is amended
27 to read as follows:

1 Sec. 1601.352. APPLICATION FOR BARBER SCHOOL
2 PERMIT. (a) An applicant for a barber school permit must
3 demonstrate to the commission [~~board~~] that the school meets the
4 requirements of this subchapter for issuance of a permit.

5 (b) Before issuing a barber school permit, the commission
6 [~~board~~] must determine that the applicant is financially sound and
7 capable of fulfilling the applicant's commitments for training.

8 SECTION 32. Section 1601.353, Occupations Code, is amended
9 to read as follows:

10 Sec. 1601.353. REQUIRED FACILITIES AND
11 EQUIPMENT. (a) The commission [~~board~~] may not approve an
12 application for a permit for a barber school that provides training
13 leading to issuance of a Class A barber certificate unless the
14 school has:

15 (1) an adequate school site housed in a substantial
16 building of permanent construction containing at least 2,800 square
17 feet of floor space, divided into:

- 18 (A) a senior department;
- 19 (B) a junior department;
- 20 (C) a class theory room;
- 21 (D) a supply room;
- 22 (E) an office space;
- 23 (F) a dressing and cloak room; and
- 24 (G) two sanitary, modern, separate restrooms,
25 each equipped with one commode and one of which is also equipped
26 with a urinal;

27 (2) a hard-surface floor-covering of tile or other

1 suitable material;

2 (3) at least 20 modern barber chairs, including a
3 cabinet and mirror for each chair;

4 (4) a lavatory behind every two barber chairs;

5 (5) a liquid sterilizer for each barber chair;

6 (6) an adequate number of latherers, vibrators, and
7 hair dryers for student use;

8 (7) adequate lighting for each room;

9 (8) at least 20 classroom chairs, a blackboard,
10 anatomical charts of the head, neck, and face, and one barber chair
11 in the class theory room;

12 (9) a library with library facilities available to
13 students containing at least one medical dictionary and a standard
14 work on human anatomy;

15 (10) adequate drinking fountain facilities, with at
16 least one for each floor;

17 (11) adequate toilet facilities for the students; and

18 (12) adequate fire-fighting equipment.

19 (b) An applicant for a barber school permit must submit to
20 the commission [~~board~~]:

21 (1) a detailed drawing and chart of the proposed
22 physical layout of the school, showing the departments, floor
23 space, equipment, lights, and outlets;

24 (2) photographs of the proposed site for the school,
25 including the interior and exterior of the building, rooms, and
26 departments;

27 (3) a detailed copy of the training program;

1 (4) a copy of the catalogue and promotional literature
2 of the school;

3 (5) a copy of the building lease or proposed building
4 lease if the building is not owned by the school;

5 (6) a sworn statement showing the ownership of the
6 school; and

7 (7) a permit fee not to exceed \$1,000.

8 SECTION 33. Section 1601.354, Occupations Code, is amended
9 to read as follows:

10 Sec. 1601.354. PREREQUISITES FOR GRADUATION. (a) The
11 commission [~~board~~] may not approve an application for a barber
12 school permit unless the school requires as a prerequisite for
13 graduation the following hours of instruction:

14 (1) for a barber technician, 300 hours of instruction
15 completed in a course of not less than eight weeks;

16 (2) for a Class A barber, 1,500 hours of instruction
17 completed in a course of not less than nine months, at least 800
18 hours of which is in the actual practice of cutting hair as a
19 primary service;

20 (3) for a manicurist, 600 hours of instruction
21 completed in a course of not less than 16 weeks; and

22 (4) for a teacher, 1,000 hours of instruction
23 completed in a course of not less than six months.

24 (b) If a barber school offers a refresher course, the course
25 must require at least 300 hours of instruction. The commission
26 [~~board~~] by rule shall set the curriculum for a refresher course.

27 SECTION 34. Section 1601.355, Occupations Code, is amended

1 to read as follows:

2 Sec. 1601.355. SUPERVISION AND TEACHING
3 REQUIREMENTS. (a) The commission [~~board~~] may not approve an
4 application for a permit for a barber school that provides training
5 leading to issuance of a Class A barber certificate unless the
6 school is under the direct supervision and control of a Class A
7 barber certificate holder who presents evidence of at least five
8 years' experience as a practicing barber.

9 (b) Each barber school for which a permit is sought must
10 have at least one teacher who has a teacher's certificate and is
11 capable and qualified to teach to the students the required
12 curriculum of the school. In addition to satisfying other
13 commission [~~board~~] requirements, the teacher must demonstrate to
14 the commission [~~board~~]:

15 (1) through a written and practical examination an
16 ability to teach the curriculum; and

17 (2) that the teacher is qualified to teach and:

18 (A) has had at least six months' experience as a
19 teacher in an approved school in this state or in another state
20 approved by the commission [~~board~~]; or

21 (B) has completed 1,000 hours of instruction in a
22 postgraduate course as a student teacher in a commission-approved
23 [~~board-approved~~] barber school in this state.

24 SECTION 35. Section 1601.356, Occupations Code, is amended
25 to read as follows:

26 Sec. 1601.356. INSPECTION BEFORE OPERATION. (a) A person
27 may not operate a barber school or solicit or enroll students until

1 the commission [~~board~~] determines, by inspection, that the person
2 has established the school in compliance with this subchapter.

3 (b) A barber school that is not approved by the commission
4 [~~board~~] on initial inspection may be reinspected. The commission
5 [~~board~~] shall charge a reinspection fee in an amount not to exceed
6 \$500.

7 SECTION 36. Sections 1601.3571(a) and (b), Occupations
8 Code, are amended to read as follows:

9 (a) If on January 1 of any year the amount in the barber
10 school tuition protection account is less than \$25,000, the
11 commission [~~board~~] shall collect a fee from each barber school
12 during that year by applying a percentage to the school's renewal
13 fee at a rate that will bring the balance of the account to \$25,000.

14 (b) The comptroller shall invest the account in the same
15 manner as other state funds. Sufficient money from the account
16 shall be appropriated to the commission [~~board~~] for the purpose of
17 refunding unused tuition if a barber school ceases operation before
18 its course of instruction is complete. The commission [~~board~~]
19 shall administer claims made against the account.

20 SECTION 37. Section 1601.401, Occupations Code, is amended
21 to read as follows:

22 Sec. 1601.401. EXPIRATION OF CERTIFICATE OR
23 LICENSE. (a) The commission [~~board~~] by rule may adopt a system
24 under which certificates or licenses expire on various dates during
25 the year.

26 (b) For the year in which the expiration date is changed,
27 the commission [~~board~~] shall prorate on a monthly basis certificate

1 or license renewal fees payable on November 1 so that each
2 certificate or license holder pays only that portion of the
3 certificate or license renewal fee that is allocable to the number
4 of months during which the certificate or license is valid. On
5 renewal of the certificate or license on the new expiration date,
6 the certificate or license holder shall pay the total certificate
7 or license renewal fee.

8 SECTION 38. Sections 1601.402(c) and (d), Occupations
9 Code, are amended to read as follows:

10 (c) The commission [~~board~~] shall issue a renewal
11 certificate or license on receipt of a renewal application in the
12 form prescribed by the commission [~~board~~], accompanied by a renewal
13 fee in an amount equal to the original certificate or license fee
14 but not to exceed \$100.

15 (d) The commission [~~board~~] may not renew a certificate or
16 license until an applicant presents a health certificate from a
17 physician stating that the applicant does not have an infectious or
18 contagious disease.

19 SECTION 39. Section 1601.403, Occupations Code, is amended
20 to read as follows:

21 Sec. 1601.403. RENEWAL OF TEACHER'S CERTIFICATE. The
22 commission [~~board~~] shall renew a teacher's certificate biennially
23 on or before November 1 of each odd-numbered year on payment of a
24 renewal fee not to exceed \$100.

25 SECTION 40. Section 1601.404, Occupations Code, is amended
26 to read as follows:

27 Sec. 1601.404. RENEWAL OR REINSTATEMENT OF EXPIRED

1 CERTIFICATE OR LICENSE. (a) A Class A barber or other license
2 holder whose certificate or license has been expired for not more
3 than 30 days may renew the person's certificate or license by
4 applying to the commission [~~board~~] and paying the biennial renewal
5 fee.

6 (b) A Class A barber or license holder whose certificate or
7 license has been expired for not more than five years may reinstate
8 the person's certificate or license by applying to the commission
9 [~~board~~] and submitting a personal affidavit that the commission
10 [~~board~~] determines provides a justification for issuing a
11 certificate or license to the person. The person must pay a fee
12 equal to the amount of the current certificate or license fee and an
13 additional delinquency fee of \$30 for each year or part of a year
14 the certificate or license has been expired.

15 (c) A Class A barber or license holder who retires from
16 practice and whose certificate or license has been expired for more
17 than five years may qualify for a new certificate or license by
18 applying to the commission [~~board~~] and by:

- 19 (1) making a proper showing to the commission [~~board~~],
20 supported by a personal affidavit;
- 21 (2) paying an examination fee not to exceed \$100;
- 22 (3) passing a satisfactory examination conducted by
23 the commission [~~board~~]; and
- 24 (4) paying the fee for an original certificate or
25 license.

26 SECTION 41. Section 1601.405, Occupations Code, is amended
27 to read as follows:

1 Sec. 1601.405. RENEWAL WHILE IN ARMED FORCES. (a) The
2 commission [~~board~~] may not require a Class A barber, barber
3 technician, teacher, or manicurist who is serving on active duty in
4 the United States armed forces to renew the person's certificate or
5 license.

6 (b) The commission [~~board~~] shall issue a renewal
7 certificate or license on application and payment of a renewal fee
8 not later than the 90th day after the date the person is released or
9 discharged from active duty in the armed forces. The renewal fee
10 is:

11 (1) \$10 if the application and payment are made during
12 the period beginning November 1 of an odd-numbered year and ending
13 October 31 of the following year; or

14 (2) \$5 if the application and payment are made during
15 the period beginning November 1 of an even-numbered year and ending
16 October 31 of the following year.

17 SECTION 42. Section 1601.406(c), Occupations Code, is
18 amended to read as follows:

19 (c) A specialty shop permit holder may renew the permit by
20 submitting to the commission [~~board~~] a renewal application
21 accompanied by a renewal fee not to exceed \$50.

22 SECTION 43. Section 1601.408, Occupations Code, is amended
23 to read as follows:

24 Sec. 1601.408. RENEWAL OF EXPIRED PERMIT. A person holding
25 a barbershop, specialty shop, or barber school permit that has been
26 expired for more than 30 days may renew the person's permit by
27 submitting to the commission [~~board~~] a renewal application

1 accompanied by:

2 (1) the regular renewal fee; and

3 (2) an additional delinquency fee of \$30 for each year
4 or part of a year the permit has been expired.

5 SECTION 44. Section 1601.452, Occupations Code, is amended
6 to read as follows:

7 Sec. 1601.452. DISPLAY OF SANITATION RULES. Each
8 barbershop or specialty shop shall post in the shop a copy of the
9 commission's [~~board's~~] rules adopted under Section 1601.152.

10 SECTION 45. Section 1601.453, Occupations Code, is amended
11 to read as follows:

12 Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by
13 the commission [~~board~~] may practice barbering only at a location
14 for which the commission [~~board~~] has issued a barbershop permit,
15 specialty shop permit, or barber school permit.

16 SECTION 46. Section 1601.454, Occupations Code, is amended
17 to read as follows:

18 Sec. 1601.454. PRACTICE AT FACILITY LICENSED OR PERMITTED
19 AS BARBER AND COSMETOLOGIST FACILITY [~~BY BOARD AND TEXAS~~
20 ~~COSMETOLOGY COMMISSION~~]. (a) The commission [~~board~~] may not adopt
21 rules to restrict or prohibit practice by a Class A barber or
22 manicurist in a facility solely because the facility is licensed or
23 permitted by [~~both~~] the commission under both this chapter and
24 Chapter 1602 [~~board and the Texas Cosmetology Commission~~].

25 (b) If a facility has a license or permit under both this
26 chapter and Chapter 1602 [~~the board and the Texas Cosmetology~~
27 ~~Commission license or permit the same facility~~], the commission

1 ~~[board]~~ may not adopt rules requiring separate treatment of the
2 barbers and cosmetologists practicing in the facility or of their
3 customers, including separate:

- 4 (1) work areas for barbers and cosmetologists;
- 5 (2) waiting areas for customers of the barbers and
6 cosmetologists; or
- 7 (3) restrooms for the barbers and cosmetologists
8 practicing in the facility or for their customers.

9 SECTION 47. Section 1601.502, Occupations Code, is amended
10 to read as follows:

11 Sec. 1601.502. SUPERVISION OF BARBERSHOP. A person may not
12 operate a barbershop unless:

- 13 (1) the shop is at all times under the exclusive
14 supervision and management of a Class A barber; and
- 15 (2) no person is practicing on the premises by
16 authority of a license, permit, or certificate issued by the
17 commission under Chapter 1602 [~~Texas Cosmetology Commission~~],
18 except as allowed by other law.

19 SECTION 48. Section 1601.503, Occupations Code, is amended
20 to read as follows:

21 Sec. 1601.503. NOTIFICATION OF CHANGE OF LOCATION. A
22 person operating under a barbershop permit may move the operation
23 to another location approved by the commission [~~board~~] if the
24 person notifies the commission [~~board~~] not later than the 10th day
25 before the date of the move.

26 SECTION 49. Section 1601.552, Occupations Code, is amended
27 to read as follows:

1 Sec. 1601.552. DISPLAY OF SANITATION RULES. Each barber
2 school shall post in the school a copy of the commission's [~~board's~~]
3 rules adopted under Section 1601.152.

4 SECTION 50. Section 1601.554, Occupations Code, is amended
5 to read as follows:

6 Sec. 1601.554. CHANGE OF BARBER SCHOOL OWNERSHIP OR
7 LOCATION. (a) If a barber school changes ownership, the
8 commission [~~board~~] must be notified of the change not later than the
9 10th day before the date the change takes effect.

10 (b) A barber school may not change the location of the
11 school unless the school obtains approval from the commission
12 [~~board~~] before the change by showing that the proposed location
13 meets the requirements of Subchapter H for issuance of a permit to
14 the school.

15 SECTION 51. Section 1601.556, Occupations Code, is amended
16 to read as follows:

17 Sec. 1601.556. INFORMATION PROVIDED TO PROSPECTIVE
18 STUDENT. The holder of a barber school permit shall furnish each
19 prospective student with:

20 (1) a course outline;
21 (2) a schedule of the tuition and other fees assessed;
22 (3) the school's refund policy required under Section
23 1601.563;

24 (4) the school's grading policy and rules relating to
25 incomplete grades;

26 (5) the school's rules of operation and conduct,
27 including rules relating to absences;

1 (6) the commission's [~~board's~~] name, mailing address,
2 and telephone number for the purpose of directing complaints to the
3 commission [~~board~~]; and

4 (7) the current rates of job placement and employment
5 of students who complete a course of training.

6 SECTION 52. Section 1601.557, Occupations Code, is amended
7 to read as follows:

8 Sec. 1601.557. COURSE LENGTH AND CURRICULUM
9 CONTENT. (a) A barber school shall submit to the commission
10 [~~board~~] for approval the course length and curriculum content for a
11 course offered by the school. The course length and curriculum
12 content shall be designed to reasonably ensure that a student
13 develops the job skills and knowledge necessary for employment.
14 The school may not implement a course length or curriculum content
15 unless it is approved by the commission [~~board~~].

16 (b) Before issuing or renewing a permit under this chapter,
17 the commission [~~board~~] shall require a school to account for all
18 course lengths and curriculum contents.

19 SECTION 53. Section 1601.559(b), Occupations Code, is
20 amended to read as follows:

21 (b) The commission [~~board~~] may inspect a school's
22 attendance record book at any time.

23 SECTION 54. Section 1601.561, Occupations Code, is amended
24 to read as follows:

25 Sec. 1601.561. REPORTS TO COMMISSION [~~BOARD~~]. (a) A barber
26 school shall submit a monthly progress report to the commission
27 [~~board~~] regarding each student attending the school. The report

1 must certify the daily attendance record of each student and the
2 number of credit hours earned by each student during the previous
3 month.

4 (b) On a student's completion of a prescribed course of
5 instruction, the school shall certify to the commission [~~board~~]
6 that the student has completed the required number of hours and is
7 eligible to take the appropriate examination.

8 (c) A barber school permit holder shall furnish to the
9 commission [~~board~~]:

10 (1) the current course completion rates of students
11 who attend a course of instruction offered by the school; and

12 (2) job placement rates and employment rates of
13 students who complete a course of instruction.

14 SECTION 55. Section 1601.566(d), Occupations Code, is
15 amended to read as follows:

16 (d) The commission [~~board~~] may exempt a school from the
17 payment of interest if the school makes a good faith effort to
18 refund the tuition but is unable to locate the student. The school
19 shall provide to the commission [~~board~~] on request documentation of
20 the school's effort to locate the student.

21 SECTION 56. Section 1601.601, Occupations Code, is amended
22 to read as follows:

23 Sec. 1601.601. DENIAL, SUSPENSION, OR REVOCATION. The
24 commission [~~board~~] shall deny an application for issuance or
25 renewal of, or shall suspend or revoke, a certificate, license, or
26 permit if the applicant or person holding the certificate, license,
27 or permit engages in:

- 1 (1) gross malpractice;
- 2 (2) knowingly continuing to practice while having an
3 infectious or contagious disease;
- 4 (3) knowingly making a false or deceptive statement in
5 advertising;
- 6 (4) advertising, practicing, or attempting to
7 practice under another person's name or trade name; or
- 8 (5) an act that violates this chapter or a rule or
9 order of the commission [~~board~~].

10 SECTION 57. Section 1601.603, Occupations Code, is amended
11 to read as follows:

12 Sec. 1601.603. DENIAL OF PERMIT; SUIT. (a) If the
13 commission [~~board~~] denies an application for a barber school
14 permit, the school may request in writing the reasons for the
15 refusal.

16 (b) If the barber school meets the requirements for issuance
17 of the permit and shows that the requirements of this chapter have
18 been met, and the commission [~~board~~] refuses to issue the permit,
19 the school may file suit in a district court in Travis County to
20 require the commission [~~board~~] to issue the permit.

21 (c) A suit under Subsection (b) must be filed not later than
22 the 20th day after the date of the commission's [~~board's~~] final
23 order denying issuance of the permit, if registered notice of the
24 order is mailed or it is otherwise shown that the school had notice
25 of the order not later than the 10th day after the date the
26 commission [~~board~~] entered the order.

27 SECTION 58. Section 1601.604(a), Occupations Code, is

1 amended to read as follows:

2 (a) The commission [~~board~~] shall suspend or revoke the
3 permit of a barber school that directly or indirectly violates this
4 chapter.

5 SECTION 59. Section 1601.605, Occupations Code, is amended
6 to read as follows:

7 Sec. 1601.605. PROBATION FOR ALTERING COURSE LENGTH. The
8 commission [~~board~~] shall place on probation a barber school that
9 alters a course length below or above industry standards until the
10 school:

- 11 (1) provides justification for the alteration; or
12 (2) adjusts the course length to meet industry
13 standards.

14 SECTION 60. Sections 1601.606(a), (b), and (c), Occupations
15 Code, are amended to read as follows:

16 (a) If the commission [~~board~~] has reasonable cause to
17 believe that a barber school has violated this chapter or a rule
18 adopted under this chapter, the commission [~~board~~] may:

- 19 (1) order a peer review of the school; or
20 (2) suspend the admission of students to the school.

21 (b) The peer review shall be conducted by a peer review team
22 consisting of knowledgeable persons selected by the commission
23 [~~board~~]. The commission [~~board~~] shall attempt to provide a balance
24 on a peer review team between members assigned to the team who are
25 from this state and members who are from other states.

26 (c) The peer review team shall provide the commission
27 [~~board~~] with an objective assessment of the school's curriculum

1 content and its application.

2 SECTION 61. Sections 1601.651(c), (d), (e), and (f),
3 Occupations Code, are amended to read as follows:

4 (c) In addition to injunctive relief or other remedies
5 provided by law, a barber school that violates this chapter or a
6 rule adopted under this chapter is liable to the state for a civil
7 penalty. The civil penalty may not exceed \$1,000 a day for each
8 violation. The attorney general, at the request of the commission
9 [~~board~~], may bring a civil action to collect a civil penalty under
10 this subsection.

11 (d) In addition to any other action authorized by law, the
12 commission [~~board~~] may institute an action in its own name to enjoin
13 a violation of this chapter or a rule of the commission [~~board~~].

14 (e) The commission [~~board~~] is not required to allege or
15 prove:

16 (1) that an adequate remedy at law does not exist; or

17 (2) that substantial or irreparable damage would
18 result from the continued violation.

19 (f) The commission [~~board~~] is not required to give an appeal
20 bond in a cause arising under this chapter.

21 SECTION 62. Section 1601.653(a), Occupations Code, is
22 amended to read as follows:

23 (a) A person commits an offense if the person is a barber
24 inspector or other commission [~~board~~] employee and the person sells
25 barber supplies or engages in a business, other than barbering,
26 that deals directly with a barber, barbershop, specialty shop, or
27 barber school.

1 SECTION 63. Section 1601.654, Occupations Code, is amended
2 to read as follows:

3 Sec. 1601.654. ENFORCEMENT BY ATTORNEY GENERAL. The
4 attorney general shall represent the commission [~~board~~] in an
5 action to enforce this chapter.

6 SECTION 64. Section 1601.701(a), Occupations Code, is
7 amended to read as follows:

8 (a) The commission [~~board~~] may impose an administrative
9 penalty on a person for a violation under this section.

10 SECTION 65. Section 1601.703(a), Occupations Code, is
11 amended to read as follows:

12 (a) If the executive director determines that a violation
13 occurred, the executive director may issue to the commission
14 [~~board~~] a report stating:

15 (1) the facts on which the determination is based; and

16 (2) the executive director's recommendation on the
17 imposition of an administrative penalty, including a
18 recommendation on the amount of the penalty.

19 SECTION 66. Section 1601.704(b), Occupations Code, is
20 amended to read as follows:

21 (b) If the person accepts the determination and recommended
22 penalty of the executive director, the commission [~~board~~] by order
23 shall approve the determination and impose the recommended penalty.

24 SECTION 67. Section 1601.705(b), Occupations Code, is
25 amended to read as follows:

26 (b) The administrative law judge shall make findings of fact
27 and conclusions of law and promptly issue to the commission [~~board~~]

1 a proposal for a decision about the occurrence of the violation and
2 the amount of any proposed administrative penalty.

3 SECTION 68. Section 1601.706, Occupations Code, is amended
4 to read as follows:

5 Sec. 1601.706. DECISION BY COMMISSION [~~BOARD~~]. (a) Based
6 on the findings of fact, conclusions of law, and proposal for a
7 decision, the commission [~~board~~] by order may:

8 (1) find that a violation occurred and impose an
9 administrative penalty; or

10 (2) find that a violation did not occur.

11 (b) The notice of the commission's [~~board's~~] order given to
12 the person must include a statement of the right of the person to
13 judicial review of the order.

14 SECTION 69. Section 1601.707, Occupations Code, is amended
15 to read as follows:

16 Sec. 1601.707. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.
17 Not later than the 30th day after the date the commission's
18 [~~board's~~] order becomes final, the person shall:

19 (1) pay the administrative penalty; or

20 (2) file a petition for judicial review contesting the
21 occurrence of the violation, the amount of the penalty, or both.

22 SECTION 70. Section 1601.708(a), Occupations Code, is
23 amended to read as follows:

24 (a) Within the 30-day period prescribed by Section
25 1601.707, a person who files a petition for judicial review may:

26 (1) stay enforcement of the administrative penalty by:

27 (A) paying the penalty to the court for placement

1 in an escrow account; or

2 (B) giving the court a supersedeas bond approved
3 by the court that:

4 (i) is for the amount of the penalty; and

5 (ii) is effective until all judicial review
6 of the commission's [~~board's~~] order is final; or

7 (2) request the court to stay enforcement of the
8 penalty by:

9 (A) filing with the court a sworn affidavit of
10 the person stating that the person is financially unable to pay the
11 penalty and is financially unable to give the supersedeas bond; and

12 (B) giving a copy of the affidavit to the
13 executive director by certified mail.

14 SECTION 71. Section 1602.001(1), Occupations Code, is
15 amended to read as follows:

16 (1) "Commission" means the Texas Commission on
17 Barbering and Cosmetology [~~Commission~~].

18 SECTION 72. Section 1602.152, Occupations Code, is amended
19 to read as follows:

20 Sec. 1602.152. RULES RESTRICTING ADVERTISING OR
21 COMPETITIVE BIDDING. (a) The commission may not adopt rules
22 restricting advertising or competitive bidding by a person
23 regulated by the commission under this chapter except to prohibit
24 false, misleading, or deceptive practices by that person.

25 (b) The commission may not include in rules to prohibit
26 false, misleading, or deceptive practices by a person regulated by
27 the commission under this chapter a rule that:

1 (1) restricts the use of any advertising medium;

2 (2) restricts the person's personal appearance or the
3 use of the person's voice in an advertisement;

4 (3) relates to the size or duration of an
5 advertisement by the person; or

6 (4) restricts the use of a trade name in advertising by
7 the person.

8 SECTION 73. Section 1602.155(a), Occupations Code, is
9 amended to read as follows:

10 (a) The commission shall file annually with the governor and
11 the presiding officer of each house of the legislature a complete
12 and detailed written report accounting for all funds received and
13 disbursed by the commission under this chapter during the preceding
14 fiscal year.

15 SECTION 74. Section 1602.405, Occupations Code, is amended
16 to read as follows:

17 Sec. 1602.405. PRACTICE AT FACILITY LICENSED OR PERMITTED
18 AS BARBER AND COSMETOLOGIST FACILITY [~~BY COMMISSION AND STATE BOARD~~
19 ~~OF BARBER EXAMINERS~~]. (a) The commission may not adopt rules to
20 restrict or prohibit practice by a cosmetologist in a facility
21 solely because the facility is licensed or permitted by [~~both~~] the
22 commission under both this chapter and Chapter 1601 [~~and the State~~
23 ~~Board of Barber Examiners~~].

24 (b) If a facility has a license or permit under both this
25 chapter and Chapter 1601 [~~the commission and the State Board of~~
26 ~~Barber Examiners license the same facility~~], the commission may not
27 adopt rules requiring separate treatment of the barbers and

1 cosmetologists practicing in the facility or of their customers,
2 including separate:

- 3 (1) work areas for barbers and cosmetologists;
- 4 (2) waiting areas for customers of the barbers and
5 cosmetologists; or
- 6 (3) restrooms for the barbers and cosmetologists
7 practicing in the facility or for their customers.

8 SECTION 75. Section 232.002, Family Code, is amended to
9 read as follows:

10 Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO
11 CHAPTER. The following are licensing authorities subject to this
12 chapter:

- 13 (1) Department of Agriculture;
- 14 (2) Texas Commission on Alcohol and Drug Abuse;
- 15 (3) Texas Alcoholic Beverage Commission;
- 16 (4) Texas Appraiser Licensing and Certification
17 Board;
- 18 (5) Texas Board of Architectural Examiners;
- 19 (6) Texas Commission on Barbering and Cosmetology
20 [~~State Board of Barber Examiners~~];
- 21 (7) Texas Board of Chiropractic Examiners;
- 22 (8) Comptroller of Public Accounts;
- 23 (9) [~~Texas Cosmetology Commission~~];
- 24 [~~(10)~~] Court Reporters Certification Board;
- 25 (10) [~~(11)~~] State Board of Dental Examiners;
- 26 (11) [~~(12)~~] Texas State Board of Examiners of
27 Dietitians;

- 1 (12) [~~(13)~~] Texas Funeral Service Commission;
- 2 (13) [~~(14)~~] Texas Department of Health;
- 3 (14) [~~(15)~~] Texas Department of Human Services;
- 4 (15) [~~(16)~~] Texas Board of Professional Land
- 5 Surveying;
- 6 (16) [~~(17)~~] Texas Department of Licensing and
- 7 Regulation;
- 8 (17) [~~(18)~~] Texas State Board of Examiners of Marriage
- 9 and Family Therapists;
- 10 (18) [~~(19)~~] Texas State Board of Medical Examiners;
- 11 (19) [~~(20)~~] Midwifery Board;
- 12 (20) [~~(21)~~] Texas Natural Resource Conservation
- 13 Commission;
- 14 (21) [~~(22)~~] Board of Nurse Examiners;
- 15 (22) [~~(23)~~] Texas Board of Occupational Therapy
- 16 Examiners;
- 17 (23) [~~(24)~~] Texas Optometry Board;
- 18 (24) [~~(25)~~] Parks and Wildlife Department;
- 19 (25) [~~(26)~~] Texas State Board of Examiners of
- 20 Perfusionists;
- 21 (26) [~~(27)~~] Texas State Board of Pharmacy;
- 22 (27) [~~(28)~~] Texas Board of Physical Therapy
- 23 Examiners;
- 24 (28) [~~(29)~~] Texas State Board of Plumbing Examiners;
- 25 (29) [~~(30)~~] Texas State Board of Podiatric Medical
- 26 Examiners;
- 27 (30) [~~(31)~~] Polygraph Examiners Board;

- 1 (31) [~~(32)~~] Texas Commission on Private Security;
- 2 (32) [~~(33)~~] Texas State Board of Examiners of
3 Professional Counselors;
- 4 (33) [~~(34)~~] Texas Board of Professional Engineers;
- 5 (34) [~~(35)~~] Department of Protective and Regulatory
6 Services;
- 7 (35) [~~(36)~~] Texas State Board of Examiners of
8 Psychologists;
- 9 (36) [~~(37)~~] Texas State Board of Public Accountancy;
- 10 (37) [~~(38)~~] Department of Public Safety of the State
11 of Texas;
- 12 (38) [~~(39)~~] Public Utility Commission of Texas;
- 13 (39) [~~(40)~~] Railroad Commission of Texas;
- 14 (40) [~~(41)~~] Texas Real Estate Commission;
- 15 (41) [~~(42)~~] State Bar of Texas;
- 16 (42) [~~(43)~~] Texas State Board of Social Worker
17 Examiners;
- 18 (43) [~~(44)~~] State Board of Examiners for
19 Speech-Language Pathology and Audiology;
- 20 (44) [~~(45)~~] Texas Structural Pest Control Board;
- 21 (45) [~~(46)~~] Board of Tax Professional Examiners;
- 22 (46) [~~(47)~~] Secretary of State;
- 23 (47) [~~(48)~~] Supreme Court of Texas;
- 24 (48) [~~(49)~~] Texas Transportation Commission;
- 25 (49) [~~(50)~~] State Board of Veterinary Medical
26 Examiners;
- 27 (50) [~~(51)~~] Board of Vocational Nurse Examiners;

- 1 (51) [~~(52)~~] Texas Ethics Commission;
- 2 (52) [~~(53)~~] Advisory Board of Athletic Trainers;
- 3 (53) [~~(54)~~] State Committee of Examiners in the
- 4 Fitting and Dispensing of Hearing Instruments;
- 5 (54) [~~(55)~~] Texas Board of Licensure for Professional
- 6 Medical Physicists;
- 7 (55) [~~(56)~~] Texas Department of Insurance;
- 8 (56) [~~(57)~~] Texas Board of Orthotics and Prosthetics;
- 9 (57) [~~(58)~~] savings and loan commissioner;
- 10 (58) [~~(59)~~] Texas Juvenile Probation Commission; and
- 11 (59) [~~(60)~~] Texas Lottery Commission under Chapter
- 12 466, Government Code.

13 SECTION 76. (a) The State Board of Barber Examiners and

14 the Texas Cosmetology Commission are abolished but continue in

15 existence until September 1, 2004, for the sole purpose of

16 transferring obligations, property, employees, rights, powers, and

17 duties to the Texas Commission on Barbering and Cosmetology created

18 under Chapter 1603, Occupations Code, as added by this Act. The

19 Texas Commission on Barbering and Cosmetology assumes all of the

20 obligations, property, employees, rights, powers, and duties of the

21 State Board of Barber Examiners and the Texas Cosmetology

22 Commission, as they exist immediately before the effective date of

23 this Act. All unexpended funds appropriated to the State Board of

24 Barber Examiners and the Texas Cosmetology Commission are

25 transferred to the Texas Commission on Barbering and Cosmetology.

26 The transfer of the obligations, property, employees, rights,

27 powers, and duties of the State Board of Barber Examiners and the

1 Texas Cosmetology Commission to the Texas Commission on Barbering
2 and Cosmetology must be completed not later than September 1, 2004.

3 (b) All rules of the State Board of Barber Examiners and the
4 Texas Cosmetology Commission are continued in effect as rules of
5 the Texas Commission on Barbering and Cosmetology until superseded
6 by a rule of the Texas Commission on Barbering and Cosmetology. A
7 license, permit, or registration issued by the State Board of
8 Barber Examiners or the Texas Cosmetology Commission is continued
9 in effect as provided by the law in effect immediately before the
10 effective date of this Act. A complaint, investigation, contested
11 case, or other proceeding pending on the effective date of this Act
12 is continued without change in status after the effective date of
13 this Act.

14 SECTION 77. (a) In making the initial appointments to the
15 Texas Commission on Barbering and Cosmetology, the governor shall
16 appoint:

17 (1) one person described by Section 1603.051(a)(1),
18 Occupations Code, as added by this Act, one person described by
19 Section 1603.051(a)(2), Occupations Code, as added by this Act, and
20 one public member to serve terms expiring February 1, 2005;

21 (2) one person described by Section 1603.051(a)(1),
22 Occupations Code, as added by this Act, one person described by
23 Section 1603.051(a)(2), Occupations Code, as added by this Act, and
24 one public member to serve terms expiring February 1, 2007; and

25 (3) one person described by Section 1603.051(a)(1),
26 Occupations Code, as added by this Act, one person described by
27 Section 1603.051(a)(2), Occupations Code, as added by this Act, and

1 one public member to serve terms expiring February 1, 2009.

2 (b) An initial commission member appointed under this
3 section is exempt from the commission member training requirements
4 under Section 1603.057, Occupations Code, as added by this Act.

5 SECTION 78. The following laws are repealed:

6 (1) Sections 1601.004 and 1602.004, Occupations Code;

7 (2) Subchapters B, C, and E, Chapter 1601, Occupations
8 Code; and

9 (3) Subchapters B, C, and E, Chapter 1602, Occupations
10 Code.

11 SECTION 79. This Act takes effect September 1, 2003.