

By: Solomons, Chisum, Gallego, Dunnam

H.B. No. 2062

Substitute the following for H.B. No. 2062:

By: Driver

C.S.H.B. No. 2062

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the continuation and functions of the Texas Department  
3 of Licensing and Regulation, including certain functions  
4 transferred to the department from the Texas Department of  
5 Insurance and the Texas Commission on Environmental Quality and  
6 including certain functions transferred from the department to the  
7 Department of Public Safety.

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

9 ARTICLE 1. TEXAS DEPARTMENT OF LICENSING AND REGULATION

10 SECTION 1.001. Section 51.002, Occupations Code, is amended  
11 to read as follows:

12 Sec. 51.002. APPLICATION OF SUNSET ACT. The Texas  
13 Commission of Licensing and Regulation and the Texas Department of  
14 Licensing and Regulation are subject to Chapter 325, Government  
15 Code (Texas Sunset Act). Unless continued in existence as provided  
16 by that chapter, the commission and the department are abolished  
17 September 1, 2015 [~~2003~~].

18 SECTION 1.002. Subchapter A, Chapter 51, Occupations Code,  
19 is amended by adding Section 51.003 to read as follows:

20 Sec. 51.003. APPLICABILITY. This chapter applies to each  
21 regulatory program administered by the department, including any  
22 program under which a license is issued by the department.

23 SECTION 1.003. Section 51.052(a), Occupations Code, is  
24 amended to read as follows:

1 (a) The commission consists of five [~~six~~] members appointed  
2 by the governor with the advice and consent of the senate.

3 SECTION 1.004. Section 51.053(b), Occupations Code, is  
4 amended to read as follows:

5 (b) A person is not eligible for appointment as a member of  
6 the commission if the person or the person's spouse:

7 (1) is regulated by the department;

8 (2) is employed by or participates in the management  
9 of a business entity or other organization regulated by or  
10 receiving funds from the department;

11 (3) owns or controls, directly or indirectly, more  
12 than a 10 percent interest in a business entity or other  
13 organization regulated by or receiving funds from the department;

14 (4) uses or receives a substantial amount of tangible  
15 goods, services, or funds from the department, other than  
16 compensation or reimbursement authorized by law for commission  
17 membership, attendance, or expenses; or

18 (5) [~~is an officer, employee, or paid consultant of a~~  
19 ~~trade association in a field regulated by the department,~~

20 [~~(6)~~] is an employee of the department[~~, or~~

21 [~~(7) is required to register as a lobbyist under~~  
22 ~~Chapter 305, Government Code, because of the person's activities~~  
23 ~~for compensation on behalf of a profession related to the operation~~  
24 ~~of the commission or department].~~

25 SECTION 1.005. Subchapter B, Chapter 51, Occupations Code,  
26 is amended by adding Section 51.0535 to read as follows:

27 Sec. 51.0535. CONFLICT OF INTEREST. (a) In this section,

1 "Texas trade association" means a cooperative and voluntarily  
2 joined statewide association of business or professional  
3 competitors in this state designed to assist its members and its  
4 industry or profession in dealing with mutual business or  
5 professional problems and in promoting their common interest.

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

12 (1) the person is an officer, employee, or paid  
13 consultant of a Texas trade association in a field regulated by the  
14 department; or

15 (2) the person's spouse is an officer, manager, or paid  
16 consultant of a Texas trade association in a field regulated by the  
17 department.

18 (c) A person may not be a member of the commission or act as  
19 the general counsel to the commission or the department if the  
20 person is required to register as a lobbyist under Chapter 305,  
21 Government Code, because of the person's activities for  
22 compensation on behalf of a profession related to the operation of  
23 the department.

24 SECTION 1.006. Subchapter B, Chapter 51, Occupations Code,  
25 is amended by adding Section 51.054 to read as follows:

26 Sec. 51.054. TRAINING. (a) A person who is appointed to  
27 and qualifies for office as a member of the commission may not vote,

1 deliberate, or be counted as a member in attendance at a meeting of  
2 the commission until the person completes a training program that  
3 complies with this section.

4 (b) The training program must provide the person with  
5 information regarding:

6 (1) the legislation that created the department and  
7 the commission;

8 (2) the programs operated by the department;

9 (3) the role and functions of the department;

10 (4) the rules of the department, with an emphasis on  
11 the rules that relate to disciplinary and investigatory authority;

12 (5) the current budget for the department;

13 (6) the results of the most recent formal audit of the  
14 department;

15 (7) the requirements of:

16 (A) the open meetings law, Chapter 551,  
17 Government Code;

18 (B) the public information law, Chapter 552,  
19 Government Code;

20 (C) the administrative procedure law, Chapter  
21 2001, Government Code; and

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

24 (8) any applicable ethics policies adopted by the  
25 department or the Texas Ethics Commission.

26 (c) A person appointed to the commission is entitled to  
27 reimbursement, as provided by the General Appropriations Act, for

1 the travel expenses incurred in attending the training program  
2 regardless of whether the attendance at the program occurs before  
3 or after the person qualifies for office.

4 SECTION 1.007. Section 51.055(a), Occupations Code, is  
5 amended to read as follows:

6 (a) Members of the commission serve staggered six-year  
7 terms. The terms of one or two members expire on February 1 of each  
8 odd-numbered year.

9 SECTION 1.008. Section 51.056(a), Occupations Code, is  
10 amended to read as follows:

11 (a) The governor shall designate a member of the commission  
12 as the presiding officer of the commission to serve in that capacity  
13 at the pleasure of the governor [~~commission shall elect one of its~~  
14 ~~members as presiding officer. The presiding officer serves in that~~  
15 ~~capacity for a period of two years~~].

16 SECTION 1.009. Sections 51.057(a) and (c), Occupations  
17 Code, are amended to read as follows:

18 (a) It is a ground for removal from the commission that a  
19 member:

20 (1) does not have at the time of taking office  
21 [appointment] the qualifications required by Section 51.053 [~~for~~  
22 ~~appointment to the commission~~];

23 (2) does not maintain during service on the commission  
24 the qualifications required by Section 51.053 [~~for appointment to~~  
25 ~~the commission~~];

26 (3) is ineligible for membership under [~~violates a~~  
27 ~~prohibition established by~~] Section 51.0535 [~~51.053~~]; [~~or~~]

1           (4) cannot, because of illness or disability,  
2 discharge the member's duties for a substantial part of the member's  
3 term; or

4           (5) is absent from more than half of the regularly  
5 scheduled commission meetings that the member is eligible to attend  
6 during a calendar year without an excuse approved [~~unless the~~  
7 ~~absence is excused~~] by a majority vote of the commission.

8           (c) If [~~a commission member or~~] the executive director has  
9 knowledge that a potential ground for removal exists, the [~~member~~  
10 ~~or~~] executive director shall notify the presiding officer of the  
11 commission of the potential ground. The presiding officer shall  
12 then notify the governor and the attorney general that a potential  
13 ground for removal exists. If the potential ground for removal  
14 involves the presiding officer, the executive director shall notify  
15 the next highest ranking officer of the commission, who shall then  
16 notify the governor and the attorney general that a potential  
17 ground for removal exists.

18           SECTION 1.010. Section 51.105, Occupations Code, is amended  
19 to read as follows:

20           Sec. 51.105. DIVISION OF RESPONSIBILITIES. The commission  
21 shall develop and implement policies that clearly separate the  
22 policy-making [~~define the respective~~] responsibilities of the  
23 commission and the management responsibilities of[7] the executive  
24 director[7] and the staff of the department.

25           SECTION 1.011. Subchapter C, Chapter 51, Occupations Code,  
26 is amended by adding Section 51.106 to read as follows:

27           Sec. 51.106. INFORMATION ON STANDARDS OF CONDUCT. The

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

7 SECTION 1.012. Section 51.108, Occupations Code, is amended  
8 to read as follows:

9 Sec. 51.108. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The  
10 executive director or the executive director's designee shall  
11 prepare and maintain a written policy statement that implements a  
12 program of [~~to assure implementation of an~~] equal employment  
13 opportunity to ensure that [~~program under which~~] all personnel  
14 decisions [~~transactions~~] are made without regard to race, color,  
15 disability, sex, religion, age, or national origin.

16 (b) The policy statement must include:

17 (1) personnel policies, including policies relating  
18 [~~related~~] to recruitment, evaluation, selection, [~~appointment,~~]  
19 training, and promotion of personnel, that show the intent of the  
20 department to avoid the unlawful employment practices described by  
21 Chapter 21, Labor Code; and

22 (2) an analysis of the extent to which the composition  
23 of the department's personnel is in accordance with state and  
24 federal law and a description of reasonable methods to achieve  
25 compliance with state and federal law [~~a comprehensive analysis of~~  
26 ~~the department workforce that meets federal and state guidelines,~~

27 [~~(3) procedures by which a determination can be made~~

1 ~~of significant underuse in the department workforce of all persons~~  
2 ~~for whom federal or state guidelines encourage a more equitable~~  
3 ~~balance; and~~

4 ~~(4) reasonable methods to appropriately address~~  
5 ~~those areas of significant underuse].~~

6 (c) The ~~[(b) A]~~ policy statement ~~[prepared under Subsection~~  
7 ~~(a)]~~ must:

8 (1) ~~[cover an annual period,]~~ be updated ~~[at least]~~  
9 annually;

10 (2) be reviewed by the state Commission on Human  
11 Rights for compliance with Subsection (b)(1);~~[r]~~ and

12 (3) be filed with the governor's office ~~[governor].~~

13 SECTION 1.013. Subchapter C, Chapter 51, Occupations Code,  
14 is amended by adding Section 51.109 to read as follows:

15 Sec. 51.109. STATE EMPLOYEE INCENTIVE PROGRAM. The  
16 executive director or the executive director's designee shall  
17 provide to department employees information and training on the  
18 benefits and methods of participation in the state employee  
19 incentive program.

20 SECTION 1.014. Sections 51.203 and 51.204, Occupations  
21 Code, are amended to read as follows:

22 Sec. 51.203. RULES REGARDING PROGRAMS REGULATED BY  
23 DEPARTMENT ~~[ADOPTED BY EXECUTIVE DIRECTOR].~~ The commission  
24 ~~[executive director]~~ shall adopt rules as necessary to implement  
25 each law establishing a program regulated by the department.

26 Sec. 51.204. RULES RESTRICTING ADVERTISING OR COMPETITIVE  
27 BIDDING. (a) The commission ~~[executive director]~~ may not adopt



1 rules restricting advertising or competitive bidding by a license  
2 holder except to prohibit false, misleading, or deceptive  
3 practices.

4 (b) The commission [~~executive director~~] may not include in  
5 rules to prohibit false, misleading, or deceptive practices by a  
6 license holder a rule that:

- 7 (1) restricts the use of any advertising medium;
- 8 (2) restricts the license holder's personal appearance  
9 or the use of the license holder's voice in an advertisement;
- 10 (3) relates to the size or duration of an  
11 advertisement; or
- 12 (4) restricts the use of a trade name in advertising.

13 SECTION 1.015. Subchapter D, Chapter 51, Occupations Code,  
14 is amended by adding Sections 51.207 and 51.208 to read as follows:

15 Sec. 51.207. USE OF TECHNOLOGY. The commission shall  
16 develop and implement a policy requiring the executive director and  
17 department employees to research and propose appropriate  
18 technological solutions to improve the department's ability to  
19 perform its functions. The technological solutions must:

20 (1) ensure that the public is able to easily find  
21 information about the department on the Internet;

22 (2) ensure that persons who want to use the  
23 department's services are able to:

24 (A) interact with the department through the  
25 Internet; and

26 (B) access any service that can be provided  
27 effectively through the Internet; and

1           (3) be cost-effective and developed through the  
2 department's planning processes.

3           Sec. 51.208. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE  
4 RESOLUTION PROCEDURES. (a) The commission shall develop and  
5 implement a policy to encourage the use of:

6           (1) negotiated rulemaking procedures under Chapter  
7 2008, Government Code, for the adoption of department rules; and

8           (2) appropriate alternative dispute resolution  
9 procedures under Chapter 2009, Government Code, to assist in the  
10 resolution of internal and external disputes under the department's  
11 jurisdiction.

12           (b) The department's procedures relating to alternative  
13 dispute resolution must conform, to the extent possible, to any  
14 model guidelines issued by the State Office of Administrative  
15 Hearings for the use of alternative dispute resolution by state  
16 agencies.

17           (c) The commission shall designate a trained person to:

18           (1) coordinate the implementation of the policy  
19 adopted under Subsection (a);

20           (2) serve as a resource for any training needed to  
21 implement the procedures for negotiated rulemaking or alternative  
22 dispute resolution; and

23           (3) collect data concerning the effectiveness of  
24 those procedures, as implemented by the department.

25           SECTION 1.016. Section 51.252, Occupations Code, is amended  
26 to read as follows:

27           Sec. 51.252. COMPLAINTS. (a) The executive director shall

1 establish methods by which consumers and service recipients are  
2 notified of the name, mailing address, and telephone number of the  
3 department for the purpose of directing complaints to the  
4 department. The department shall provide to the person filing the  
5 complaint and to each person who is a subject of the complaint  
6 information about the department's policies and procedures  
7 relating to complaint investigation and resolution.

8 (b) The department shall maintain a [~~keep an information~~]  
9 file on [~~about~~] each written complaint filed with the department  
10 [~~that the commission or executive director has authority to~~  
11 ~~resolve~~]. The file must include:

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

13 (2) the date the complaint is received by the  
14 department;

15 (3) the subject matter of the complaint;

16 (4) the name of each person contacted in relation to  
17 the complaint;

18 (5) a summary of the results of the review or  
19 investigation of the complaint; and

20 (6) an explanation of the reason the file was closed,  
21 if the department closed the file without taking action other than  
22 to investigate the complaint.

23 (c) The [~~If a written complaint is filed that the commission~~  
24 ~~or executive director has authority to resolve, the~~] department, at  
25 least quarterly and until final disposition of the complaint, shall  
26 notify the person filing [~~parties to~~] the complaint and each person  
27 who is a subject of the complaint of the status of the investigation

1 ~~[complaint]~~ unless the notice would jeopardize an undercover  
2 investigation.

3 (d) The commission shall adopt a procedure for documenting  
4 complaints to the department from the time of the submission of the  
5 initial complaint to the final disposition of the complaint. The  
6 commission shall publish the procedure in the Texas Register.

7 SECTION 1.017. Section 51.302, Occupations Code, is amended  
8 by adding Subsection (c) to read as follows:

9 (c) The commission shall by rule or by procedure published  
10 in the Texas Register establish a written enforcement plan that  
11 provides notice to license holders of the specific ranges of  
12 penalties that apply to specific alleged violations and the  
13 criteria by which the department determines the amount of a  
14 proposed administrative penalty.

15 SECTION 1.018. Section 51.353, Occupations Code, is amended  
16 to read as follows:

17 Sec. 51.353. ADMINISTRATIVE SANCTIONS. (a) The commission  
18 shall revoke, suspend, or refuse to renew a license or shall  
19 reprimand a license holder for a violation of this chapter,  
20 ~~[executive director shall adopt rules relating to administrative~~  
21 ~~sanctions that may be enforced against a license holder regulated~~  
22 ~~by the department. If a license holder violates]~~ a law establishing  
23 a regulatory program administered by the department, or a rule or  
24 order of the commission ~~[or executive director, the executive~~  
25 ~~director may:~~

26 ~~[(1) issue a written reprimand to the license holder,~~  
27 ~~[(2) revoke or suspend the license holder's license,~~

1 ~~or~~

2 ~~[(3) place the license holder on probation if the~~  
3 ~~person's license has been suspended].~~

4 (b) The commission may place on probation a person whose  
5 license is suspended. If a license suspension is probated, the  
6 commission [~~executive director~~] may require the person [~~license~~  
7 ~~holder~~] to:

8 (1) report regularly to the department on matters that  
9 are the basis of the probation;

10 (2) limit practice to the areas prescribed by the  
11 commission [~~executive director~~]; or

12 (3) continue or renew professional education [~~in those~~  
13 ~~areas that are the basis for the probation~~] until the person  
14 [~~license holder~~] attains a degree of skill satisfactory to the  
15 commission in those areas that are the basis for the probation  
16 [~~executive director~~].

17 SECTION 1.019. Chapter 51, Occupations Code, is amended by  
18 adding Subchapter H to read as follows:

19 SUBCHAPTER H. LICENSE REQUIREMENTS

20 Sec. 51.401. LICENSE EXPIRATION AND RENEWAL. (a) A person  
21 who is otherwise eligible to renew a license may renew an unexpired  
22 license by paying the required renewal fee to the department before  
23 the expiration date of the license. A person whose license has  
24 expired may not engage in activities that require a license until  
25 the license has been renewed.

26 (b) A person whose license has been expired for 90 days or  
27 less may renew the license by paying to the department a renewal fee

1 that is equal to 1-1/2 times the normally required renewal fee.

2 (c) A person whose license has been expired for more than 90  
3 days but less than one year may renew the license by paying to the  
4 department a renewal fee that is equal to two times the normally  
5 required renewal fee.

6 (d) A person whose license has been expired for one year or  
7 more may not renew the license. The person may obtain a new license  
8 by complying with the requirements and procedures, including the  
9 examination requirements, for obtaining an original license.

10 (e) A person who was licensed in this state, moved to  
11 another state, and is currently licensed and has been in practice in  
12 the other state for the two years preceding the date of application  
13 may obtain a new license without reexamination. The person must pay  
14 to the department a fee that is equal to two times the normally  
15 required renewal fee for the license.

16 (f) Not later than the 30th day before the date a person's  
17 license is scheduled to expire, the department shall send written  
18 notice of the impending expiration to the person at the person's  
19 last known address according to the records of the department.

20 Sec. 51.402. EXAMINATIONS. (a) Not later than the 30th day  
21 after the date a person takes a license examination, the department  
22 shall notify the person of the results of the examination.

23 (b) If the examination is graded or reviewed by a testing  
24 service:

25 (1) the department shall notify the person of the  
26 results of the examination not later than the 14th day after the  
27 date the department receives the results from the testing service;

1 and

2 (2) if notice of the examination results will be  
3 delayed for longer than 90 days after the examination date, the  
4 department shall notify the person of the reason for the delay  
5 before the 90th day.

6 (c) The department may require a testing service to notify a  
7 person of the results of the person's examination.

8 (d) If requested in writing by a person who fails a license  
9 examination, the department shall furnish the person with an  
10 analysis of the person's performance on the examination.

11 Sec. 51.403. EXAMINATION FEE REFUND. (a) The department  
12 may refund a license examination fee to a person who is unable to  
13 take the examination if the person:

14 (1) provides reasonable advance notice to the  
15 department; or

16 (2) cannot take the examination because of an  
17 emergency.

18 (b) The commission by rule shall define what constitutes  
19 reasonable notice and an emergency under this section.

20 Sec. 51.404. ENDORSEMENT; RECIPROCITY. (a) The commission  
21 may waive any prerequisite to obtaining a license for an applicant  
22 after reviewing the applicant's credentials and determining that  
23 the applicant holds a license issued by another jurisdiction that  
24 has licensing requirements substantially equivalent to those of  
25 this state.

26 (b) The commission may waive any prerequisite to obtaining a  
27 license for an applicant who holds a license issued by another

1 jurisdiction with which this state has a reciprocity agreement.  
2 The commission may make an agreement, subject to the approval of the  
3 governor, with another state to allow for licensing by reciprocity.

4 Sec. 51.405. CONTINUING EDUCATION. The commission shall  
5 recognize, prepare, or administer continuing education programs  
6 for license holders. A license holder must participate in the  
7 programs to the extent required by the commission to keep the  
8 person's license.

9 SECTION 1.020. Section 51.205, Occupations Code, is  
10 renumbered as Section 51.406, Occupations Code, and amended to read  
11 as follows:

12 Sec. 51.406 [~~51.205~~]. STAGGERED [~~LICENSE EXPIRATION AND~~]  
13 RENEWAL OF LICENSES. [~~(a)~~] The commission by rule [~~executive~~  
14 ~~director~~] may adopt a system under which licenses expire on various  
15 dates during the year. For the year in which the license expiration  
16 date is changed, the department shall prorate license fees on a  
17 monthly basis so that each license holder pays only that portion of  
18 the license fee that is allocable to the number of months during  
19 which the license is valid. On renewal of the license on the new  
20 expiration date, the total license renewal fee is payable [~~annually~~  
21 ~~and may provide for a renewal period that exceeds 12 months.~~

22 [~~(b) The executive director shall notify a person regulated~~  
23 ~~by the department of the impending expiration of the person's~~  
24 ~~license].~~

25 SECTION 1.021. Chapter 51, Occupations Code, is amended by  
26 adding Subchapter I to read as follows:

27 SUBCHAPTER I. TELEPHONE INFORMATION SYSTEM



1       Sec. 51.451. DEFINITION. In this subchapter, "licensing  
2 entity" means a department, commission, board, office, authority,  
3 or other agency or governmental entity of this state that issues an  
4 occupational license.

5       Sec. 51.452. TELEPHONE INFORMATION SYSTEM. The department  
6 shall establish and operate a toll-free telephone information  
7 system to provide assistance and referral services for persons who  
8 inquire about a program regulated by a licensing entity.

9       Sec. 51.453. TELEPHONE LISTING. A licensing entity shall  
10 list the toll-free telephone number of the information system with  
11 the entity's regular telephone number.

12       Sec. 51.454. FEES. The department shall charge licensing  
13 entities fees in amounts sufficient to cover the cost of  
14 implementing this subchapter, including fees on a subscription  
15 basis, on the basis of each transaction, or on another service  
16 basis.

17       SECTION 1.022. (a) Except as provided by Subsection (b) of  
18 this section, the changes in law made by this article in the  
19 prohibitions or qualifications applying to members of the Texas  
20 Commission of Licensing and Regulation do not affect the  
21 entitlement of a member serving on the commission immediately  
22 before September 1, 2003, to continue to serve and function as a  
23 member of the commission for the remainder of the member's term.  
24 Those changes in law apply only to a member appointed on or after  
25 September 1, 2003.

26       (b) To implement the changes in law made by this article to  
27 the composition of the Texas Commission of Licensing and Regulation

1 under Section 51.052(a), Occupations Code, of the two positions  
2 that have terms scheduled to expire on February 1, 2005, one of the  
3 positions is abolished on September 1, 2003. On or before September  
4 1, 2003, the two members whose terms are scheduled to expire on  
5 February 1, 2005, shall determine by unanimous agreement or by lot  
6 which of the two positions shall be abolished on September 1, 2003,  
7 and shall inform the presiding officer of the Texas Commission of  
8 Licensing and Regulation of that determination.

9 SECTION 1.023. Not later than September 1, 2004, the Texas  
10 Department of Licensing and Regulation shall implement the  
11 toll-free telephone information system required by Section 51.452,  
12 Occupations Code, as added by this article.

13 SECTION 1.024. (a) In this section:

14 (1) "Department" means the Texas Department of  
15 Licensing and Regulation.

16 (2) "Licensing entity" means a department,  
17 commission, board, office, authority, or other agency or  
18 governmental entity of this state that issues an occupational  
19 license.

20 (3) "TexasOnline" means the project implemented under  
21 Subchapter I, Chapter 2054, Government Code, as added by Chapter  
22 342, Acts of the 77th Legislature, Regular Session, 2001.

23 (b) Not later than March 1, 2004, the department shall  
24 identify licensing entities that do not use TexasOnline.

25 (c) Not later than September 1, 2004, the department shall  
26 assist those entities to develop websites for, and to convert to,  
27 TexasOnline.

1 (d) Licensing entities shall cooperate with the department  
2 to implement this section.

3 SECTION 1.025. Not later than March 1, 2004, the Texas  
4 Commission of Licensing and Regulation shall adopt the rules  
5 required by Section 51.302(c), Occupations Code, as added by this  
6 article.

7 SECTION 1.026. Section 51.053(c), Occupations Code, is  
8 repealed.

9 SECTION 1.027. Section 51.252, Occupations Code, as amended  
10 by this article, takes effect January 1, 2004.

11 ARTICLE 2. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

12 SECTION 2.001. Section 1302.002, Occupations Code, is  
13 amended by amending Subdivision (5) and adding Subdivision (11-a)  
14 to read as follows:

15 (5) "Air conditioning and refrigeration maintenance  
16 work" means all work, including repair work, required for the  
17 continued normal performance of an environmental air conditioning  
18 system, a process cooling or heating system, a commercial  
19 refrigeration system, or commercial refrigeration equipment. The  
20 term does not include:

21 (A) the total replacement of a system; or

22 (B) the installation or repair of a boiler or  
23 pressure vessel that must be installed in accordance with rules  
24 adopted by the commission [~~commissioner~~] under Chapter 755, Health  
25 and Safety Code.

26 (11-a) "Executive director" means the executive  
27 director of the department.

1 SECTION 2.002. The heading to Subchapter C, Chapter 1302,  
2 Occupations Code, is amended to read as follows:

3 SUBCHAPTER C. [~~COMMISSIONER AND DEPARTMENT~~] POWERS AND DUTIES

4 SECTION 2.003. Section 1302.101, Occupations Code, is  
5 amended to conform to Section 2, Chapter 790, Acts of the 77th  
6 Legislature, Regular Session, 2001, and is further amended to read  
7 as follows:

8 Sec. 1302.101. GENERAL POWERS AND DUTIES [~~OF COMMISSIONER~~].

9 (a) The commission [~~commissioner~~] shall[+]

10 [~~(1)~~] adopt rules for the practice of air conditioning  
11 and refrigeration contracting that are at least as strict as the  
12 standards provided by:

13 (1) [~~(A)~~] the Uniform Mechanical Code [~~published~~  
14 ~~jointly by the International Conference of Building Officials and~~  
15 ~~the International Association of Plumbing and Mechanical~~  
16 ~~Officials, as that code exists at the time the rules are adopted~~];  
17 and [~~or~~]

18 (2) [~~(B)~~] the International [~~Standard~~] Mechanical  
19 Code.

20 (b) The executive director shall [~~published by the Southern~~  
21 ~~Building Code Congress International, Inc., as that code exists at~~  
22 ~~the time the rules are adopted,~~

23 [~~(2)~~] prescribe the design of an original and a  
24 renewal license.

25 (c) The commission shall[, and

26 [~~(3)~~] maintain a record of the commission's  
27 [~~commissioner's~~] proceedings under this chapter.

1           (d) [~~(b)~~] The executive director [~~commissioner~~] may  
2 authorize disbursements necessary to implement this chapter,  
3 including disbursements for office expenses, equipment costs, and  
4 other necessary facilities.

5           SECTION 2.004. Section 1302.103, Occupations Code, is  
6 amended to read as follows:

7           Sec. 1302.103. RULES REGARDING USE AND DISPLAY OF LICENSE.  
8 The commission [~~commissioner~~], with the advice of the advisory  
9 board, shall adopt rules relating to the use, display, and  
10 advertisement of a license.

11           SECTION 2.005. Section 1302.201, Occupations Code, is  
12 amended to read as follows:

13           Sec. 1302.201. ADVISORY BOARD MEMBERSHIP. The air  
14 conditioning and refrigeration contractors advisory board consists  
15 of six members appointed by the presiding officer of the  
16 commission, with the commission's approval, [~~governor with the~~  
17 ~~advice and consent of the senate~~] and two ex officio nonvoting  
18 members.

19           SECTION 2.006. Section 1302.204(a), Occupations Code, is  
20 amended to read as follows:

21           (a) The advisory board shall advise the commission  
22 [~~commissioner~~] in adopting rules and in administering and enforcing  
23 this chapter.

24           SECTION 2.007. Section 1302.205(b), Occupations Code, is  
25 amended to read as follows:

26           (b) If a vacancy occurs during an appointed member's term,  
27 the presiding officer of the commission, with the commission's

1 approval, [~~governor~~] shall fill the vacancy for the remainder of  
2 the unexpired term with a person who represents the same interests  
3 as the predecessor.

4 SECTION 2.008. Section 1302.206, Occupations Code, is  
5 amended to read as follows:

6 Sec. 1302.206. PRESIDING OFFICER. The presiding officer of  
7 the commission, with the commission's approval, [~~governor~~] shall  
8 designate one member of the advisory board to serve as presiding  
9 officer of the board for two years.

10 SECTION 2.009. Section 1302.261, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1302.261. TEMPORARY LICENSE. The commission  
13 [~~commissioner~~] by rule may provide for the issuance of a temporary  
14 air conditioning and refrigeration contracting license to an  
15 applicant who:

16 (1) submits to the executive director [~~commissioner~~]  
17 an application on a form prescribed by the executive director  
18 [~~commissioner~~]; and

19 (2) pays the required fees.

20 SECTION 2.010. Section 1302.354(b), Occupations Code, is  
21 amended to read as follows:

22 (b) The commission [~~commissioner~~] by rule shall adopt  
23 requirements governing the registration and issuance of a  
24 certificate of registration.

25 SECTION 2.011. Section 1302.355(c), Occupations Code, is  
26 amended to read as follows:

27 (c) The commission [~~commissioner~~] by rule shall establish

1 requirements for evidence that satisfies this section.

2 SECTION 2.012. The following laws are repealed:

- 3 (1) Section 1302.002(8), Occupations Code;
- 4 (2) Section 1302.107, Occupations Code;
- 5 (3) Section 1302.152, Occupations Code;
- 6 (4) Section 1302.258, Occupations Code;
- 7 (5) Section 1302.259, Occupations Code; and
- 8 (6) Chapter 790, Acts of the 77th Legislature, Regular  
9 Session, 2001.

10 SECTION 2.013. The changes in law made by this article  
11 applying to members of the air conditioning and refrigeration  
12 contractors advisory board do not affect the entitlement of a  
13 member serving on the board immediately before September 1, 2003,  
14 to continue to serve and function as a member of the board for the  
15 remainder of the member's term. Those changes in law apply only to  
16 a member appointed on or after September 1, 2003.

17 ARTICLE 3. ARCHITECTURAL BARRIERS

18 SECTION 3.001. Section 4, Article 9102, Revised Statutes,  
19 is amended by adding Subdivision (6-a) to read as follows:

20 (6-a) "Executive director" means the executive  
21 director of the department.

22 SECTION 3.002. Article 9102, Revised Statutes, is amended  
23 by adding Section 4A to read as follows:

24 Sec. 4A. APPLICABILITY OF OTHER LAW. Section 51.404,  
25 Occupations Code, does not apply to this article.

26 SECTION 3.003. Sections 5A(c)-(h) and (j), Article 9102,  
27 Revised Statutes, are amended to read as follows:

1 (c) An applicant for a certificate of registration must file  
2 with the commission an application on a form prescribed by the  
3 executive director [~~commissioner~~].

4 (d) To be eligible for a certificate of registration, an  
5 applicant must satisfy any requirements adopted by the commission  
6 [~~commissioner~~] by rule, including education and examination  
7 requirements.

8 (e) The executive director [~~commissioner~~] may issue a  
9 certificate of registration to perform review functions of the  
10 commission, inspection functions of the commission, or both review  
11 and inspection functions.

12 (f) The executive director [~~commissioner~~] may administer  
13 separate examinations for applicants for certificates of  
14 registration to perform review functions, inspection functions, or  
15 both review and inspection functions. [~~Not later than the 30th day~~  
16 ~~after the examination date, the commissioner shall notify each~~  
17 ~~examinee of the results of the examination.~~]

18 (g) The executive director [~~commissioner~~] shall issue an  
19 appropriate certificate of registration to an applicant who meets  
20 the requirements for a certificate.

21 (h) The commission [~~commissioner~~] by rule shall specify the  
22 term of a certificate of registration issued under this section.

23 (j) A certificate holder shall perform a review or  
24 inspection function of the commission in a competent and  
25 professional manner and in compliance with:

26 (1) standards and specifications adopted by the  
27 commission under this article; and



1 (2) rules adopted by the commission [~~commissioner~~]  
2 under this article.

3 SECTION 3.004. Section 7, Article 9102, Revised Statutes,  
4 is amended to read as follows:

5 Sec. 7. ADVISORY COMMITTEE; REVIEW OF AND COMMENT ON RULES.

6 (a) The presiding officer of the commission, with the commission's  
7 approval, shall appoint an advisory committee for the architectural  
8 barriers program. The committee shall be composed of building  
9 professionals and persons with disabilities who are familiar with  
10 architectural barrier problems and solutions. The committee shall  
11 be composed of at least eight members. Persons with disabilities  
12 must make up a majority of the membership.

13 (b) A committee member serves at the will of the presiding  
14 officer of the commission. A member may not receive compensation  
15 for service on the committee but is entitled to reimbursement for  
16 actual and necessary expenses incurred in performing functions as a  
17 member.

18 (c) The presiding officer of the commission, with the  
19 commission's approval, [~~committee~~] shall appoint [~~elect~~] a member  
20 of the committee as chair for two years. The committee shall meet  
21 at least twice each calendar year at the call of the committee chair  
22 or at the call of the commission [~~commissioner~~].

23 (d) The committee periodically shall review the rules  
24 relating to the architectural barriers program and recommend  
25 changes in the rules to the commission [~~and the commissioner~~]. The  
26 commission shall submit all proposed changes to rules and  
27 procedures that relate to the architectural barriers program to the

1 committee for review and comment before adoption or implementation  
2 of the new or amended rule or procedure.

3 SECTION 3.005. Article 9102, Revised Statutes, is amended  
4 by adding Section 9 to read as follows:

5 Sec. 9. COMPLAINTS. (a) A complaint made under Section  
6 51.252, Occupations Code, that alleges that a building or facility  
7 is not in compliance with the standards and specifications adopted  
8 by the commission under this article is not eligible for final  
9 disposition until the commission determines that:

10 (1) the building or facility has been brought into  
11 compliance or cannot be brought into compliance; or

12 (2) the building or facility is exempt from compliance  
13 by statute or rule.

14 (b) If the building or facility cannot be brought into  
15 compliance or if the building or facility is exempt, the department  
16 shall, before final disposition of the complaint, notify the person  
17 filing the complaint that the building or facility cannot be  
18 brought into compliance or provide a reference to any rule or law  
19 that states an applicable exemption.

20 SECTION 3.006. The following laws are repealed:

21 (1) Section 4(3), Article 9102, Revised Statutes; and

22 (2) Section 5A(i), Article 9102, Revised Statutes.

23 SECTION 3.007. The changes in law made by this article  
24 applying to members of the advisory committee for the program for  
25 the elimination of architectural barriers do not affect the  
26 entitlement of a member serving on the committee immediately before  
27 September 1, 2003, to continue to serve and function as a member of

1 the committee for the remainder of the member's term. Those changes  
2 in law apply only to a member appointed on or after September 1,  
3 2003.

4 ARTICLE 4. AUCTIONEERS

5 SECTION 4.001. Section 1802.001, Occupations Code, is  
6 amended by adding Subdivision (8-a) to read as follows:

7 (8-a) "Executive director" means the executive  
8 director of the department.

9 SECTION 4.002. Sections 1802.059(a), (b), and (d),  
10 Occupations Code, are amended to read as follows:

11 (a) An applicant for an auctioneer's license who is not a  
12 resident of this state but is licensed as an auctioneer in another  
13 state must submit to the executive director [~~commissioner~~]:

14 (1) a license application;

15 (2) a certified copy of the auctioneer's license  
16 issued to the applicant by the state or political subdivision in  
17 which the applicant resides; and

18 (3) proof that the state or political subdivision in  
19 which the applicant is licensed has competency standards equivalent  
20 to or stricter than those of this state.

21 (b) The executive director [~~commissioner~~] shall accept the  
22 applicant's auctioneer's license submitted under Subsection (a)(2)  
23 as proof of the applicant's professional competence and waive the  
24 examination and training requirements of Section 1802.052 if the  
25 state or political subdivision that issued the nonresident a  
26 license extends similar recognition and courtesies to this state.

27 (d) A nonresident applicant must submit with the

1 application a written irrevocable consent to service of process.  
2 The consent must be in the form and supported by additional  
3 information that the commission [~~commissioner~~] by rule requires.

4 The consent must:

5 (1) provide that an action relating to any transaction  
6 subject to this chapter may be commenced against the license holder  
7 in the proper court of any county of this state in which the cause of  
8 action may arise or in which the plaintiff may reside by service of  
9 process on the executive director [~~commissioner~~] as the license  
10 holder's agent; and

11 (2) include a statement stipulating and agreeing that  
12 service provided by this section is as valid and binding as if  
13 service had been made on the person according to the laws of this or  
14 any other state.

15 SECTION 4.003. Section 1802.101, Occupations Code, is  
16 amended to read as follows:

17 Sec. 1802.101. AUCTIONEER EDUCATION ADVISORY BOARD. The  
18 advisory board shall advise the commission [~~commissioner~~] on  
19 educational matters.

20 SECTION 4.004. Sections 1802.102(a) and (b), Occupations  
21 Code, are amended to read as follows:

22 (a) The advisory board consists of five members appointed as  
23 follows:

24 (1) three members who are licensed auctioneers  
25 appointed by the presiding officer of the commission, with the  
26 commission's approval [~~commissioner~~];

27 (2) the executive director of the Texas Department of

1 Economic Development or the director's designee; and

2 (3) the commissioner of education or the  
3 commissioner's designee.

4 (b) In appointing advisory board members under Subsection  
5 (a)(1), the presiding officer of the commission [~~commissioner~~] may  
6 not appoint members who reside in contiguous senatorial districts.

7 SECTION 4.005. Section 1802.103(a), Occupations Code, is  
8 amended to read as follows:

9 (a) The members appointed under Section 1802.102(a)(1)  
10 serve two-year terms that expire on September 1. If a vacancy  
11 occurs during the term of such a member, the presiding officer of  
12 the commission, with the commission's approval, [~~commissioner~~]  
13 shall appoint a replacement to serve for the remainder of the term.

14 SECTION 4.006. Section 1802.104, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1802.104. PRESIDING OFFICER. The presiding officer of  
17 the commission, with the commission's approval, shall appoint a  
18 member of the advisory board to serve [~~shall designate one of its~~  
19 ~~members~~] as presiding officer of the board. The presiding officer  
20 serves for two years.

21 SECTION 4.007. Section 1802.109, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1802.109. AUCTIONEER EDUCATION PROGRAMS. (a) The  
24 advisory board shall:

25 (1) evaluate educational programs, seminars, and  
26 training projects; and

27 (2) make recommendations to the commission

1 ~~[commissioner]~~ on their usefulness and merit as continuing  
2 education tools.

3 (b) On the recommendation of the advisory board, the  
4 commission ~~[commissioner]~~ may fund or underwrite specific classes,  
5 seminars, or events for the education and advancement of the  
6 auctioneering profession in this state.

7 SECTION 4.008. Section 1802.153(a), Occupations Code, is  
8 amended to read as follows:

9 (a) In addition to any other fees required by this chapter,  
10 an applicant entitled to receive a license under this chapter must  
11 pay a fee ~~[of \$100]~~ before the executive director ~~[commissioner]~~  
12 issues the license.

13 SECTION 4.009. Section 1802.201, Occupations Code, is  
14 amended to read as follows:

15 Sec. 1802.201. INVESTIGATION OF COMPLAINTS. The executive  
16 director ~~[commissioner]~~ may, on the executive director's  
17 ~~[commissioner's]~~ motion, and shall, on the written ~~[and verified]~~  
18 complaint of a person aggrieved by the actions of an auctioneer in  
19 an auction, investigate an alleged violation of this chapter by a  
20 licensed or unlicensed auctioneer or an applicant.

21 SECTION 4.010. Sections 1802.202(a) and (b), Occupations  
22 Code, are amended to read as follows:

23 (a) A person who deals with an auctioneer licensed under  
24 this chapter and who is aggrieved by an action of the auctioneer as  
25 a result of a violation of a contract made with the auctioneer may  
26 initiate a claim against the fund by~~+~~

27 ~~[(1)]~~ filing with the department a ~~[sworn]~~ complaint

1 against the auctioneer[~~, and~~

2 [~~(2) paying to the department a filing fee of \$50~~].

3 (b) The executive director [~~commissioner~~] may not pay a  
4 claim against an auctioneer who was not licensed at the time of the  
5 transaction on which the claim is based.

6 SECTION 4.011. Section 1802.203(c), Occupations Code, is  
7 amended to read as follows:

8 (c) After the hearing, the hearings examiner shall prepare a  
9 proposal for decision for the commission [~~commissioner~~].

10 SECTION 4.012. Section 1802.204, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1802.204. APPEAL. A party may appeal a decision of the  
13 commission [~~commissioner~~] in the manner provided for a contested  
14 case under Chapter 2001, Government Code.

15 SECTION 4.013. Section 1802.207, Occupations Code, is  
16 amended to read as follows:

17 Sec. 1802.207. REIMBURSEMENT; INTEREST. (a) If the  
18 executive director [~~commissioner~~] pays a claim against an  
19 auctioneer, the auctioneer shall:

20 (1) reimburse the fund immediately or agree in writing  
21 to reimburse the fund on a schedule to be determined by rule of the  
22 commission [~~commissioner~~]; and

23 (2) immediately pay the aggrieved party any amount due  
24 to that party or agree in writing to pay the party on a schedule to  
25 be determined by rule of the commission [~~commissioner~~].

26 (b) Payments made by an auctioneer to the fund or to an  
27 aggrieved party under this section include interest accruing at the

1 rate of eight percent a year beginning on the date the executive  
2 director [~~commissioner~~] pays the claim.

3 SECTION 4.014. Section 1802.209(a), Occupations Code, is  
4 amended to read as follows:

5 (a) This subchapter and Section 1802.252 do not limit the  
6 commission's [~~commissioner's~~] authority to take disciplinary  
7 action against a license holder for a violation of this chapter or a  
8 rule adopted under this chapter.

9 SECTION 4.015. Section 1802.251, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1802.251. DENIAL OF APPLICATION; SUSPENSION OR  
12 REVOCATION OF LICENSE. The commission [~~commissioner~~] may deny an  
13 application for a license or suspend or revoke the license of any  
14 auctioneer for:

15 (1) violating this chapter or a rule adopted under  
16 this chapter;

17 (2) obtaining a license through false or fraudulent  
18 representation;

19 (3) making a substantial misrepresentation in an  
20 application for an auctioneer's license;

21 (4) engaging in a continued and flagrant course of  
22 misrepresentation or making false promises through an agent,  
23 advertising, or otherwise;

24 (5) failing to account for or remit, within a  
25 reasonable time, money belonging to another that is in the  
26 auctioneer's possession and commingling funds of another with the  
27 auctioneer's funds or failing to keep the funds of another in an



1 escrow or trust account; or

2 (6) [~~being convicted in a court of this state or~~  
3 ~~another state of a criminal offense involving moral turpitude or a~~  
4 ~~felony; or~~

5 [~~7~~] violating the Business & Commerce Code in  
6 conducting an auction.

7 SECTION 4.016. Section 1802.252, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1802.252. REVOCATION FOR CLAIM ON FUND. (a) The  
10 commission [~~commissioner~~] may revoke a license issued under this  
11 chapter if the executive director [~~commissioner~~] makes a payment  
12 from the fund as the result of an action of the license holder.

13 (b) The commission [~~commissioner~~] may probate an order  
14 revoking a license.

15 (c) An auctioneer is not eligible for a new license until  
16 the auctioneer has repaid in full the amount paid from the fund on  
17 the auctioneer's account, including interest, unless:

18 (1) a hearing is held; and

19 (2) the executive director [~~commissioner~~] issues a new  
20 probated license.

21 SECTION 4.017. Section 1802.253, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1802.253. HEARING. (a) Before denying an application  
24 for a license [~~or suspending or revoking a license~~], the commission  
25 [~~commissioner~~] shall:

26 (1) set the matter for a hearing; and

27 (2) before the [~~30th day before the~~] hearing date,

1 notify the applicant [~~or license holder~~] in writing of:

2 (A) the charges alleged or the question to be  
3 determined at the hearing; and

4 (B) the date and location of the hearing.

5 (b) At a hearing under this section, the applicant [~~or~~  
6 ~~license holder~~] may:

7 (1) be present and be heard in person or by counsel;  
8 and

9 (2) have an opportunity to offer evidence by oral  
10 testimony, affidavit, or deposition.

11 (c) Written notice may be served by personal delivery to the  
12 applicant [~~or license holder~~] or by certified mail to the last known  
13 mailing address of the applicant [~~or license holder~~].

14 (d) If the applicant [~~or license holder~~] who is the subject  
15 of the hearing is an associate auctioneer, the commission  
16 [~~commissioner~~] shall provide written notice to the auctioneer who  
17 employs the associate auctioneer or who has agreed to employ the  
18 associate auctioneer by mailing the notice by certified mail to the  
19 auctioneer's last known mailing address.

20 SECTION 4.018. Section 1802.303(a), Occupations Code, is  
21 amended to read as follows:

22 (a) A person commits an offense if the person violates a  
23 provision of this chapter or a rule adopted by the commission  
24 [~~commissioner~~] under this chapter for which a penalty is not  
25 provided.

26 SECTION 4.019. The following laws are repealed:

27 (1) Section 1802.001(7), Occupations Code;

- (2) Section 1802.057, Occupations Code;
- (3) Section 1802.061, Occupations Code; and
- (4) Section 1802.254, Occupations Code.

SECTION 4.020. The changes in law made by this article applying to members of the Auctioneer Education Advisory Board do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2003.

ARTICLE 5. BACKFLOW PREVENTION ASSEMBLY TESTERS

SECTION 5.001. Section 341.034(c), Health and Safety Code, is amended to read as follows:

(c) A person who repairs or tests the installation or operation of backflow prevention assemblies must hold a license issued by the Texas Department of Licensing and Regulation [~~commission~~] under Chapter 51, Occupations [~~37, Water~~] Code.

SECTION 5.002. (a) On November 1, 2003:

(1) all functions and activities relating to Section 341.034(c), Health and Safety Code, performed by the Texas Commission on Environmental Quality immediately before that date are transferred to the Texas Department of Licensing and Regulation;

(2) a rule or form adopted by the Texas Commission on Environmental Quality that relates to Section 341.034(c), Health and Safety Code, is a rule or form of the Texas Department of Licensing and Regulation and remains in effect until amended or

1 replaced by that department;

2 (3) a license or other document issued by the Texas  
3 Commission on Environmental Quality that relates to Section  
4 341.034(c), Health and Safety Code, is considered a license or  
5 other document issued by the Texas Department of Licensing and  
6 Regulation and remains in effect until amended or replaced by that  
7 department;

8 (4) a reference in law or an administrative rule to the  
9 Texas Commission on Environmental Quality that relates to Section  
10 341.034(c), Health and Safety Code, means the Texas Department of  
11 Licensing and Regulation;

12 (5) a complaint, investigation, or other proceeding  
13 before the Texas Commission on Environmental Quality that is  
14 related to Section 341.034(c), Health and Safety Code, is  
15 transferred without change in status to the Texas Department of  
16 Licensing and Regulation, and the Texas Department of Licensing and  
17 Regulation assumes, as appropriate and without a change in status,  
18 the position of the Texas Commission on Environmental Quality in an  
19 action or proceeding to which the Texas Commission on Environmental  
20 Quality is a party;

21 (6) all money, contracts, leases, property, and  
22 obligations of the Texas Commission on Environmental Quality  
23 related to Section 341.034(c), Health and Safety Code, are  
24 transferred to the Texas Department of Licensing and Regulation;

25 (7) all property in the custody of the Texas  
26 Commission on Environmental Quality related to Section 341.034(c),  
27 Health and Safety Code, is transferred to the Texas Department of

1 Licensing and Regulation; and

2 (8) the unexpended and unobligated balance of any  
3 money appropriated by the legislature for the Texas Commission on  
4 Environmental Quality related to Section 341.034(c), Health and  
5 Safety Code, is transferred to the Texas Department of Licensing  
6 and Regulation.

7 (b) Before November 1, 2003, the Texas Commission on  
8 Environmental Quality may agree with the Texas Department of  
9 Licensing and Regulation to transfer any property of the Texas  
10 Commission on Environmental Quality to the Texas Department of  
11 Licensing and Regulation to implement the transfer required by this  
12 article.

13 (c) In the period beginning on the effective date of this  
14 Act and ending on November 1, 2003, the Texas Commission on  
15 Environmental Quality shall continue to perform functions and  
16 activities under Section 341.034(c), Health and Safety Code, as if  
17 that section had not been amended by this Act, and the former law is  
18 continued in effect for that purpose.

19 ARTICLE 6. BOILERS

20 SECTION 6.001. Section 755.001, Health and Safety Code, is  
21 amended by amending Subdivisions (5), (6), and (23) and adding  
22 Subdivision (7-a) to read as follows:

23 (5) "Certificate of operation" means a certificate  
24 issued by the executive director [~~commissioner~~] to allow the  
25 operation of a boiler.

26 (6) "Commission" [~~"Commissioner"~~] means the Texas  
27 Commission of Licensing and Regulation [~~commissioner of licensing~~]

1 ~~and regulation~~].

2 (7-a) "Executive director" means the executive  
3 director of the department.

4 (23) "Standard boiler" means a boiler that bears a  
5 Texas stamp, the stamp of a nationally recognized engineering  
6 professional society, or the stamp of any jurisdiction that has  
7 adopted a standard of construction equivalent to the standard  
8 required by the executive director [~~commissioner~~].

9 SECTION 6.002. Sections 755.011(b) and (d), Health and  
10 Safety Code, are amended to read as follows:

11 (b) The board is composed of the following nine members  
12 appointed by the presiding officer of the commission, with the  
13 commission's approval [~~commissioner~~]:

14 (1) three members representing persons who own or use  
15 boilers in this state;

16 (2) three members representing companies that insure  
17 boilers in this state;

18 (3) one member representing boiler manufacturers or  
19 installers;

20 (4) one member who is a mechanical engineer and a  
21 member of the faculty of a recognized college of engineering in this  
22 state; and

23 (5) one member representing a labor union.

24 (d) The executive director [~~commissioner~~] serves as an ex  
25 officio board member.

26 SECTION 6.003. Section 755.013, Health and Safety Code, is  
27 amended to read as follows:

1           Sec. 755.013. PRESIDING OFFICER [~~CHAIRMAN~~]. The chief  
2 inspector serves as presiding officer [~~chairman~~] of the board.

3           SECTION 6.004. Section 755.014, Health and Safety Code, is  
4 amended to read as follows:

5           Sec. 755.014. REMOVAL OF BOARD MEMBERS; VACANCY. (a) The  
6 commission [~~commissioner~~] may remove a board member for  
7 inefficiency or neglect of official duty.

8           (b) A board member's office becomes vacant on the  
9 resignation, death, suspension, or incapacity of the member. The  
10 presiding officer of the commission [~~commissioner~~] shall appoint,  
11 in the same manner as the original appointment, a person to serve  
12 for the remainder of the unexpired term.

13           SECTION 6.005. Section 755.016, Health and Safety Code, is  
14 amended to read as follows:

15           Sec. 755.016. MEETINGS. The board shall meet at least twice  
16 each year at the call of the presiding officer [~~chairman~~] at a place  
17 designated by the board.

18           SECTION 6.006. Section 755.017, Health and Safety Code, is  
19 amended to read as follows:

20           Sec. 755.017. POWERS AND DUTIES. The board shall advise the  
21 commission [~~commissioner~~] in the adoption of definitions and rules  
22 relating to the safe construction, installation, inspection,  
23 operating limits, alteration, and repair of boilers and their  
24 appurtenances.

25           SECTION 6.007. Section 755.030(a), Health and Safety Code,  
26 is amended to read as follows:

27           (a) In addition to the fees described by Section 51.202,

1 Occupations Code, the commission may authorize the collection of  
2 fees for:

3 (1) boiler inspections, including fees for special  
4 inspections; and

5 (2) other activities administered by the boiler  
6 inspection section and authorized by rule of the commission  
7 [~~executive director of the department~~].

8 SECTION 6.008. Section 755.032, Health and Safety Code, is  
9 amended to read as follows:

10 Sec. 755.032. RULES. (a) The commission [~~commissioner~~]  
11 may adopt and enforce rules, in accordance with standard boiler  
12 usage, for the construction, inspection, installation, use,  
13 maintenance, repair, alteration, and operation of boilers.

14 (b) The executive director [~~commissioner~~] may exchange  
15 information, including data on experience, with other authorities  
16 that inspect boilers or their appurtenances, to obtain information  
17 necessary to adopt rules.

18 (c) The executive director [~~commissioner~~] or a department  
19 employee may not prescribe the make, brand, or kind of boilers or  
20 any appurtenances on the boiler to purchase.

21 (d) The executive director [~~commissioner~~] or a department  
22 employee may not prescribe the make, brand, or kind of boilers to  
23 purchase.

24 SECTION 6.009. Section 755.033, Health and Safety Code, is  
25 amended to read as follows:

26 Sec. 755.033. INTERAGENCY INSPECTION AGREEMENTS. (a) The  
27 executive director [~~commissioner~~] shall enter into interagency



1 agreements with the Texas Department of Health, the Texas  
2 Commission on Fire Protection, and the Texas Department [~~State~~  
3 ~~Board~~] of Insurance under which inspectors, marshals, or  
4 investigators from those agencies who discover unsafe or  
5 unregistered boilers in the course and scope of inspections  
6 conducted as part of regulatory or safety programs administered by  
7 those agencies are required to report the unsafe or unregistered  
8 boilers to the executive director [~~commissioner~~].

9 (b) The executive director [~~commissioner~~] may enter into  
10 analogous agreements with local fire marshals.

11 (c) The commission [~~commissioner~~] shall adopt rules  
12 relating to the terms and conditions of an interagency agreement  
13 entered into under this section.

14 SECTION 6.010. Sections 755.041(b) and (d), Health and  
15 Safety Code, are amended to read as follows:

16 (b) On written request, an owner or operator who does not  
17 comply with a preliminary order is entitled to a hearing before the  
18 executive director [~~commissioner~~] to show cause for not enforcing  
19 the preliminary order. If, after the hearing, the executive  
20 director [~~commissioner~~] determines that the boiler is unsafe and  
21 that the preliminary order should be enforced, or that other acts  
22 are necessary to make the boiler safe, the executive director  
23 [~~commissioner~~] may order or confirm the withholding of the  
24 certificate of operation for that boiler, and may impose additional  
25 requirements as necessary for the repair or alteration of the  
26 boiler or the correction of the unsafe conditions.

27 (d) This section does not limit the executive director's

1 ~~[commissioner's]~~ authority under Section 755.028 or the  
2 commission's authority under Section 755.032.

3 SECTION 6.011. Section 755.043(a), Health and Safety Code,  
4 is amended to read as follows:

5 (a) A person, firm, or corporation commits an offense if:

6 (1) the person, firm, or corporation owns a boiler in  
7 this state, has the custody, management, use, or operation of a  
8 boiler in this state, or is otherwise subject to this chapter or a  
9 rule adopted under this chapter; and

10 (2) the person, firm, or corporation violates this  
11 chapter, a rule adopted under this chapter, or an order issued by  
12 the commission, the executive director, ~~[commissioner]~~ or a  
13 regularly employed inspector authorized to enforce this chapter and  
14 rules and orders.

15 SECTION 6.012. Section 755.045, Health and Safety Code, is  
16 amended to read as follows:

17 Sec. 755.045. NOTICE OF RULE OR ORDER REQUIRED BEFORE  
18 PROSECUTION. A criminal action may not be maintained against any  
19 person relating to the violation of a rule adopted or an order  
20 issued under this chapter until the commission ~~[commissioner]~~ gives  
21 notice of the rule or order.

22 SECTION 6.013. Section 755.046, Health and Safety Code, is  
23 amended to read as follows:

24 Sec. 755.046. AFFIDAVIT OF ORDERS. An affidavit is  
25 admissible as evidence in any civil or criminal action involving an  
26 order adopted by the commission or the executive director  
27 ~~[commissioner]~~ and the publication of the order, without further

1 proof of the order's issuance or publication or of the contents of  
2 the order, if the affidavit:

3 (1) is issued under the seal of the commission or the  
4 executive director [~~commissioner~~];

5 (2) is executed by the commission, the executive  
6 director [~~commissioner~~], the chief inspector, or a deputy  
7 inspector;

8 (3) states the terms of the order;

9 (4) states that the order was issued and published;  
10 and

11 (5) states that the order was in effect during the  
12 period specified by the affidavit.

13 SECTION 6.014. The following laws are repealed:

14 (1) Sections 755.024(c), (d), (e), and (h), Health and  
15 Safety Code; and

16 (2) Section 755.031, Health and Safety Code.

17 SECTION 6.015. The changes in law made by this article  
18 applying to members of the board of boiler rules do not affect the  
19 entitlement of a member serving on the board immediately before  
20 September 1, 2003, to continue to serve and function as a member of  
21 the board for the remainder of the member's term. Those changes in  
22 law apply only to a member appointed on or after September 1, 2003.

23 ARTICLE 7. CAREER COUNSELING SERVICES

24 SECTION 7.001. Section 2502.001, Occupations Code, is  
25 amended by amending Subdivision (3) and adding Subdivision (4-a) to  
26 read as follows:

27 (3) "Commission" [~~Commissioner~~] means the Texas

1 Commission of Licensing and Regulation [~~commissioner of licensing~~  
2 ~~and regulation~~].

3 (4-a) "Executive director" means the executive  
4 director of the department.

5 SECTION 7.002. Section 2502.056, Occupations Code, is  
6 amended to read as follows:

7 Sec. 2502.056. RULES. The commission [~~commissioner~~] may  
8 adopt rules relating to the administration and enforcement of the  
9 certificate of authority program created under this subchapter.

10 SECTION 7.003. Subchapter B, Chapter 2502, Occupations  
11 Code, is amended by adding Section 2502.058 to read as follows:

12 Sec. 2502.058. APPLICABILITY OF OTHER LAW. Section 51.404  
13 does not apply to this chapter.

14 SECTION 7.004. Section 2502.202(b), Occupations Code, is  
15 amended to read as follows:

16 (b) Not later than 10 days [~~48 hours~~] after a career  
17 counseling service receives a written complaint, the service shall  
18 respond to the complaint. Not later than the 30th [~~10th~~] day after  
19 the date the complaint is received, the service shall resolve the  
20 complaint.

21 SECTION 7.005. Section 2502.203(a), Occupations Code, is  
22 amended to read as follows:

23 (a) If a career counseling service cannot resolve a  
24 complaint within the period described by Section 2502.202, the  
25 service shall:

26 (1) refer the complaint to a qualified independent  
27 arbitration organization recognized by the department; and

1           (2) resolve the complaint not later than the 60th  
2 ~~[30th]~~ day after the date the arbitration begins ~~[complaint is~~  
3 ~~referred for arbitration]~~.

4           SECTION 7.006. Section 2502.252, Occupations Code, is  
5 amended to read as follows:

6           Sec. 2502.252. COMPLAINT AND INVESTIGATION. (a) A person  
7 ~~[by sworn affidavit]~~ may file with the executive director  
8 ~~[commissioner]~~ a complaint alleging a violation of this chapter.

9           (b) On receipt of the complaint, the executive director  
10 ~~[commissioner]~~ shall investigate the alleged violation and may:

- 11                   (1) inspect any record relevant to the complaint; and  
12                   (2) subpoena the record and any necessary witness.

13           SECTION 7.007. Sections 2502.253(a) and (c), Occupations  
14 Code, are amended to read as follows:

15           (a) If the executive director ~~[commissioner]~~ determines as  
16 a result of an investigation that a violation of this chapter may  
17 have occurred, the executive director ~~[commissioner]~~ shall hold a  
18 hearing ~~[not later than the 45th day after the date the complaint~~  
19 ~~was filed under Section 2502.252]~~.

20           (c) The executive director ~~[commissioner]~~ shall render a  
21 decision on the alleged violation ~~[not later than the eighth day]~~  
22 after ~~[the date]~~ the hearing is concluded.

23           SECTION 7.008. Section 2502.254, Occupations Code, is  
24 amended to read as follows:

25           Sec. 2502.254. SANCTIONS. (a) If, after a hearing, the  
26 commission ~~[commissioner]~~ determines that a career counseling  
27 service has violated this chapter, the commission ~~[commissioner]~~

1 may, as appropriate:

2 (1) issue a warning to the service; or

3 (2) suspend or revoke the certificate of authority  
4 issued to the service.

5 (b) If, after a hearing, the commission [~~commissioner~~]  
6 determines that a career counseling service has violated this  
7 chapter, the executive director [~~commissioner~~] may award the  
8 complainant an amount equal to the amount of the fee charged by the  
9 service.

10 SECTION 7.009. Section 2502.255, Occupations Code, is  
11 amended to read as follows:

12 Sec. 2502.255. REISSUANCE OF CERTIFICATE AFTER REVOCATION.  
13 If the commission [~~commissioner~~] revokes the certificate of  
14 authority of a career counseling service under Section 2502.254,  
15 the service and any owner of that service may not apply for a new  
16 certificate until after the third anniversary of the date the  
17 certificate was revoked.

18 SECTION 7.010. Sections 2502.057 and 2502.101, Occupations  
19 Code, are repealed.

20 ARTICLE 8. COMBATIVE SPORTS

21 SECTION 8.001. Section 2052.002, Occupations Code, is  
22 amended by amending Subdivision (4) and adding Subdivision (8-a) to  
23 read as follows:

24 (4) "Commission" [~~"Commissioner"~~] means the Texas  
25 Commission of Licensing and Regulation [~~commissioner of licensing~~  
26 ~~and regulation or the commissioner's designated representative~~].

27 (8-a) "Executive director" means the executive

1 director of the department.

2 SECTION 8.002. Subchapter A, Chapter 2052, Occupations  
3 Code, is amended by adding Section 2052.003 to read as follows:

4 Sec. 2052.003. APPLICABILITY OF OTHER LAW. Section 51.401  
5 does not apply to this chapter.

6 SECTION 8.003. The heading to Subchapter B, Chapter 2052,  
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER B. POWERS AND DUTIES [~~OF DEPARTMENT AND COMMISSIONER~~]

9 SECTION 8.004. Section 2052.052, Occupations Code, is  
10 amended to read as follows:

11 Sec. 2052.052. RULES. (a) The commission [~~commissioner~~]  
12 shall adopt reasonable and necessary rules to administer this  
13 chapter.

14 (b) The commission [~~commissioner~~] may adopt rules:

15 (1) governing professional kickboxing contests and  
16 exhibitions; and

17 (2) establishing reasonable qualifications for an  
18 applicant seeking a license from the department under this chapter.

19 SECTION 8.005. Section 2052.054, Occupations Code, is  
20 amended by amending Subsection (a) and adding Subsection (c) to  
21 read as follows:

22 (a) The commission [~~commissioner~~] may recognize, prepare,  
23 or administer continuing education programs for persons licensed  
24 under this chapter.

25 (c) Section 51.405 does not apply to this chapter.

26 SECTION 8.006. Section 2052.103, Occupations Code, is  
27 amended to read as follows:

1           Sec. 2052.103. ELIMINATION TOURNAMENT BOXING PROMOTER  
2 LICENSE APPLICATION REQUIREMENTS. (a) An applicant for an  
3 elimination tournament boxing promoter's license under this  
4 chapter must apply on a form furnished by the executive director  
5 [~~commissioner~~].

6           (b) An application must be accompanied by an application fee  
7 [~~of not more than \$1,000~~] and, if the applicant charges a fee for  
8 admission to the elimination tournament or awards a trophy, prize,  
9 including a prize of money, or other item of value of more than \$50  
10 to a contestant winning the elimination tournament:

11           (1) a \$50,000 surety bond subject to approval by the  
12 executive director [~~commissioner~~] and conditioned on the  
13 applicant's payment of:

14                   (A) the tax imposed under Section 2052.151; and

15                   (B) a claim against the applicant as described by  
16 Section 2052.109(a)(3); and

17           (2) proof of not less than \$10,000 accidental death or  
18 injury insurance coverage for each contestant participating in the  
19 elimination tournament.

20           SECTION 8.007. Section 2052.251, Occupations Code, is  
21 amended to read as follows:

22           Sec. 2052.251. BOXING GLOVES. A boxing event contestant,  
23 other than an elimination tournament contestant under Subchapter E,  
24 shall wear eight-ounce boxing gloves, unless the commission  
25 [~~commissioner~~] by rule requires or permits a contestant to wear  
26 heavier gloves.

27           SECTION 8.008. The following laws are repealed:



- (1) Section 2052.104, Occupations Code;
- (2) Section 2052.112, Occupations Code; and
- (3) Section 2052.301, Occupations Code.

ARTICLE 9. COURT INTERPRETERS

SECTION 9.001. Section 57.041, Government Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Executive director" means the executive director of the department.

SECTION 9.002. Sections 57.042(a), (c), (e), and (g), Government Code, are amended to read as follows:

(a) The licensed court interpreter advisory board is established as an advisory board to the commission [~~department~~]. The board is composed of nine members appointed by the presiding officer of the commission, with the commission's approval [~~governor~~]. Members of the board serve staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year.

(c) The presiding officer of the commission, with the commission's approval, [~~At the initial meeting of the board and at the first meeting after new members take office, the board~~] shall select from the board [~~its~~] members a presiding officer of the board to serve for two years.

(e) The presiding officer of the commission, with the commission's approval, [~~commissioner~~] may remove a member of the board for inefficiency or neglect of duty in office. If a vacancy occurs on the board, the presiding officer of the commission, with the commission's approval, [~~governor~~] shall appoint a member who

1 represents the same interests as the former member to serve the  
2 unexpired term.

3 (g) The board shall advise the commission [~~commissioner~~]  
4 regarding the adoption of rules and the design of a licensing  
5 examination.

6 SECTION 9.003. Sections 57.043(a) and (b), Government Code,  
7 are amended to read as follows:

8 (a) The executive director [~~commissioner~~] shall issue a  
9 court interpreter license to an applicant who:

10 (1) can interpret for an individual who can hear but  
11 who does not comprehend English or communicate in English;

12 (2) passes the appropriate examination prescribed by  
13 the executive director [~~commissioner~~]; and

14 (3) possesses the other qualifications for the license  
15 required by this subchapter or by rules adopted under this  
16 subchapter.

17 (b) The commission [~~commissioner~~] shall[+]

18 [~~(1)~~] adopt rules relating to licensing under this  
19 subchapter[+] and the executive director shall

20 [~~(2)~~] prescribe all forms required under this  
21 subchapter.

22 SECTION 9.004. Section 57.048, Government Code, is amended  
23 to read as follows:

24 Sec. 57.048. SUSPENSION AND REVOCATION OF LICENSES;  
25 REISSUANCE. (a) After a hearing, the commission [~~commissioner~~]  
26 shall suspend or revoke a court interpreter license on a finding  
27 that the individual:

1           (1) made a material misstatement in an application for  
2 a license;

3           (2) [~~wilfully~~] disregarded or violated this  
4 subchapter or a rule adopted under this subchapter; or

5           (3) [~~has been convicted of a felony or of any crime in~~  
6 ~~which an essential element of the offense is misstatement, fraud,~~  
7 ~~or dishonesty; or~~

8           [~~(4)~~] engaged in dishonorable or unethical conduct  
9 likely to deceive, defraud, or harm the public or a person for whom  
10 the interpreter interprets.

11           (b) The executive director [~~commissioner~~] may reissue a  
12 license to an individual whose license has been revoked if the  
13 individual applies in writing to the department and shows good  
14 cause to justify reissuance of the license.

15           SECTION 9.005. Section 57.041(3), Government Code, is  
16 repealed.

17           SECTION 9.006. The changes in law made by this article  
18 applying to members of the licensed court interpreter advisory  
19 board do not affect the entitlement of a member serving on the  
20 board immediately before September 1, 2003, to continue to serve  
21 and function as a member of the board for the remainder of the  
22 member's term. Those changes in law apply only to a member appointed  
23 on or after September 1, 2003.

24           ARTICLE 10. CUSTOMER SERVICE INSPECTORS

25           SECTION 10.001. Section 341.034(d), Health and Safety Code,  
26 is amended to read as follows:

27           (d) A person who inspects homes and businesses to identify

1 potential or actual cross-connections or other contaminant hazards  
2 in public water systems must hold a license issued by the Texas  
3 Department of Licensing and Regulation [~~commission~~] under Chapter  
4 51, Occupations [~~37, Water~~] Code, unless the person is licensed by  
5 the Texas State Board of Plumbing Examiners as a plumbing inspector  
6 or water supply protection specialist.

7 SECTION 10.002. (a) On November 1, 2003:

8 (1) all functions and activities relating to Section  
9 341.034(d), Health and Safety Code, performed by the Texas  
10 Commission on Environmental Quality immediately before that date  
11 are transferred to the Texas Department of Licensing and  
12 Regulation;

13 (2) a rule or form adopted by the Texas Commission on  
14 Environmental Quality that relates to Section 341.034(d), Health  
15 and Safety Code, is a rule or form of the Texas Department of  
16 Licensing and Regulation and remains in effect until amended or  
17 replaced by that department;

18 (3) a license or other document issued by the Texas  
19 Commission on Environmental Quality that relates to Section  
20 341.034(d), Health and Safety Code, is considered a license or  
21 other document issued by the Texas Department of Licensing and  
22 Regulation and remains in effect until amended or replaced by that  
23 department;

24 (4) a reference in law or an administrative rule to the  
25 Texas Commission on Environmental Quality that relates to Section  
26 341.034(d), Health and Safety Code, means the Texas Department of  
27 Licensing and Regulation;

1           (5) a complaint, investigation, or other proceeding  
2 before the Texas Commission on Environmental Quality that is  
3 related to Section 341.034(d), Health and Safety Code, is  
4 transferred without change in status to the Texas Department of  
5 Licensing and Regulation, and the Texas Department of Licensing and  
6 Regulation assumes, as appropriate and without a change in status,  
7 the position of the Texas Commission on Environmental Quality in an  
8 action or proceeding to which the Texas Commission on Environmental  
9 Quality is a party;

10           (6) all money, contracts, leases, property, and  
11 obligations of the Texas Commission on Environmental Quality  
12 related to Section 341.034(d), Health and Safety Code, are  
13 transferred to the Texas Department of Licensing and Regulation;

14           (7) all property in the custody of the Texas  
15 Commission on Environmental Quality related to Section 341.034(d),  
16 Health and Safety Code, is transferred to the Texas Department of  
17 Licensing and Regulation; and

18           (8) the unexpended and unobligated balance of any  
19 money appropriated by the legislature for the Texas Commission on  
20 Environmental Quality related to Section 341.034(d), Health and  
21 Safety Code, is transferred to the Texas Department of Licensing  
22 and Regulation.

23           (b) Before November 1, 2003, the Texas Commission on  
24 Environmental Quality may agree with the Texas Department of  
25 Licensing and Regulation to transfer any property of the Texas  
26 Commission on Environmental Quality to the Texas Department of  
27 Licensing and Regulation to implement the transfer required by this

1 article.

2 (c) In the period beginning on the effective date of this  
3 Act and ending on November 1, 2003, the Texas Commission on  
4 Environmental Quality shall continue to perform functions and  
5 activities under Section 341.034(d), Health and Safety Code, as if  
6 that section had not been amended by this Act, and the former law is  
7 continued in effect for that purpose.

8 ARTICLE 11. ELEVATORS, ESCALATORS, AND RELATED EQUIPMENT

9 SECTION 11.001. Section 754.011, Health and Safety Code, is  
10 amended by adding Subdivision (6-a) to read as follows:

11 (6-a) "Executive director" means the executive  
12 director of the department.

13 SECTION 11.002. Sections 754.012(a)-(c), Health and Safety  
14 Code, are amended to read as follows:

15 (a) The elevator advisory board is composed of nine members  
16 appointed by the presiding officer of the commission, with the  
17 commission's approval, [~~commissioner~~] as follows:

18 (1) a representative of the insurance industry or a  
19 certified elevator inspector;

20 (2) a representative of elevator, escalator, and  
21 related equipment constructors;

22 (3) a representative of owners or managers of  
23 buildings having fewer than six stories and having an elevator, an  
24 escalator, or related equipment;

25 (4) a representative of owners or managers of  
26 buildings having six stories or more and having an elevator, an  
27 escalator, or related equipment;

1 (5) a representative of independent elevator,  
2 escalator, and related equipment maintenance companies;

3 (6) a representative of elevator, escalator, and  
4 related equipment manufacturers;

5 (7) a representative of professional engineers or  
6 architects;

7 (8) a public member; and

8 (9) a public member with a physical disability.

9 (b) Board members serve at the will of the commission  
10 [~~commissioner~~].

11 (c) The presiding officer of the commission, with the  
12 commission's approval, [~~commissioner~~] shall appoint a presiding  
13 officer of the board to serve for two years.

14 SECTION 11.003. Section 754.013, Health and Safety Code, is  
15 amended to read as follows:

16 Sec. 754.013. BOARD DUTIES. To protect public safety and  
17 to identify and correct potential hazards, the board shall advise  
18 the commission [~~commissioner~~] on:

19 (1) the adoption of appropriate standards for the  
20 installation, alteration, operation, and inspection of elevators,  
21 escalators, and related equipment;

22 (2) the status of elevators, escalators, and related  
23 equipment used by the public in this state; and

24 (3) any other matter considered relevant by the  
25 commission [~~commissioner~~].

26 SECTION 11.004. The heading to Section 754.014, Health and  
27 Safety Code, is amended to read as follows:

1           Sec. 754.014.   STANDARDS           ADOPTED           BY           COMMISSION  
2   ~~[COMMISSIONER]~~.

3           SECTION 11.005.   Sections 754.014(a)-(h)   and   (j),   Health  
4   and Safety Code, are amended to read as follows:

5           (a)   The commission ~~[commissioner]~~ shall adopt standards for  
6   the installation, alteration, operation, and inspection of  
7   elevators, escalators, and related equipment used by the public in:

8                   (1) buildings owned or operated by the state, a  
9   state-owned institution or agency, or a political subdivision of  
10   the state; and

11                   (2) buildings that contain an elevator, an escalator,  
12   or related equipment that is open to the general public, including a  
13   hotel, motel, apartment house, boardinghouse, church, office  
14   building, shopping center, or other commercial establishment.

15           (b)   Standards adopted by the commission ~~[commissioner]~~ may  
16   not contain requirements in addition to the requirements in the  
17   ASME Code A17.1 or ASME Code A17.3.

18           (c)   Standards adopted by the commission ~~[commissioner]~~ must  
19   require elevators, escalators, and related equipment to comply with  
20   the installation requirements of the following, whichever is the  
21   least restrictive:

22                   (1) the ASME Code A17.1 that was in effect on the date  
23   of installation of the elevators, escalators, and related  
24   equipment; or

25                   (2) an applicable municipal ordinance governing the  
26   installation of elevators, escalators, and related equipment that  
27   was in effect on the date of installation.



1 (d) Standards adopted by the commission [~~commissioner~~] must  
2 require elevators, escalators, and related equipment to comply with  
3 the installation requirements of the 1994 ASME Code A17.3 that  
4 contains minimum safety standards for all elevators, escalators,  
5 and related equipment, regardless of the date of installation.

6 (e) On written request, the executive director  
7 [~~commissioner~~] shall grant a delay for compliance with the  
8 applicable ASME Code A17.1 or the 1994 ASME Code A17.3 until a  
9 specified time if compliance is not readily achievable, as that  
10 phrase is defined in the Americans with Disabilities Act (42 U.S.C.  
11 Section 12101 et seq.), or regulations adopted under that Act.

12 (f) On written request, the executive director  
13 [~~commissioner~~] shall grant a delay until September 1, 2005, for  
14 compliance with the requirements for door restrictors or  
15 firefighter's service in the 1994 ASME Code A17.3 if those  
16 requirements were not included in the ASME Code A17.1 that was in  
17 effect on the date of installation of the elevator, escalator, or  
18 related equipment and that equipment was not subsequently installed  
19 by an owner of the elevator, escalator, or related equipment.

20 (g) The executive director [~~commissioner~~] may grant a  
21 waiver of compliance with the applicable ASME Code A17.1 or the 1994  
22 ASME Code A17.3 if the executive director [~~commissioner~~] finds  
23 that:

24 (1) the building in which the elevator, escalator, or  
25 related equipment is located is a qualified historic building or  
26 facility or the noncompliance is due to structural components of  
27 the building; and

1           (2) noncompliance will not constitute a significant  
2 threat to passenger safety.

3           (h) The executive director [~~commissioner~~] may grant a  
4 waiver of compliance with the firefighter's service provisions of  
5 the ASME Code A17.1 or the 1994 ASME Code A17.3 in an elevator that  
6 exclusively serves a vehicle parking garage in a building that:

7                 (1) is used only for parking;

8                 (2) is constructed of noncombustible materials; and

9                 (3) is not greater than 75 feet in height.

10          (j) The executive director [~~commissioner~~] may charge a  
11 reasonable fee as set by the commission for an application for  
12 waiver or delay. One application for a waiver or delay may contain  
13 all requests related to a particular building. A delay may not be  
14 granted indefinitely but must be granted to a specified time.

15          SECTION 11.006. Section 754.015, Health and Safety Code, is  
16 amended to read as follows:

17          Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by  
18 rule shall provide for:

19                 (1) the inspection and certification once each  
20 calendar year of elevators, escalators, and related equipment  
21 covered by standards adopted under this subchapter;

22                 (2) the enforcement of those standards;

23                 (3) the certification of qualified persons as  
24 inspectors for the purposes of this subchapter; and

25                 (4) the form of the inspection report and certificate  
26 of compliance.

27          (b) The commission [~~commissioner~~] by rule may not require

1 that:

2 (1) inspection be made more often than once per year of  
3 elevators, escalators, and related equipment; or

4 (2) persons post a bond or furnish insurance as a  
5 condition of certification[ ~~and~~

6 [~~(3) inspection reports or certificates of compliance~~  
7 ~~be placed in locations other than one provided in Section~~  
8 ~~754.019(4)].~~

9 SECTION 11.007. Section 754.016, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 754.016. INSPECTION REPORTS [~~REPORT~~] AND CERTIFICATES  
12 [~~CERTIFICATE~~] OF COMPLIANCE. (a) Inspection reports [~~An~~  
13 ~~inspection report~~] and certificates [~~a certificate~~] of compliance  
14 required under this subchapter must cover all elevators,  
15 escalators, and related equipment in a building or structure  
16 appurtenant to the building, including a parking facility, that are  
17 owned by the same person or persons. [~~There shall be only one~~  
18 ~~inspection report and one certificate of compliance for each~~  
19 ~~building.~~]

20 (b) An inspector shall date and sign an inspection report  
21 and shall issue the report to the building owner. The inspection  
22 report shall be on forms designated by the executive director  
23 [~~commissioner~~].

24 (c) The executive director [~~commissioner~~] shall date and  
25 sign a certificate of compliance and shall issue the certificate to  
26 the building owner. The certificate of compliance shall state:

27 (1) that the elevators, escalators, and related

1 equipment have been inspected by a certified inspector and found by  
2 the inspector to be in compliance, except for any delays or waivers  
3 granted by the executive director [~~commissioner~~] and stated in the  
4 certificate;

5 (2) the date of the last inspection and the due date  
6 for the next inspection; and

7 (3) contact information at the department to report a  
8 violation of this subchapter.

9 (d) The commission by rule shall:

10 (1) specify what information must be contained in a  
11 certificate of compliance;

12 (2) describe the procedure by which a certificate of  
13 compliance is issued;

14 (3) require that a certificate of compliance related  
15 to an elevator be posted in a publicly visible area of the building;  
16 and

17 (4) determine what constitutes a "publicly visible  
18 area" under Subdivision (3).

19 SECTION 11.008. Sections 754.017(b) and (c), Health and  
20 Safety Code, are amended to read as follows:

21 (b) The commission [~~commissioner~~] may not by rule prohibit  
22 an ASME-QEI-1 certified inspector who is registered with the  
23 department from inspecting under this subchapter an elevator, an  
24 escalator, or related equipment. A person assisting a certified  
25 inspector is not required to be ASME-QEI-1 certified.

26 (c) The executive director [~~commissioner~~] may charge a  
27 [~~\$15~~] fee to certified inspectors for registering with the

1 department.

2 SECTION 11.009. Sections 754.019(a), (b), (d), and (e),  
3 Health and Safety Code, are amended to read as follows:

4 (a) The owner of real property on which an elevator, an  
5 escalator, or related equipment covered by this subchapter is  
6 located shall:

7 (1) have the elevator, escalator, or related equipment  
8 inspected by an ASME-QEI-1 certified inspector in accordance with  
9 the commission's [~~commissioner's~~] rules;

10 (2) obtain inspection reports [~~an inspection report~~]  
11 from the inspector evidencing that all elevators, escalators, and  
12 related equipment in a building on the real property were inspected  
13 in accordance with this subchapter and rules adopted under this  
14 subchapter;

15 (3) file with the executive director [~~commissioner~~] a  
16 copy of each inspection report and a [~~\$20~~] filing fee for each  
17 report, plus a fee [~~\$5~~] for each elevator, escalator, or related  
18 equipment not later than the 60th day after the date on which an  
19 inspection is made under this subchapter;

20 (4) display the certificate of compliance:

21 (A) in a publicly visible area of the building,  
22 as determined by commission rule under Section 754.016, [~~the~~  
23 ~~elevator mechanical room~~] if the certificate relates to an  
24 elevator;

25 (B) in the escalator box if the certificate  
26 relates to an escalator; or

27 (C) in a place designated by the executive

1 director [~~commissioner~~] if the certificate relates to related  
2 equipment; and

3 (5) display the inspection report at the locations  
4 designated in Subdivision (4) until a certificate of compliance is  
5 issued by the executive director [~~commissioner~~].

6 (b) When an inspection report is filed with the executive  
7 director [~~commissioner~~], the owner shall submit to the executive  
8 director [~~commissioner~~]:

9 (1) verification that any deficiencies in the  
10 inspector's report have been remedied or that a bona fide contract  
11 to remedy the deficiencies has been entered into; or

12 (2) any application for delay or waiver of an  
13 applicable standard.

14 (d) For the purpose of determining timely filing under  
15 Subsection (a)(3), an inspection report and fee are considered  
16 filed on the date of mailing by United States mail if properly  
17 addressed to the executive director [~~commissioner~~].

18 (e) If the inspection report and fee required by Subsection  
19 (a)(3) are not timely filed, the executive director [~~commissioner~~]  
20 may charge the owner of the real property on which the elevator,  
21 escalator, or related equipment is located an additional [~~\$100~~] fee  
22 for late filing.

23 SECTION 11.010. Section 754.023, Health and Safety Code, is  
24 amended to read as follows:

25 Sec. 754.023. INVESTIGATION; LICENSE PROCEEDINGS;  
26 INJUNCTION. (a) If there is good cause for the executive director  
27 [~~commissioner~~] to believe that an elevator, an escalator, or

1 related equipment on real property is dangerous or that an accident  
2 involving an elevator, an escalator, or related equipment occurred  
3 on the property and serious bodily injury or property damage  
4 resulted, the executive director [~~commissioner~~] may enter the  
5 property during regular business hours after notice to the owner,  
6 operator, or person in charge of the property to inspect the  
7 elevator, escalator, or related equipment or investigate the  
8 accident at no cost to the owner.

9 (b) The executive director [~~commissioner~~] may enter real  
10 property during regular business hours after notice to the owner,  
11 operator, or person in charge of the property to verify, at no cost  
12 to the owner, whether an inspection report or certificate of  
13 compliance has been displayed as required under Section 754.019(a).

14 (c) The commission [~~commissioner~~] may deny, suspend, or  
15 revoke the registration of any ASME-QEI-1 certified inspector for:

16 (1) obtaining registration with the executive  
17 director [~~commissioner~~] by fraud or false representation;

18 (2) falsifying any inspection report submitted to the  
19 executive director [~~commissioner~~]; or

20 (3) violating this subchapter or a rule adopted under  
21 this subchapter.

22 (d) The executive director [~~commissioner~~] is entitled to  
23 appropriate injunctive relief to prevent a violation or threatened  
24 violation of this subchapter or a rule adopted under this  
25 subchapter.

26 (e) The executive director [~~commissioner~~] may bring suit in  
27 a district court in Travis County or in the county in which the

1 violation or threatened violation occurs. If requested, the  
2 attorney general shall represent the executive director  
3 [~~commissioner~~] in the suit.

4 SECTION 11.011. Subchapter B, Chapter 754, Health and  
5 Safety Code, is amended by adding Section 754.025 to read as  
6 follows:

7 Sec. 754.025. APPLICABILITY OF OTHER LAW. Sections 51.401  
8 and 51.404, Occupations Code, do not apply to this subchapter.

9 SECTION 11.012. The following laws are repealed:

- 10 (1) Section 754.011(5), Health and Safety Code; and  
11 (2) Section 754.019(f), Health and Safety Code.

12 SECTION 11.013. Not later than March 1, 2004, the Texas  
13 Commission of Licensing and Regulation shall adopt the rules  
14 required by Sections 754.016 and 754.019(a), Health and Safety  
15 Code, as amended by this article.

16 SECTION 11.014. The changes in law made by this article apply  
17 only to an inspection report or certificate of compliance issued on  
18 or after the effective date of this Act. An inspection report or  
19 certificate issued before the effective date of this Act is covered  
20 by the law in effect when the report or certificate was issued and  
21 is valid until the renewal date of that report or certificate under  
22 the terms of the former law, and the former law is continued in  
23 effect for that purpose. On renewal, an inspection report or  
24 certificate is subject to Chapter 754, Health and Safety Code, as  
25 amended by this article.

26 SECTION 11.015. The changes in law made by this article  
27 applying to members of the elevator advisory board do not affect



1 the entitlement of a member serving on the board immediately before  
2 September 1, 2003, to continue to serve and function as a member of  
3 the board for the remainder of the member's term. Those changes in  
4 law apply only to a member appointed on or after September 1, 2003.

5 ARTICLE 12. INDUSTRIALIZED HOUSING AND BUILDINGS

6 SECTION 12.001. Section 1202.001, Occupations Code, is  
7 amended by amending Subdivision (2) and adding Subdivision (4-a) to  
8 read as follows:

9 (2) "Construction site office building" means a  
10 commercial structure that is:

11 (A) not open to the public; and

12 (B) used as an office at a commercial site by a  
13 person constructing a building, road, bridge, utility, or other  
14 infrastructure or improvement to real property [~~"Commissioner"~~  
15 ~~means the commissioner of licensing and regulation].~~

16 (4-a) "Executive director" means the executive  
17 director of the department.

18 SECTION 12.002. Section 1202.003(a), Occupations Code, is  
19 amended to read as follows:

20 (a) An industrialized building is a commercial structure  
21 that is:

22 (1) constructed in one or more modules or constructed  
23 using one or more modular components built at a location other than  
24 the commercial [~~permanent~~] site; and

25 (2) designed to be used as a commercial building when  
26 the module or the modular component is transported to the permanent  
27 site and erected or installed on a permanent foundation system.

1 SECTION 12.003. Section 1202.101, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1202.101. RULES; ORDERS. (a) The commission  
4 [~~commissioner~~] shall adopt rules and issue orders as necessary to:

5 (1) ensure compliance with the purposes of this  
6 chapter; and

7 (2) provide for uniform enforcement of this chapter.

8 (b) The commission [~~commissioner~~] shall adopt rules as  
9 appropriate to implement the council's actions, decisions,  
10 interpretations, and instructions.

11 SECTION 12.004. Section 1202.102, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1202.102. RULES PROVIDING FOR REGISTRATION AND  
14 REGULATION. The commission [~~commissioner~~] by rule shall provide  
15 for registration and regulation of manufacturers or builders of  
16 industrialized housing or buildings.

17 SECTION 12.005. Section 1202.104(a), Occupations Code, is  
18 amended to read as follows:

19 (a) The commission shall set fees, in amounts sufficient to  
20 cover the costs of the inspections described by this chapter and the  
21 administration of this chapter, for:

22 (1) the registration of manufacturers or builders of  
23 industrialized housing or buildings;

24 (2) the inspection of industrialized housing or  
25 buildings [~~at the manufacturing facility~~]; and

26 (3) the issuance of decals or insignia required under  
27 Section 1202.204 or 1202.206.

1 SECTION 12.006. Subchapter C, Chapter 1202, Occupations  
2 Code, is amended by adding Section 1202.106 to read as follows:

3 Sec. 1202.106. APPLICABILITY OF OTHER LAW. Sections  
4 51.401 and 51.404 do not apply to this chapter.

5 SECTION 12.007. Subchapter D, Chapter 1202, Occupations  
6 Code, is amended by adding Section 1202.1535 to read as follows:

7 Sec. 1202.1535. EFFECT OF BUILDING CODE AMENDMENT. (a) An  
8 industrialized building that bears an approved decal or insignia  
9 indicating that the building complies with the mandatory building  
10 codes and that has not been modified or altered is considered to be  
11 in compliance with a new mandatory building code adopted by the  
12 council or an amendment to a code approved by the council under  
13 Section 1202.152 or 1202.153.

14 (b) The owner of an industrialized building that bears an  
15 approved decal or insignia indicating the building complies with  
16 the mandatory building codes and that is modified or altered after  
17 the date the council adopts a new mandatory building code or the  
18 council approves a building code amendment must ensure:

19 (1) the entire building complies with the mandatory  
20 building code or building code amendment if the cost of the  
21 modification or alteration to the building is at least 50 percent of  
22 the value of the modules or modular components used in the  
23 construction of the building; or

24 (2) the modified or altered portion of the building  
25 complies with the mandatory building code or building code  
26 amendment if the cost of the modification or alteration is less  
27 than 50 percent of the value of the modules or modular components.

1 SECTION 12.008. Section 1202.154, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1202.154. DESIGN REVIEW. To ensure compliance with  
4 the mandatory building [~~construction~~] codes, the department or  
5 approved design review agency shall review all designs, plans, and  
6 specifications of industrialized housing and buildings in  
7 accordance with council interpretations and instructions.

8 SECTION 12.009. Section 1202.156(b), Occupations Code, is  
9 amended to read as follows:

10 (b) With reference to the standards and requirements of the  
11 mandatory building [~~construction~~] codes, the council shall  
12 determine, from an engineering performance standpoint, all  
13 questions concerning:

14 (1) code equivalency; or

15 (2) alternative materials or methods of construction.

16 SECTION 12.010. Section 1202.202, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1202.202. DEPARTMENT [~~IN-PLANT~~] INSPECTIONS. (a) To  
19 ensure compliance with the mandatory building codes or approved  
20 designs, plans, and specifications, the department shall inspect  
21 the construction of industrialized housing and buildings [~~at the~~  
22 ~~manufacturing facility~~]. The executive director [~~commissioner~~]  
23 may designate approved third-party inspectors to perform the  
24 inspections subject to the rules of the commission [~~commissioner~~].

25 (b) Local building officials may witness department  
26 [~~in-plant~~] inspections to enable the local officials to make  
27 recommendations on inspection procedures to the council.

1 SECTION 12.011. Section 1202.203, Occupations Code, is  
2 amended by amending Subsection (a) and adding Subsection (c) to  
3 read as follows:

4 (a) A municipal building official shall inspect all  
5 construction involving [~~at the permanent site of~~] industrialized  
6 housing and buildings to be located in the municipality to ensure  
7 compliance with designs, plans, and specifications, including  
8 inspection of:

9 (1) the construction of the foundation system; and

10 (2) the erection and installation of the modules or  
11 modular components on the [~~permanent~~] foundation.

12 (c) An inspection under Subsection (a) shall be conducted:

13 (1) at the permanent site, if the inspection is of  
14 industrialized housing; and

15 (2) at the commercial site, if the inspection is of  
16 industrialized buildings.

17 SECTION 12.012. Section 1202.204, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1202.204. RULES PROVIDING FOR DECALS OR INSIGNIA. (a)  
20 The commission [~~commissioner~~] by rule shall provide for the  
21 placement of decals or insignia on each transportable modular  
22 section or modular component to indicate compliance with the  
23 mandatory building [~~construction~~] codes.

24 (b) The commission by rule shall exempt a construction site  
25 office building from the requirements of this section.

26 SECTION 12.013. Section 1202.252, Occupations Code, is  
27 amended to read as follows:

1           Sec. 1202.252. MUNICIPAL REGULATION OF INDUSTRIALIZED  
2 HOUSING AND BUILDINGS. (a) A municipality that regulates the  
3 on-site construction or installation of industrialized housing and  
4 buildings may:

5           (1) require and review, for compliance with mandatory  
6 building [~~construction~~] codes, a complete set of designs, plans,  
7 and specifications bearing the council's stamp of approval for each  
8 installation of industrialized housing or buildings in the  
9 municipality;

10           (2) require that all applicable local permits and  
11 licenses be obtained before construction begins on a building site;

12           (3) require, in accordance with commission  
13 [~~commissioner~~] rules, that all modules or modular components bear  
14 an approved decal or insignia indicating inspection by the  
15 department [~~at the manufacturing facility~~]; and

16           (4) establish procedures for the inspection of:

17           (A) the erection and installation of  
18 industrialized housing or buildings to be located in the  
19 municipality, to ensure compliance with mandatory building  
20 [~~construction~~] codes and commission [~~commissioner~~] rules; and

21           (B) all foundation and other on-site  
22 construction, to ensure compliance with approved designs, plans,  
23 and specifications.

24           (b) Procedures described by Subsection (a)(4) may require:

25           (1) before occupancy, a final inspection or test in  
26 accordance with mandatory building [~~construction~~] codes; and

27           (2) correction of any deficiency identified by the

1 test or discovered in the final inspection.

2 SECTION 12.014. Section 1202.301(b), Occupations Code, is  
3 amended to read as follows:

4 (b) A person may not construct, sell or offer to sell, lease  
5 or offer to lease, or transport over a street or highway of this  
6 state any industrialized housing or building, or modular section or  
7 component of a modular section, in violation of this chapter or a  
8 rule of the commission or order of the commission or executive  
9 director [~~commissioner~~].

10 SECTION 12.015. Section 1202.302, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1202.302. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.  
13 In addition to imposing sanctions allowed under Section 51.353, the  
14 commission [~~The commissioner~~] may deny, permanently revoke, or  
15 suspend for a definite period and specified location or geographic  
16 area a certificate of registration if the commission [~~commissioner~~]  
17 finds that the applicant or registrant:

18 (1) provided false information on an application or  
19 other document filed with the department;

20 (2) failed to pay a fee or file a report required by  
21 the department for the administration or enforcement of this  
22 chapter;

23 (3) engaged in a false, misleading, or deceptive act  
24 or practice as described by Subchapter E, Chapter 17, Business &  
25 Commerce Code; or

26 (4) violated:

27 (A) this chapter;

1 (B) a rule adopted by the commission or order  
2 issued by the commission or the executive director [~~commissioner~~]  
3 under this chapter; or

4 (C) a decision, action, or interpretation of the  
5 council.

6 SECTION 12.016. Section 1202.351(b), Occupations Code, is  
7 amended to read as follows:

8 (b) A person commits an offense if the person [~~knowingly and~~  
9 ~~wilfully~~] violates this chapter or a published rule of the  
10 commission or order of the commission or the executive director  
11 [~~commissioner~~].

12 SECTION 12.017. The following laws are repealed:

13 (1) Section 1202.001(2), Occupations Code; and

14 (2) Section 1202.103, Occupations Code.

15 ARTICLE 13. IRRIGATORS

16 SECTION 13.001. Section 1903.001, Occupations Code, is  
17 amended by amending Subdivisions (1) and (3) and adding Subdivision  
18 (2-a) to read as follows:

19 (1) "Commission" means the Texas [~~Natural Resource~~  
20 ~~Conservation~~] Commission of Licensing and Regulation.

21 (2-a) "Department" means the Texas Department of  
22 Licensing and Regulation.

23 (3) "Executive director" means the executive director  
24 of the department [~~commission~~].

25 SECTION 13.002. Section 1903.151(a), Occupations Code, is  
26 amended to read as follows:

27 (a) The Texas Irrigators Advisory Council consists of nine



1 members appointed by the presiding officer of the commission, with  
2 the commission's approval, as follows:

3 (1) six members who are irrigators, residents of this  
4 state, experienced in the irrigation business, and familiar with  
5 irrigation methods and techniques; and

6 (2) three public members.

7 SECTION 13.003. Section 1903.155, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1903.155. PRESIDING OFFICER. The presiding officer of  
10 the commission, with the commission's approval, [~~council~~] shall  
11 appoint a council member to serve for two years as [~~elect a~~]  
12 presiding officer of the council [~~by a majority vote at the first~~  
13 ~~meeting each fiscal year~~].

14 SECTION 13.004. The following laws are repealed:

- 15 (1) Section 1903.052, Occupations Code;  
16 (2) Section 1903.055, Occupations Code;  
17 (3) Subchapter C, Chapter 1903, Occupations Code;  
18 (4) Subchapter E, Chapter 1903, Occupations Code;  
19 (5) Section 1903.255, Occupations Code;  
20 (6) Section 1903.304, Occupations Code;  
21 (7) Section 1903.351, Occupations Code;  
22 (8) Section 1903.352, Occupations Code; and  
23 (9) Sections 1903.353(b) and (c), Occupations Code.

24 SECTION 13.005. (a) On November 1, 2003:

25 (1) all functions and activities relating to Chapter  
26 1903, Occupations Code, performed by the Texas Commission on  
27 Environmental Quality immediately before that date are transferred

1 to the Texas Department of Licensing and Regulation;

2 (2) a rule or form adopted by the Texas Commission on  
3 Environmental Quality that relates to Chapter 1903, Occupations  
4 Code, is a rule or form of the Texas Department of Licensing and  
5 Regulation and remains in effect until amended or replaced by that  
6 department;

7 (3) a license or other document issued by the Texas  
8 Commission on Environmental Quality that relates to Chapter 1903,  
9 Occupations Code, is considered a license or other document issued  
10 by the Texas Department of Licensing and Regulation and remains in  
11 effect until amended or replaced by that department;

12 (4) a reference in law or an administrative rule to the  
13 Texas Commission on Environmental Quality that relates to Chapter  
14 1903, Occupations Code, means the Texas Department of Licensing and  
15 Regulation;

16 (5) a complaint, investigation, or other proceeding  
17 before the Texas Commission on Environmental Quality that is  
18 related to Chapter 1903, Occupations Code, is transferred without  
19 change in status to the Texas Department of Licensing and  
20 Regulation, and the Texas Department of Licensing and Regulation  
21 assumes, as appropriate and without a change in status, the  
22 position of the Texas Commission on Environmental Quality in an  
23 action or proceeding to which the Texas Commission on Environmental  
24 Quality is a party;

25 (6) all money, contracts, leases, property, and  
26 obligations of the Texas Commission on Environmental Quality  
27 related to Chapter 1903, Occupations Code, are transferred to the

1 Texas Department of Licensing and Regulation;

2 (7) all property in the custody of the Texas  
3 Commission on Environmental Quality related to Chapter 1903,  
4 Occupations Code, is transferred to the Texas Department of  
5 Licensing and Regulation; and

6 (8) the unexpended and unobligated balance of any  
7 money appropriated by the legislature for the Texas Commission on  
8 Environmental Quality related to Chapter 1903, Occupations Code, is  
9 transferred to the Texas Department of Licensing and Regulation.

10 (b) Before November 1, 2003, the Texas Commission on  
11 Environmental Quality may agree with the Texas Department of  
12 Licensing and Regulation to transfer any property of the Texas  
13 Commission on Environmental Quality to the Texas Department of  
14 Licensing and Regulation to implement the transfer required by this  
15 article.

16 (c) In the period beginning on the effective date of this  
17 Act and ending on November 1, 2003, the Texas Commission on  
18 Environmental Quality shall continue to perform functions and  
19 activities under Chapter 1903, Occupations Code, as if that chapter  
20 had not been amended by this Act, and the former law is continued in  
21 effect for that purpose.

22 ARTICLE 14. PERSONNEL EMPLOYMENT SERVICES

23 SECTION 14.001. Section 2501.001, Occupations Code, is  
24 amended by amending Subdivision (2) and adding Subdivisions (3-a)  
25 and (4-a) to read as follows:

26 (2) "Commission" [~~"Commissioner"~~] means the Texas  
27 Commission of Licensing and Regulation [~~commissioner of licensing~~]

1 ~~and regulation].~~

2 (3-a) "Department" means the Texas Department of  
3 Licensing and Regulation.

4 (4-a) "Executive director" means the executive  
5 director of the department.

6 SECTION 14.002. Section 2501.152, Occupations Code, is  
7 amended to read as follows:

8 Sec. 2501.152. COMPLAINT AND INVESTIGATION. (a) A person  
9 ~~[by sworn affidavit]~~ may file with the executive director  
10 ~~[commissioner]~~ a complaint alleging a violation of Section  
11 2501.102.

12 (b) On receipt of a complaint, the executive director  
13 ~~[commissioner]~~ shall investigate the alleged violation and may:

- 14 (1) inspect any records relevant to the complaint; and  
15 (2) subpoena those records and any necessary  
16 witnesses.

17 SECTION 14.003. Sections 2501.153(a) and (c), Occupations  
18 Code, are amended to read as follows:

19 (a) If the executive director ~~[commissioner]~~ determines as  
20 a result of an investigation that a violation of Section 2501.102  
21 may have occurred, the commission ~~[commissioner]~~ shall hold a  
22 hearing ~~[not later than the 45th day after the date the complaint~~  
23 ~~was filed under Section 2501.152]~~.

24 (c) The commission ~~[commissioner]~~ shall render a decision  
25 on the alleged violation ~~[not later than the eighth day]~~ after ~~[the~~  
26 ~~date]~~ the hearing is concluded.

27 SECTION 14.004. Section 2501.154, Occupations Code, is

1 amended to read as follows:

2           Sec. 2501.154. SANCTIONS. (a) If, after a hearing, the  
3 commission [~~commissioner~~] determines that a personnel service has  
4 violated Section 2501.102, the commission [~~commissioner~~] may, as  
5 appropriate:

- 6                   (1) issue a warning to the personnel service; or  
7                   (2) suspend or revoke the certificate of authority  
8 issued to the personnel service.

9           (b) If, after a hearing, the commission [~~commissioner~~]  
10 determines that a personnel service has violated Section 2501.102,  
11 the commission [~~commissioner~~] may award the complainant an amount  
12 equal to the amount of the fee charged by the personnel service.

13           SECTION 14.005. Sections 2501.058 and 2501.155,  
14 Occupations Code, are repealed.

15                   ARTICLE 15. PROPERTY TAX CONSULTANTS

16           SECTION 15.001. Section 1152.001, Occupations Code, is  
17 amended by adding Subdivision (3-a) to read as follows:

18                   (3-a) "Executive director" means the executive  
19 director of the department.

20           SECTION 15.002. The heading to Subchapter B, Chapter 1152,  
21 Occupations Code, is amended to read as follows:

22                   SUBCHAPTER B. DUTIES OF COMMISSION, EXECUTIVE DIRECTOR,  
23                                   [~~COMMISSIONER~~] AND DEPARTMENT

24           SECTION 15.003. Section 1152.051, Occupations Code, is  
25 amended to read as follows:

26           Sec. 1152.051. STANDARDS OF CONDUCT FOR REGISTRANTS. The  
27 commission [~~commissioner~~] by rule shall establish standards of

1 practice, conduct, and ethics for registrants.

2 SECTION 15.004. Sections 1152.102(a) and (b), Occupations  
3 Code, are amended to read as follows:

4 (a) The council is composed of six members appointed by the  
5 presiding officer of the commission, with the commission's  
6 approval.

7 (b) The presiding officer of the commission may appoint not  
8 more than two members who are qualified for an exemption under  
9 Section 1152.002(a)(3).

10 SECTION 15.005. Section 1152.104(b), Occupations Code, is  
11 amended to read as follows:

12 (b) If a vacancy occurs during a member's term, the  
13 presiding officer of the commission, with the commission's  
14 approval, [commissioner] shall appoint to fill the unexpired part  
15 of the term a replacement who meets the qualifications of the  
16 vacated office.

17 SECTION 15.006. Section 1152.105, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1152.105. PRESIDING OFFICER. The presiding officer of  
20 the commission, with the commission's approval, [Before March 1 of  
21 each year, the council] shall appoint [elect] a member of the  
22 council to serve as presiding officer of the council for two years  
23 [until the last day of February of the following year].

24 SECTION 15.007. Section 1152.108, Occupations Code, is  
25 amended to read as follows:

26 Sec. 1152.108. COUNCIL POWERS. The council shall:

27 (1) recommend to the commission ~~[commissioner]~~

1 standards of practice, conduct, and ethics for registrants to be  
2 adopted under this chapter;

3 (2) recommend to the commission amounts for the fees  
4 it may set under this chapter;

5 (3) recommend to the commission [~~commissioner~~]  
6 contents for the senior property tax consultant registration  
7 examination and standards of acceptable performance;

8 (4) assist and advise the commission [~~commissioner~~] in  
9 recognizing continuing education programs and educational courses  
10 for registrants; and

11 (5) advise the commission [~~commissioner~~] in  
12 establishing educational requirements for initial applicants.

13 SECTION 15.008. Section 1152.155(a), Occupations Code, is  
14 amended to read as follows:

15 (a) To be eligible for registration, an applicant must:

16 (1) be at least 18 years of age;

17 (2) hold a high school diploma or its equivalent;

18 (3) pay the fees required by the commission;

19 (4) have a place of business in this state or designate  
20 a resident of this state as the applicant's agent for service of  
21 process; and

22 (5) meet any additional qualifications required by  
23 this chapter or by the commission [~~commissioner~~] under this chapter  
24 or Chapter 51.

25 SECTION 15.009. Section 1152.160, Occupations Code, is  
26 amended to read as follows:

27 Sec. 1152.160. SENIOR PROPERTY TAX CONSULTANT REGISTRATION

1 EXAMINATION. (a) The executive director [~~commissioner~~] shall:

2 (1) adopt an examination for registration as a senior  
3 property tax consultant; and

4 (2) establish the standards for passing the  
5 examination.

6 (b) The department shall offer the examination at times and  
7 places designated by the executive director [~~commissioner~~].

8 (c) To be eligible to take the examination, an applicant  
9 must pay to the department an examination fee. [~~The commissioner by  
10 rule may establish conditions for refunding the examination fee to  
11 an applicant who does not take the examination.~~]

12 (d) The examination must:

13 (1) test the applicant's knowledge of:

14 (A) property taxation;

15 (B) the property tax system;

16 (C) property tax administration;

17 (D) ethical standards; and

18 (E) general principles of appraisal, accounting,  
19 and law as they relate to property tax consulting services; and

20 (2) be graded according to rules adopted by the  
21 commission [~~commissioner~~].

22 SECTION 15.010. Section 1152.201, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1152.201. TERM OF CERTIFICATE OF REGISTRATION. Except  
25 as otherwise provided by the commission, a certificate of  
26 registration expires on the first [~~second~~] anniversary of the date  
27 of issuance.



1 SECTION 15.011. Section 1152.202(a), Occupations Code, is  
2 amended to read as follows:

3 (a) The executive director [~~commissioner~~] shall issue to an  
4 eligible registrant a certificate of renewal of registration on the  
5 timely receipt of the required renewal fee. [~~The certificate~~  
6 ~~expires on the second anniversary of the date of issuance.~~]

7 SECTION 15.012. Section 1152.204, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1152.204. RECOGNITION OF EDUCATIONAL PROGRAMS AND  
10 COURSES. (a) The commission [~~commissioner~~] by rule shall  
11 recognize appropriate continuing education programs for  
12 registrants.

13 (b) The commission [~~commissioner~~] shall recognize a  
14 continuing education course, including a course on the legal issues  
15 and law related to property tax consulting services, that is:

16 (1) approved by the Texas Real Estate Commission or  
17 the Texas Appraiser Licensing and Certification Board; and

18 (2) completed by a registrant who also holds:

19 (A) an active real estate broker license or an  
20 active real estate salesperson license under Chapter 1101; or

21 (B) an active real estate appraiser license or  
22 certificate under Chapter 1103.

23 (c) The commission [~~commissioner~~] may recognize an  
24 educational program or course:

25 (1) related to property tax consulting services; and

26 (2) offered or sponsored by a public provider or a  
27 recognized private provider, including:

- 1 (A) the comptroller;
- 2 (B) the State Bar of Texas;
- 3 (C) the Texas Real Estate Commission;
- 4 (D) an institution of higher education that meets
- 5 program and accreditation standards comparable to those for public
- 6 institutions of higher education as determined by the Texas Higher
- 7 Education Coordinating Board; or

8 (E) a nonprofit and voluntary trade association,

9 institute, or organization:

10 (i) whose membership consists primarily of

11 persons who represent property owners in property tax or

12 transactional tax matters;

13 (ii) that has written experience and

14 examination requirements for membership or for granting

15 professional designation to its members; and

16 (iii) that subscribes to a code of

17 professional conduct or ethics.

18 (d) The commission [~~commissioner~~] may recognize a private

19 provider of an educational program or course if the provider:

20 (1) applies to the department on a printed form

21 prescribed by the executive director [~~commissioner~~]; and

22 (2) pays in the amounts set by the commission:

23 (A) a nonrefundable application fee; and

24 (B) an educational provider's fee.

25 (e) The department shall refund the educational provider's

26 fee if the commission [~~commissioner~~] does not recognize the

27 provider's educational program or course.

1 SECTION 15.013. Section 1152.251, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1152.251. DISCIPLINARY POWERS OF COMMISSION  
4 [~~COMMISSIONER~~]. After a hearing, the commission [~~commissioner~~] may  
5 deny a certificate of registration and may impose an administrative  
6 sanction or penalty and seek injunctive relief and a civil penalty  
7 against a registrant as provided by Chapter 51 for:

8 (1) a violation of this chapter or a rule applicable to  
9 the registrant adopted by the commission [~~commissioner~~] under this  
10 chapter;

11 (2) gross incompetency in the performance of property  
12 tax consulting services;

13 (3) dishonesty or fraud committed while performing  
14 property tax consulting services; or

15 (4) a violation of the standards of ethics adopted by  
16 the commission [~~commissioner~~].

17 SECTION 15.014. The following laws are repealed:

18 (1) Section 1152.001(2), Occupations Code;

19 (2) Section 1152.161, Occupations Code;

20 (3) Section 1152.163, Occupations Code;

21 (4) Sections 1152.202(b) and (c), Occupations Code;

22 and

23 (5) Effective March 1, 2004, Section 1152.203,  
24 Occupations Code.

25 SECTION 15.015. The change in law made by this article to  
26 Section 1152.201, Occupations Code, applies only to a certificate  
27 of registration issued or renewed on or after the effective date of

1 this Act. A certificate of registration issued or renewed before  
2 the effective date of this Act is governed by that section as it  
3 existed immediately before the effective date of this Act, and that  
4 law is continued in effect for that purpose.

5 SECTION 15.016. The changes in law made by this article  
6 applying to members of the Property Tax Consultants Advisory  
7 Council do not affect the entitlement of a member serving on the  
8 council immediately before September 1, 2003, to continue to serve  
9 and function as a member of the council for the remainder of the  
10 member's term. Those changes in law apply only to a member appointed  
11 on or after September 1, 2003.

12 ARTICLE 16. SERVICE CONTRACT PROVIDERS

13 SECTION 16.001. Section 1304.002, Occupations Code, is  
14 amended by adding Subdivision (5-a) to read as follows:

15 (5-a) "Executive director" means the executive  
16 director of the department.

17 SECTION 16.002. Section 1304.051, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1304.051. SERVICE CONTRACT PROVIDERS ADVISORY BOARD.  
20 (a) The Service Contract Providers Advisory Board consists of six  
21 members appointed by the presiding officer of the commission, with  
22 the commission's approval, [commissioner] and one ex officio  
23 nonvoting member.

24 (b) Of the appointed members:

25 (1) two must be officers, directors, or employees of a  
26 provider of service contracts that have been approved by the  
27 executive director [commissioner];

1           (2) two must be officers, directors, or employees of a  
2 retail outlet or other entity in this state that provides to  
3 consumers service contracts approved by the executive director  
4 [~~commissioner~~] for sale to consumers;

5           (3) one must be an officer, director, or employee of an  
6 entity authorized by the Texas Department of Insurance to sell  
7 reimbursement insurance policies; and

8           (4) one must be a resident of this state who holds, as  
9 a consumer, a service contract that is in force in this state on the  
10 date of the member's appointment and was issued by a provider  
11 registered under this chapter.

12           (c) The executive director [~~commissioner~~] or the executive  
13 director's [~~commissioner's~~] designee serves as an ex officio  
14 nonvoting member of the advisory board.

15           SECTION 16.003. Section 1304.052(a), Occupations Code, is  
16 amended to read as follows:

17           (a) The advisory board shall advise the commission  
18 [~~commissioner~~] in adopting rules and in administering and enforcing  
19 this chapter.

20           SECTION 16.004. Section 1304.053(b), Occupations Code, is  
21 amended to read as follows:

22           (b) If a vacancy occurs during an appointed member's term,  
23 the presiding officer of the commission [~~commissioner~~] shall fill  
24 the vacancy for the remainder of the unexpired term with a person  
25 who represents the same interests as the predecessor.

26           SECTION 16.005. Section 1304.054, Occupations Code, is  
27 amended to read as follows:

1           Sec. 1304.054. PRESIDING OFFICER. The presiding officer of  
2 the commission [~~commissioner~~] shall designate one member of the  
3 advisory board to serve as presiding officer of the board for two  
4 years.

5           SECTION 16.006. Sections 1304.103(a) and (b), Occupations  
6 Code, are amended to read as follows:

7           (a) The executive director [~~commissioner~~] shall develop a  
8 tiered schedule of annual registration fees under which a  
9 provider's registration fee is based on the number of service  
10 contracts the provider sold in this state during the preceding  
11 12-month period.

12           (b) The commission shall set the amounts of the fees to  
13 cover the costs of administering this chapter. [~~The maximum fee may~~  
14 ~~not exceed \$2,000.~~]

15           SECTION 16.007. Subchapter C, Chapter 1304, Occupations  
16 Code, is amended by adding Section 1304.105 to read as follows:

17           Sec. 1304.105. RENEWAL. The commission shall adopt rules  
18 regarding the renewal of a registration issued under this chapter.

19           SECTION 16.008. Sections 1304.151(a)-(c) and (e),  
20 Occupations Code, are amended to read as follows:

21           (a) To ensure the faithful performance of a provider's  
22 obligations to its service contract holders, each provider must:

23           (1) insure the provider's service contracts under a  
24 reimbursement insurance policy issued by an insurer authorized to  
25 transact insurance in this state or by a surplus lines insurer  
26 eligible to place coverage in this state under Chapter 981 [~~Article~~  
27 ~~1.14-2~~], Insurance Code;

1           (2) maintain a funded reserve account covering the  
2 provider's obligations under its service contracts that are issued  
3 and outstanding in this state and place in trust with the executive  
4 director [~~commissioner~~] a financial security deposit consisting  
5 of:

6                   (A) a surety bond issued by an authorized surety;

7                   (B) securities of the type eligible for deposit  
8 by an authorized insurer in this state;

9                   (C) a statutory deposit of cash or cash  
10 equivalents;

11                   (D) a letter of credit issued by a qualified  
12 financial institution; or

13                   (E) another form of security prescribed by rules  
14 adopted by the commission [~~commissioner~~]; or

15           (3) maintain, or have a parent company that maintains,  
16 a net worth or stockholders' equity of at least \$100 million.

17           (b) If the provider ensures its obligations under  
18 Subsection (a)(2), the amount maintained in the reserve account may  
19 not be less than an amount equal to 40 percent of the gross  
20 consideration the provider received from consumers from the sale of  
21 all service contracts issued and outstanding in this state, minus  
22 any claims paid. The executive director [~~commissioner~~] may review  
23 and examine the reserve account. The amount of the security deposit  
24 may not be less than the greater of:

25                   (1) \$25,000; or

26                   (2) an amount equal to five percent of the gross  
27 consideration the provider received from consumers from the sale of

1 all service contracts issued and outstanding in this state, minus  
2 any claims paid.

3 (c) If the provider ensures its obligations under  
4 Subsection (a)(3), the provider must give to the executive director  
5 [~~commissioner~~] on request:

6 (1) a copy of the provider's or the provider's parent  
7 company's most recent Form 10-K or Form 20-F filed with the  
8 Securities and Exchange Commission within the preceding calendar  
9 year; or

10 (2) if the provider or the provider's parent company  
11 does not file with the Securities and Exchange Commission, a copy of  
12 the provider's or the provider's parent company's audited financial  
13 statements showing a net worth of the provider or its parent company  
14 of at least \$100 million.

15 (e) The executive director [~~commissioner~~] may not require a  
16 provider to meet any additional financial security requirement.

17 SECTION 16.009. Section 1304.201(a), Occupations Code, is  
18 amended to read as follows:

19 (a) On a finding that a ground for disciplinary action  
20 exists under this chapter, the commission [~~commissioner~~] may impose  
21 an administrative sanction, including an administrative penalty,  
22 as provided by Chapter 51.

23 SECTION 16.010. The following laws are repealed:

24 (1) Section 1304.002(3), Occupations Code; and

25 (2) Section 1304.201(b), Occupations Code.

26 SECTION 16.011. The changes in law made by this article  
27 applying to members of the Service Contract Providers Advisory



1 Board do not affect the entitlement of a member serving on the  
2 board immediately before September 1, 2003, to continue to serve  
3 and function as a member of the board for the remainder of the  
4 member's term. Those changes in law apply only to a member appointed  
5 on or after September 1, 2003.

6 ARTICLE 17. STAFF LEASING SERVICES

7 SECTION 17.001. Section 91.001, Labor Code, is amended by  
8 adding Subdivision (8-a) to read as follows:

9 (8-a) "Executive director" means the executive  
10 director of the department.

11 SECTION 17.002. Sections 91.002(a) and (b), Labor Code, are  
12 amended to read as follows:

13 (a) The commission [~~commissioner~~] shall adopt rules as  
14 necessary to administer this chapter.

15 (b) Each person who offers staff leasing services is subject  
16 to this chapter and the rules adopted by the commission  
17 [~~commissioner~~].

18 SECTION 17.003. Subchapter A, Chapter 91, Labor Code, is  
19 amended by adding Section 91.008 to read as follows:

20 Sec. 91.008. APPLICABILITY OF CONTINUING EDUCATION  
21 LAW. Section 51.405, Occupations Code, does not apply to this  
22 chapter.

23 SECTION 17.004. Section 91.016(b), Labor Code, is amended  
24 to read as follows:

25 (b) A license issued or renewed by the department under this  
26 chapter is valid for one year [~~two years~~] from the date of the  
27 issuance or renewal. The department shall renew a license on

1 receipt of a complete renewal application form and payment of the  
2 license renewal fee.

3 SECTION 17.005. Section 91.017(a), Labor Code, is amended  
4 to read as follows:

5 (a) Each applicant for an original or renewal staff leasing  
6 services company license shall pay to the department before the  
7 issuance of the license or license renewal a fee set by the  
8 commission by rule [~~in an amount not to exceed \$6,000 for the~~  
9 ~~two-year license period~~].

10 SECTION 17.006. Sections 91.018(b) and (d), Labor Code, are  
11 amended to read as follows:

12 (b) A license holder may change the license holder's  
13 licensed name at any time by notifying the department and paying a  
14 fee for each change of name. The commission by rule shall set the  
15 fee for a name change [~~in an amount not to exceed \$50~~]. A license  
16 holder may change the license holder's name on renewal of the  
17 license without the payment of the name change fee.

18 (d) A license holder may amend the name specified in its  
19 license to add a trade name, trademark, service mark, or parent  
20 company name. An amendment made under this subsection must comply  
21 with the requirements imposed under Subsection (a). The department  
22 may charge a fee [~~not to exceed \$50~~] for processing of such an  
23 amendment.

24 SECTION 17.007. Section 91.019(a), Labor Code, is amended  
25 to read as follows:

26 (a) The commission [~~commissioner~~] by rule shall provide for  
27 the issuance of a limited license to a person who seeks to offer

1 limited staff leasing services in this state.

2 SECTION 17.008. Section 91.020, Labor Code, is amended to  
3 read as follows:

4 Sec. 91.020. GROUNDS FOR DISCIPLINARY ACTION. [~~a~~] The  
5 department may take disciplinary action against a license holder on  
6 any of the following grounds:

7 (1) [~~being convicted or having a controlling person of~~  
8 ~~the license holder who is convicted of:~~

9 [~~(A) bribery, fraud, or intentional or material~~  
10 ~~misrepresentation in obtaining, attempting to obtain, or renewing a~~  
11 ~~license;~~

12 [~~(B) a crime that relates to the operation of a~~  
13 ~~staff leasing service or the ability of the license holder or any~~  
14 ~~controlling person of the license holder to operate a staff leasing~~  
15 ~~service;~~

16 [~~(C) a crime that relates to the classification,~~  
17 ~~misclassification, or under-reporting of employees under Subtitle~~  
18 ~~A, Title 5;~~

19 [~~(D) a crime that relates to the establishment or~~  
20 ~~maintenance of a self-insurance program, whether health insurance,~~  
21 ~~workers' compensation insurance, or other insurance; or~~

22 [~~(E) a crime that relates to fraud, deceit, or~~  
23 ~~misconduct in the operation of a staff leasing service;~~

24 [~~2~~] engaging in staff leasing services or offering  
25 to engage in the provision of staff leasing services without a  
26 license;

27 (2) [~~3~~] transferring or attempting to transfer a

1 license issued under this chapter;

2           (3) [~~(4)~~] violating this chapter or any order or rule  
3 issued by the executive director [~~department~~] or commission  
4 [~~commissioner~~] under this chapter;

5           (4) [~~(5)~~] failing after the 31st day after the date on  
6 which a felony conviction of a controlling person is final to notify  
7 the department in writing of the conviction;

8           (5) [~~(6)~~] failing to cooperate with an investigation,  
9 examination, or audit of the license holder's records conducted by  
10 the license holder's insurance company or the insurance company's  
11 designee, as allowed by the insurance contract or as authorized by  
12 law by the Texas Department of Insurance;

13           (6) [~~(7)~~] failing after the 31st day after the  
14 effective date of a change in ownership, principal business  
15 address, or the address of accounts and records to notify the  
16 department and the Texas Department of Insurance of the change;

17           (7) [~~(8)~~] failing to correct any tax filings or  
18 payment deficiencies within a reasonable time as determined by the  
19 executive director [~~commissioner~~];

20           (8) [~~(9)~~] refusing, after reasonable notice, to meet  
21 reasonable health and safety requirements within the license  
22 holder's control and made known to the license holder by a federal  
23 or state agency;

24           (9) [~~(10)~~] being delinquent in the payment of the  
25 license holder's insurance premiums other than those subject to a  
26 legitimate dispute;

27           (10) [~~(11)~~] being delinquent in the payment of any

1 employee benefit plan premiums or contributions other than those  
2 subject to a legitimate dispute;

3 (11) [~~(12)~~] knowingly making a material  
4 misrepresentation to an insurance company or to the department or  
5 other governmental agency;

6 (12) [~~(13)~~] failing to maintain the net worth  
7 requirements required under Section 91.014; or

8 (13) [~~(14)~~] using staff leasing services to avert or  
9 avoid an existing collective bargaining agreement.

10 [~~(b) For purposes of this section, "conviction" includes a~~  
11 ~~plea of nolo contendere or a finding of guilt, regardless of~~  
12 ~~adjudication.~~]

13 SECTION 17.009. Section 91.041(c), Labor Code, is amended  
14 to read as follows:

15 (c) The commission [~~commissioner~~] by rule may require a  
16 license holder to file other reports that are reasonably necessary  
17 for the implementation of this chapter.

18 SECTION 17.010. The following laws are repealed:

19 (1) Section 91.001(5), Labor Code; and

20 (2) Section 91.021, Labor Code.

21 SECTION 17.011. The change in law made by this article to  
22 Section 91.016(b), Labor Code, applies only to a license issued or  
23 renewed on or after January 1, 2004. A license issued or renewed  
24 before January 1, 2004, is governed by that section as it existed  
25 immediately before that date, and that law is continued in effect  
26 for that purpose.

27 ARTICLE 18. TALENT AGENCIES

1 SECTION 18.001. Section 2105.001, Occupations Code, is  
2 amended by amending Subdivision (2) and adding Subdivision (3-a) to  
3 read as follows:

4 (2) "Commission" [~~"Commissioner"~~] means the Texas  
5 Commission of Licensing and Regulation [~~commissioner of licensing~~  
6 ~~and regulation~~].

7 (3-a) "Executive director" means the executive  
8 director of the department.

9 SECTION 18.002. Section 2105.002, Occupations Code, is  
10 amended to read as follows:

11 Sec. 2105.002. POWERS AND DUTIES [~~OF DEPARTMENT~~]. (a) The  
12 executive director [~~department~~] shall[+]

13 [~~(1)~~] prescribe application forms for original and  
14 renewal certificates of registration.

15 (b) The commission shall: [+]

16 (1) [~~(2)~~] set application and registration fees in  
17 amounts that are reasonable and necessary to defray the costs of  
18 administering this chapter; and

19 (2) [~~(3)~~] adopt rules as necessary to implement this  
20 chapter.

21 (c) [~~(b)~~] The commission [~~department~~] may[+]

22 [~~(1)~~] adopt rules as necessary to administer the  
23 registration program created under this chapter.

24 (d) The department may[+ and

25 [~~(2)~~] take other action as necessary to enforce this  
26 chapter.

27 SECTION 18.003. Subchapter A, Chapter 2105, Occupations

1 Code, is amended by adding Section 2105.003 to read as follows:

2 Sec. 2105.003. APPLICABILITY OF OTHER LAW. Section 51.405  
3 does not apply to this chapter.

4 SECTION 18.004. Section 2105.053, Occupations Code, is  
5 amended to read as follows:

6 Sec. 2105.053. REGISTRATION FEE. The department may  
7 charge a talent agency a reasonable fee [~~not to exceed \$100~~] to  
8 cover the cost of filing a registration statement or an update of a  
9 registration statement.

10 SECTION 18.005. Section 2105.104, Occupations Code, is  
11 amended to read as follows:

12 Sec. 2105.104. AGENCY RECORDS. A certificate holder shall  
13 maintain records relating to the operation of the talent agency as  
14 required by commission [~~department~~] rule.

15 SECTION 18.006. Section 2105.105(b), Occupations Code, is  
16 amended to read as follows:

17 (b) Funds deposited under this section may be disbursed only  
18 as prescribed by commission [~~department~~] rule.

19 SECTION 18.007. The following laws are repealed:

- 20 (1) Sections 2105.055(b) and (c), Occupations Code;  
21 (2) Sections 2105.056(a), (b), and (c), Occupations  
22 Code; and  
23 (3) Section 2105.252, Occupations Code.

24 ARTICLE 19. TEMPORARY COMMON WORKER EMPLOYERS

25 SECTION 19.001. Section 92.002, Labor Code, is amended by  
26 adding Subdivision (4-a) to read as follows:

27 (4-a) "Executive director" means the executive

1 director of the department.

2 SECTION 19.002. Subchapter A, Chapter 92, Labor Code, is  
3 amended by adding Section 92.004 to read as follows:

4 Sec. 92.004. APPLICABILITY OF OTHER LAW. Section 51.405,  
5 Occupations Code, does not apply to this chapter.

6 SECTION 19.003. Section 92.022(c), Labor Code, is amended  
7 to read as follows:

8 (c) Information received by the commission [~~commissioner~~]  
9 or department under this section is privileged and confidential and  
10 is for the exclusive use of the commission [~~commissioner~~] or  
11 department. The information may not be disclosed to any other  
12 person except on the entry of a court order requiring disclosure or  
13 on the written consent of a person under investigation who is the  
14 subject of the records.

15 SECTION 19.004. The following laws are repealed:

- 16 (1) Section 92.002(2), Labor Code; and  
17 (2) Sections 92.015(b) and (c), Labor Code.

18 ARTICLE 20. TRANSPORTATION SERVICE PROVIDERS

19 SECTION 20.001. Section 2401.001(2), Occupations Code, is  
20 amended to read as follows:

21 (2) "Department" means the [~~Texas~~] Department of  
22 Public Safety [~~Licensing and Regulation~~].

23 SECTION 20.002. The heading to Subchapter B, Chapter 2401,  
24 Occupations Code, is amended to read as follows:

25 SUBCHAPTER B. POWERS AND DUTIES [~~OF COMMISSION, COMMISSIONER, AND~~  
26 ~~DEPARTMENT~~]

27 SECTION 20.003. Section 2401.052, Occupations Code, is



1 amended to read as follows:

2           Sec. 2401.052. EXAMINATION OR AUDIT. (a) To administer  
3 this chapter, the department may:

4                   (1) examine:

5                           (A) a record maintained under Section 2401.152;

6 or

7                           (B) a record or object the department determines  
8 is necessary to conduct a complete examination; or

9                   (2) question under oath any person who~~+~~

10                           ~~[(A)]~~ is associated with the business of a  
11 transportation service provider~~[, or~~

12                           ~~[(B) claims the person was negatively affected by~~  
13 ~~a violation of this chapter committed by a transportation service~~  
14 ~~provider].~~

15           (b) The department may periodically audit the business  
16 records of a transportation service provider ~~[registered under this~~  
17 ~~chapter].~~

18           SECTION 20.004. Section 2401.251, Occupations Code, is  
19 amended to read as follows:

20           Sec. 2401.251. CIVIL PENALTY. A transportation service  
21 provider who knowingly violates this chapter ~~[or a rule adopted~~  
22 ~~under this chapter]~~ is liable for a civil penalty of not less than  
23 \$100 or more than \$500 for each violation.

24           SECTION 20.005. Section 2401.253, Occupations Code, is  
25 amended to read as follows:

26           Sec. 2401.253. AUTHORITY TO INVESTIGATE AND FILE COMPLAINT.

27 (a) The department ~~[commissioner, with the assistance of the Texas~~

1 ~~Department of Public Safety,~~] may investigate a violation of this  
2 chapter [~~or a rule adopted under this chapter~~].

3 (b) Any [~~The commissioner or any~~] law enforcement agency may  
4 file a complaint with:

- 5 (1) the district attorney of Travis County; or  
6 (2) the prosecuting attorney of the county in which a  
7 violation is alleged to have occurred.

8 SECTION 20.006. The following laws are repealed:

- 9 (1) Section 2401.001(1), Occupations Code;  
10 (2) Section 2401.051, Occupations Code;  
11 (3) Section 2401.053, Occupations Code;  
12 (4) Section 2401.054, Occupations Code;  
13 (5) Subchapter C, Chapter 2401, Occupations Code;  
14 (6) Section 2401.151, Occupations Code; and  
15 (7) Subchapter E, Chapter 2401, Occupations Code.

16 SECTION 20.007. (a) On November 1, 2003:

17 (1) all functions and activities relating to Chapter  
18 2401, Occupations Code, performed by the Texas Department of  
19 Licensing and Regulation immediately before that date are  
20 transferred to the Department of Public Safety;

21 (2) a reference in law or an administrative rule to the  
22 Texas Department of Licensing and Regulation that relates to  
23 Chapter 2401, Occupations Code, means the Department of Public  
24 Safety;

25 (3) a complaint, investigation, or other proceeding  
26 before the Texas Department of Licensing and Regulation that is  
27 related to Chapter 2401, Occupations Code, is transferred without

1 change in status to the Department of Public Safety, and the  
2 Department of Public Safety assumes, as appropriate and without a  
3 change in status, the position of the Texas Department of Licensing  
4 and Regulation in an action or proceeding to which the Texas  
5 Department of Licensing and Regulation is a party;

6 (4) all money, contracts, leases, property, and  
7 obligations of the Texas Department of Licensing and Regulation  
8 related to Chapter 2401, Occupations Code, are transferred to the  
9 Department of Public Safety;

10 (5) all property in the custody of the Texas  
11 Department of Licensing and Regulation related to Chapter 2401,  
12 Occupations Code, is transferred to the Department of Public  
13 Safety; and

14 (6) the unexpended and unobligated balance of any  
15 money appropriated by the legislature for the Texas Department of  
16 Licensing and Regulation related to Chapter 2401, Occupations Code,  
17 is transferred to the Department of Public Safety.

18 (b) An offense or other violation related to Chapter 2401,  
19 Occupations Code, committed before the effective date of this Act  
20 is covered by the law as it existed on the date on which the offense  
21 or other violation was committed, and the former law is continued in  
22 effect for that purpose.

23 (c) Before November 1, 2003, the Texas Department of  
24 Licensing and Regulation may agree with the Department of Public  
25 Safety to transfer any property of the Texas Department of  
26 Licensing and Regulation to the Department of Public Safety to  
27 implement the transfer required by this article.

1 (d) In the period beginning on the effective date of this  
2 Act and ending on November 1, 2003, the Texas Department of  
3 Licensing and Regulation shall continue to perform functions and  
4 activities under Chapter 2401, Occupations Code, as if that chapter  
5 had not been amended by this Act, and the former law is continued in  
6 effect for that purpose.

7 ARTICLE 21. UNDERGROUND STORAGE TANK OPERATORS

8 SECTION 21.001. Section 26.451, Water Code, is amended by  
9 adding Subdivision (3-a) to read as follows:

10 (3-a) "Department" means the Texas Department of  
11 Licensing and Regulation.

12 SECTION 21.002. Sections 26.452(a) and (b), Water Code, are  
13 amended to read as follows:

14 (a) A person who offers to undertake, represents that the  
15 person is able to undertake, or undertakes to install, repair, or  
16 remove an underground storage tank must hold a registration issued  
17 by the department [~~commission~~] under Chapter 51, Occupations Code  
18 [~~37~~]. If the person is a partnership or joint venture, it need not  
19 register in its own name if each partner or joint venture is  
20 registered.

21 (b) An underground storage tank contractor must have an  
22 on-site supervisor who is licensed by the department [~~commission~~]  
23 under Chapter 51, Occupations Code, [~~37~~] at the site at all times  
24 during the critical junctures of the installation, repair, or  
25 removal.

26 SECTION 21.003. Section 26.456(a), Water Code, is amended  
27 to read as follows:

1 (a) A person supervising the installation, repair, or  
2 removal of an underground storage tank must hold a license issued by  
3 the department [~~commission~~] under Chapter 51, Occupations Code  
4 [~~37~~].

5 SECTION 21.004. (a) On November 1, 2003:

6 (1) all functions and activities relating to  
7 Subchapter K, Chapter 26, Water Code, performed by the Texas  
8 Commission on Environmental Quality immediately before that date  
9 are transferred to the Texas Department of Licensing and  
10 Regulation;

11 (2) a rule or form adopted by the Texas Commission on  
12 Environmental Quality that relates to Subchapter K, Chapter 26,  
13 Water Code, is a rule or form of the Texas Department of Licensing  
14 and Regulation and remains in effect until amended or replaced by  
15 that department;

16 (3) a license or other document issued by the Texas  
17 Commission on Environmental Quality that relates to Subchapter K,  
18 Chapter 26, Water Code, is considered a license or other document  
19 issued by the Texas Department of Licensing and Regulation and  
20 remains in effect until amended or replaced by that department;

21 (4) a reference in law or an administrative rule to the  
22 Texas Commission on Environmental Quality that relates to  
23 Subchapter K, Chapter 26, Water Code, means the Texas Department of  
24 Licensing and Regulation;

25 (5) a complaint, investigation, or other proceeding  
26 before the Texas Commission on Environmental Quality that is  
27 related to Subchapter K, Chapter 26, Water Code, is transferred

1 without change in status to the Texas Department of Licensing and  
2 Regulation, and the Texas Department of Licensing and Regulation  
3 assumes, as appropriate and without a change in status, the  
4 position of the Texas Commission on Environmental Quality in an  
5 action or proceeding to which the Texas Commission on Environmental  
6 Quality is a party;

7 (6) all money, contracts, leases, property, and  
8 obligations of the Texas Commission on Environmental Quality  
9 related to Subchapter K, Chapter 26, Water Code, are transferred to  
10 the Texas Department of Licensing and Regulation;

11 (7) all property in the custody of the Texas  
12 Commission on Environmental Quality related to Subchapter K,  
13 Chapter 26, Water Code, is transferred to the Texas Department of  
14 Licensing and Regulation; and

15 (8) the unexpended and unobligated balance of any  
16 money appropriated by the legislature for the Texas Commission on  
17 Environmental Quality related to Subchapter K, Chapter 26, Water  
18 Code, is transferred to the Texas Department of Licensing and  
19 Regulation.

20 (b) Before November 1, 2003, the Texas Commission on  
21 Environmental Quality may agree with the Texas Department of  
22 Licensing and Regulation to transfer any property of the Texas  
23 Commission on Environmental Quality to the Texas Department of  
24 Licensing and Regulation to implement the transfer required by this  
25 article.

26 (c) In the period beginning on the effective date of this  
27 Act and ending on November 1, 2003, the Texas Commission on

1 Environmental Quality shall continue to perform functions and  
2 activities under Subchapter K, Chapter 26, Water Code, as if that  
3 subchapter had not been amended by this Act, and the former law is  
4 continued in effect for that purpose.

5 ARTICLE 22. VEHICLE PROTECTION PRODUCT WARRANTORS

6 SECTION 22.001. Section 2, Article 9035, Revised Statutes,  
7 is amended by adding Subdivision (4-a) to read as follows:

8 (4-a) "Executive director" means the executive  
9 director of the department.

10 SECTION 22.002. Article 9035, Revised Statutes, is amended  
11 by adding Section 3A to read as follows:

12 Sec. 3A. APPLICABILITY OF OTHER LAW. Section 51.405,  
13 Occupations Code, does not apply to this article.

14 SECTION 22.003. Section 4, Article 9035, Revised Statutes,  
15 is amended to read as follows:

16 Sec. 4. POWERS AND DUTIES [~~OF COMMISSIONER~~]. (a) The  
17 commission [~~commissioner~~] may adopt rules as necessary to implement  
18 this article.

19 (b) The executive director [~~commissioner~~] may conduct  
20 investigations of warrantors or other persons as reasonably  
21 necessary to enforce this article and to protect consumers in this  
22 state. On request of the executive director [~~commissioner~~], a  
23 warrantor shall make the warrantor's records maintained under  
24 Section 10 of this article regarding vehicle protection products  
25 sold by the warrantor available to the department as necessary to  
26 enable the department to reasonably determine compliance with this  
27 article.

1 SECTION 22.004. Sections 5(a)-(g), Article 9035, Revised  
2 Statutes, are amended to read as follows:

3 (a) The Vehicle Protection Product Warrantor Advisory Board  
4 is an advisory body to the commission [~~department~~]. The advisory  
5 board shall advise[+]

6 [(1)] the commission [~~commissioner~~] on adopting  
7 rules, ~~[and]~~ enforcing and administering this article, ~~[+]~~ and

8 [(2) ~~the commission on~~] setting fees.

9 (b) The advisory board consists of six members appointed by  
10 the presiding officer of the commission [~~commissioner~~] as follows:

11 (1) two members who are officers, directors, or  
12 employees of a warrantor who has been approved or expects to be  
13 approved by the department;

14 (2) two members who are officers, directors, or  
15 employees of a retail outlet or other entity located in this state  
16 that sells vehicle protection products and is approved or expected  
17 to be approved by the department; and

18 (3) two members who are residents of this state and, at  
19 the time of appointment, are consumers of vehicle protection  
20 products issued by warrantors registered or expected to be  
21 registered under this article.

22 (c) Members of the advisory board serve staggered six-year  
23 terms, with the terms of two members expiring on February 1 of each  
24 odd-numbered year. [~~The commissioner shall appoint the initial six  
25 board members to terms of six years or less in order to create  
26 staggered terms for the subsequent members of the advisory board.~~]

27 (d) The presiding officer of the commission [~~commissioner~~]



1 shall designate one member of the advisory board to serve as  
2 presiding officer of the board for two years.

3 (e) The executive director [~~commissioner~~] or the executive  
4 director's [~~commissioner's~~] designee serves as an ex officio  
5 nonvoting member of the advisory board.

6 (f) The presiding officer of the commission [~~commissioner~~]  
7 shall fill any vacancy on the advisory board by appointing an  
8 individual who meets the qualifications for the vacant advisory  
9 board position to serve the remainder of the unexpired term.

10 (g) The advisory board shall meet at least every six months  
11 and may meet at other times at the call of the presiding officer of  
12 the board or the presiding officer of the commission  
13 [~~commissioner~~]. The advisory board shall meet at a location in this  
14 state designated by the [~~advisory~~] board.

15 SECTION 22.005. Sections 6(c) and (d), Article 9035,  
16 Revised Statutes, are amended to read as follows:

17 (c) Each registered warrantor shall pay an annual  
18 registration fee [~~not to exceed \$2,500~~] as set by the commission to  
19 cover the costs of administering this article. The department  
20 shall develop a tiered fee structure under which registration fees  
21 are assessed on warrantors based on the number of vehicle  
22 protection products sold within this state in the 12 months  
23 preceding the date of registration. The information submitted to  
24 the department under this section regarding the number of vehicle  
25 protection products sold by a warrantor may only be used by the  
26 department in determining the tiered fee structure. Information  
27 concerning the number of vehicle protection products sold by a

1 warrantor submitted under this section is a trade secret and  
2 subject to Section 552.110, Government Code.

3 (d) The commission [~~commissioner~~] shall adopt rules  
4 providing for the renewal of a warrantor's registration.

5 SECTION 22.006. Section 10(e), Article 9035, Revised  
6 Statutes, is amended to read as follows:

7 (e) The commission [~~commissioner~~] shall adopt rules  
8 governing how a warrantor shall protect nonpublic personal  
9 information provided by a consumer to the warrantor.

10 SECTION 22.007. Sections 16(a) and (c), Article 9035,  
11 Revised Statutes, are amended to read as follows:

12 (a) The executive director [~~commissioner~~] may bring an  
13 action against a warrantor for injunctive relief under Section  
14 51.352, Occupations Code, for a threatened or existing violation of  
15 this article or of the [~~commissioner's~~] orders or rules adopted  
16 under this article.

17 (c) For purposes of this section [~~and Section 15 of this~~  
18 ~~article~~], violations are of a similar nature if the violations  
19 consist of the same or a similar course of conduct, action, or  
20 practice, regardless of the number of times the conduct, act, or  
21 practice determined to be a violation of this article occurred.

22 SECTION 22.008. The following laws are repealed:

23 (1) Section 2(2), Article 9035, Revised Statutes; and

24 (2) Section 15, Article 9035, Revised Statutes.

25 SECTION 22.009. The changes in law made by this article  
26 applying to members of the Vehicle Protection Product Warrantor  
27 Advisory Board do not affect the entitlement of a member serving on

1 the board immediately before September 1, 2003, to continue to  
2 serve and function as a member of the board for the remainder of the  
3 member's term. Those changes in law apply only to a member  
4 appointed on or after September 1, 2003.

5 ARTICLE 23. WATER TREATMENT SPECIALISTS

6 SECTION 23.001. Section 341.034(e), Health and Safety Code,  
7 is amended to read as follows:

8 (e) Unless the person is licensed by the Texas State Board  
9 of Plumbing Examiners, a person must hold a license issued by the  
10 Texas Department of Licensing and Regulation [~~commission~~] under  
11 Chapter 51, Occupations [~~37, Water~~] Code, if, under a contract, the  
12 person:

13 (1) installs, exchanges, connects, maintains, or  
14 services potable water treatment equipment and appliances in public  
15 or private water systems; or

16 (2) analyzes water to determine how to treat influent  
17 or effluent water, alter or purify water, or add or remove a  
18 mineral, chemical, or bacterial content or substance as part of the  
19 complete installation, exchange, connection, maintenance, or  
20 service of potable water treatment equipment and appliances.

21 SECTION 23.002. Section 341.101, Health and Safety Code, is  
22 amended by amending Subdivision (1) and adding Subdivision (1-a) to  
23 read as follows:

24 (1) "Commission" means the Texas [~~Natural Resource~~  
25 ~~Conservation~~] Commission of Licensing and Regulation.

26 (1-a) "Department" means the Texas Department of  
27 Licensing and Regulation.

1 SECTION 23.003. Section 341.103, Health and Safety Code, is  
2 amended to read as follows:

3 Sec. 341.103. CERTIFICATION REQUIRED. A person may not  
4 engage in water treatment unless the person first obtains a  
5 certificate from the department [~~commission~~] under the program  
6 established under this subchapter.

7 SECTION 23.004. Section 341.104, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 341.104. APPLICATION FOR CERTIFICATION. A person  
10 desiring to obtain certification under the program established  
11 under this subchapter shall file with the department [~~commission~~]:

12 (1) an application in the form prescribed by the  
13 department [~~commission~~] and containing the information required by  
14 the department [~~commission~~]; and

15 (2) the appropriate certification fee.

16 SECTION 23.005. Section 341.105(a), Health and Safety Code,  
17 is amended to read as follows:

18 (a) On receipt of an application that meets department  
19 [~~commission~~] requirements and the required fee, the department  
20 [~~commission~~] shall issue to a person who meets department  
21 [~~commission~~] standards for certification a certificate stating  
22 that the person is qualified to install, exchange, service, and  
23 repair residential, commercial, or industrial water treatment  
24 facilities.

25 SECTION 23.006. Section 3, Chapter 504, Acts of the 77th  
26 Legislature, Regular Session, 2001, is repealed.

27 SECTION 23.007. (a) On November 1, 2003:

1           (1) all functions and activities relating to Section  
2 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341,  
3 Health and Safety Code, performed by the Texas Commission on  
4 Environmental Quality immediately before that date are transferred  
5 to the Texas Department of Licensing and Regulation;

6           (2) a rule or form adopted by the Texas Commission on  
7 Environmental Quality that relates to Section 341.034(e), Health  
8 and Safety Code, or Subchapter G, Chapter 341, Health and Safety  
9 Code, is a rule or form of the Texas Department of Licensing and  
10 Regulation and remains in effect until amended or replaced by that  
11 department;

12           (3) a license or other document issued by the Texas  
13 Commission on Environmental Quality that relates to Section  
14 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341,  
15 Health and Safety Code, is considered a license or other document  
16 issued by the Texas Department of Licensing and Regulation and  
17 remains in effect until amended or replaced by that department;

18           (4) a reference in law or an administrative rule to the  
19 Texas Commission on Environmental Quality that relates to Section  
20 341.034(e), Health and Safety Code, or Subchapter G, Chapter 341,  
21 Health and Safety Code, means the Texas Department of Licensing and  
22 Regulation;

23           (5) a complaint, investigation, or other proceeding  
24 before the Texas Commission on Environmental Quality that is  
25 related to Section 341.034(e), Health and Safety Code, or  
26 Subchapter G, Chapter 341, Health and Safety Code, is transferred  
27 without change in status to the Texas Department of Licensing and

1 Regulation, and the Texas Department of Licensing and Regulation  
2 assumes, as appropriate and without a change in status, the  
3 position of the Texas Commission on Environmental Quality in an  
4 action or proceeding to which the Texas Commission on Environmental  
5 Quality is a party;

6 (6) all money, contracts, leases, property, and  
7 obligations of the Texas Commission on Environmental Quality  
8 related to Section 341.034(e), Health and Safety Code, or  
9 Subchapter G, Chapter 341, Health and Safety Code, are transferred  
10 to the Texas Department of Licensing and Regulation;

11 (7) all property in the custody of the Texas  
12 Commission on Environmental Quality related to Section 341.034(e),  
13 Health and Safety Code, or Subchapter G, Chapter 341, Health and  
14 Safety Code, is transferred to the Texas Department of Licensing  
15 and Regulation; and

16 (8) the unexpended and unobligated balance of any  
17 money appropriated by the legislature for the Texas Commission on  
18 Environmental Quality related to Section 341.034(e), Health and  
19 Safety Code, or Subchapter G, Chapter 341, Health and Safety Code,  
20 is transferred to the Texas Department of Licensing and Regulation.

21 (b) Before November 1, 2003, the Texas Commission on  
22 Environmental Quality may agree with the Texas Department of  
23 Licensing and Regulation to transfer any property of the Texas  
24 Commission on Environmental Quality to the Texas Department of  
25 Licensing and Regulation to implement the transfer required by this  
26 article.

27 (c) In the period beginning on the effective date of this

1 Act and ending on November 1, 2003, the Texas Commission on  
2 Environmental Quality shall continue to perform functions and  
3 activities under Section 341.034(e), Health and Safety Code, or  
4 Subchapter G, Chapter 341, Health and Safety Code, as if those  
5 provisions had not been amended by this Act, and the former law is  
6 continued in effect for that purpose.

7 ARTICLE 24. WATER WELL DRILLERS

8 SECTION 24.001. Section 1901.001, Occupations Code, is  
9 amended by adding Subdivisions (7-a) and (7-b) to read as follows:

10 (7-a) "Executive director" means the executive  
11 director of the department.

12 (7-b) "Groundwater conservation district" means a  
13 district to which Chapter 36, Water Code, applies.

14 SECTION 24.002. Section 1901.051, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1901.051. LICENSING. (a) The department, with the  
17 advice of the council, shall prepare licensing examinations.

18 (b) The department shall ~~and~~ evaluate the qualifications  
19 of license applicants.

20 (c) [(b)] The executive director ~~[commissioner]~~ shall issue  
21 licenses to applicants who qualify.

22 SECTION 24.003. Section 1901.052, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1901.052. RULES. (a) The commission ~~[commissioner,~~  
25 ~~with advice and comment from the Texas Natural Resource~~  
26 ~~Conservation Commission]~~ shall adopt rules as necessary to enforce  
27 this chapter, including rules governing:

- 1 (1) license applications;
- 2 (2) qualifications of applicants;
- 3 (3) standards of conduct for drillers, including
- 4 standards for marking well drilling rigs and equipment; and
- 5 (4) procedures and practices before the department.

6 (b) The commission [~~commissioner~~] may not adopt a rule under  
7 this chapter that:

8 (1) regulates the installation or repair of well pumps  
9 and equipment by:

10 (A) a person on property the person owns or  
11 controls for the person's own use;

12 (B) an employee of a person described by  
13 Paragraph (A); or

14 (C) a person who is not hired or compensated and  
15 who acts on behalf of a person described by Paragraph (A); or

16 (2) requires a person who owns or controls property or  
17 possesses a well to complete, repair, or retrofit the well to any  
18 standard other than a standard in effect at the time the well was  
19 originally completed unless the well is found to be a threat to  
20 public health and safety or to water quality.

21 SECTION 24.004. Section 1901.101(a), Occupations Code, is  
22 amended to read as follows:

23 (a) The Texas Water Well Drillers Advisory Council consists  
24 of nine members appointed by the presiding officer of the  
25 commission, with the commission's approval, [~~department~~] as  
26 follows:

27 (1) six members who are drillers experienced in the



1 well drilling business and familiar with well drilling, completion,  
2 and plugging methods and techniques; and

3 (2) three public members.

4 SECTION 24.005. Section 1901.105, Occupations Code, is  
5 amended to read as follows:

6 Sec. 1901.105. PRESIDING OFFICER. The presiding officer of  
7 the commission [~~council~~] shall appoint [~~elect~~] a member of the  
8 council to serve as presiding officer of the council for two years  
9 [~~by a majority vote at the first meeting each year~~].

10 SECTION 24.006. Sections 1901.109(a) and (d), Occupations  
11 Code, are amended to read as follows:

12 (a) The council may propose rules for adoption by the  
13 commission [~~commissioner~~] relating to the regulation of drillers  
14 registered under this chapter.

15 (d) The council shall assist the commission [~~department~~] in  
16 evaluating continuing education programs.

17 SECTION 24.007. Section 1901.152(b), Occupations Code, is  
18 amended to read as follows:

19 (b) An applicant must pay to the department an [~~a~~  
20 ~~nonrefundable~~] examination fee at the time the application is  
21 submitted.

22 SECTION 24.008. Section 1901.162, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1901.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER  
25 STATE. The commission [~~commissioner~~] may adopt rules allowing  
26 waiver of a license requirement for an applicant who is licensed in  
27 another state that has license requirements substantially

1 equivalent to those of this state.

2 SECTION 24.009. Section 1901.251(a), Occupations Code, is  
3 amended to read as follows:

4 (a) Each driller who drills, deepens, or otherwise alters a  
5 water well in this state shall make and keep a legible and accurate  
6 well log in accordance with rules adopted by the commission and on  
7 forms prescribed by the executive director [~~commissioner~~]. The  
8 well log shall be recorded at the time of drilling, deepening, or  
9 otherwise altering the well and must contain:

10 (1) the depth, thickness, and character of the strata  
11 penetrated;

12 (2) the location of water-bearing strata;

13 (3) the depth, size, and character of casing  
14 installed; and

15 (4) any other information required by rules adopted by  
16 the commission [~~commissioner~~].

17 SECTION 24.010. Section 1901.252(b), Occupations Code, is  
18 amended to read as follows:

19 (b) The commission [~~commissioner~~] shall adopt rules  
20 specifying the manner for marking a rig.

21 SECTION 24.011. Section 1901.253, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1901.253. COMPLETING WATER WELL. A driller shall  
24 complete a well under standards and procedures adopted by the  
25 commission [~~commissioner~~].

26 SECTION 24.012. Section 1901.254(b), Occupations Code, is  
27 amended to read as follows:

1 (b) The driller shall ensure that the well is plugged,  
2 repaired, or properly completed under standards and procedures  
3 adopted by the commission [~~commissioner~~].

4 SECTION 24.013. Section 1901.255, Occupations Code, is  
5 amended by amending Subsections (c) and (d) and adding Subsection  
6 (e) to read as follows:

7 (c) Not later than the 180th day after the date a landowner  
8 or other person who possesses an abandoned or deteriorated well  
9 learns of its condition, the landowner or other person shall have  
10 the well plugged or capped under standards and procedures adopted  
11 by the commission [~~commissioner~~].

12 (d) Not later than the 30th day after the date the well is  
13 plugged, a [A] driller, licensed pump installer, or well owner who  
14 plugs an abandoned or deteriorated well shall submit a plugging  
15 report to:

16 (1) the board of directors of the groundwater  
17 conservation district in which the well is located, if the well is  
18 located in the boundaries of a groundwater conservation district;  
19 and

20 (2) the executive director [~~commissioner not later~~  
21 ~~than the 30th day after the date the well is plugged~~].

22 (e) The department or the groundwater conservation district  
23 in which the well is located shall furnish plugging report forms on  
24 request. The executive director shall prescribe the content of the  
25 forms.

26 SECTION 24.014. Subchapter F, Chapter 1901, Occupations  
27 Code, is amended by adding Section 1901.256 to read as follows:

1       Sec. 1901.256. ENFORCEMENT BY GROUNDWATER CONSERVATION  
2 DISTRICT. (a) This section applies only to a violation related to  
3 a well located in the boundaries of the groundwater conservation  
4 district seeking to bring an action under this section.

5       (b) A groundwater conservation district shall enforce  
6 compliance with Section 1901.255 related to wells located in the  
7 boundaries of the district.

8       (c) A groundwater conservation district may bring an action  
9 to enjoin a person from violating Section 1901.255.

10       (d) A groundwater conservation district may enforce by  
11 injunction or other appropriate remedy in a court any rule,  
12 decision, determination, or order adopted or entered under this  
13 chapter that is related to Section 1901.255.

14       (e) A groundwater conservation district may bring an action  
15 to recover a civil penalty under Section 1901.401 for a violation of  
16 this chapter or a rule adopted under this chapter related to Section  
17 1901.255.

18       (f) The groundwater conservation district may bring the  
19 action in the county in which:

20               (1) the offending activity occurred; or

21               (2) the person engaging in the activity resides.

22       SECTION 24.015. Subchapter F, Chapter 1901, Occupations  
23 Code, is amended by adding Section 1901.257 to read as follows:

24       Sec. 1901.257. MEMORANDUM OF UNDERSTANDING REGARDING  
25 ABANDONED WELLS. (a) In this section, "abandoned well" and  
26 "deteriorated well" have the meanings assigned by Section 1901.255.

27       (b) The Texas Commission on Environmental Quality and the

1 department shall by rule adopt or revise a joint memorandum of  
2 understanding to coordinate the efforts of the department,  
3 groundwater conservation districts, and the field offices of the  
4 Texas Commission on Environmental Quality relating to  
5 investigative procedures for referrals of complaints regarding  
6 abandoned and deteriorated wells.

7 (c) Each groundwater conservation district in which an  
8 abandoned or deteriorated well is located shall join the memorandum  
9 of understanding adopted under Subsection (b).

10 SECTION 24.016. Section 1901.301, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1901.301. GROUNDS FOR DISCIPLINARY ACTION. The  
13 commission [~~commissioner~~] may discipline a person under Section  
14 51.353 for a violation of this chapter or a rule adopted under this  
15 chapter, including:

16 (1) an intentional misstatement or misrepresentation  
17 of a fact on an application or well log or to a person for whom a  
18 well is being drilled, deepened, or otherwise altered;

19 (2) the failure to keep, deliver, or send a well log as  
20 required by Section 1901.251;

21 (3) the failure to advise a person for whom a well is  
22 being drilled that:

23 (A) injurious water has been encountered;

24 (B) the water is a pollution hazard; and

25 (C) the well must be immediately plugged in an  
26 acceptable manner; or

27 (4) the failure to complete a well in accordance with

1 standards and procedures adopted by the commission [~~commissioner~~].

2 SECTION 24.017. The following laws are repealed:

3 (1) Section 1901.001(2), Occupations Code;

4 (2) Section 1901.109(e), Occupations Code;

5 (3) Section 1901.155(b), Occupations Code;

6 (4) Section 1901.156, Occupations Code;

7 (5) Section 1901.157, Occupations Code;

8 (6) Section 1901.160, Occupations Code;

9 (7) Section 1901.205, Occupations Code;

10 (8) Section 1901.302, Occupations Code;

11 (9) Section 1901.303, Occupations Code;

12 (10) Section 1901.304, Occupations Code; and

13 (11) Subchapter H, Chapter 1901, Occupations Code.

14 SECTION 24.018. The changes in law made to Section  
15 1901.255, Occupations Code, by this article do not affect the  
16 status of a complaint, investigation, or other proceeding that  
17 commenced before September 1, 2003. A groundwater conservation  
18 district, as appropriate and without a change in status, assumes  
19 the position of the executive director of the Texas Department of  
20 Licensing and Regulation in an action or proceeding relating to a  
21 well located in the boundaries of that groundwater conservation  
22 district.

23 SECTION 24.019. The changes in law made by this article  
24 applying to members of the Texas Water Well Drillers Advisory  
25 Council do not affect the entitlement of a member serving on the  
26 council immediately before September 1, 2003, to continue to serve  
27 and function as a member of the council for the remainder of the

1 member's term. Those changes in law apply only to a member appointed  
2 on or after September 1, 2003.

3 ARTICLE 25. WATER WELL PUMP INSTALLERS

4 SECTION 25.001. Section 1902.001, Occupations Code, is  
5 amended by adding Subdivision (4-a) to read as follows:

6 (4-a) "Executive director" means the executive  
7 director of the department.

8 SECTION 25.002. Section 1902.051, Occupations Code, is  
9 amended to read as follows:

10 Sec. 1902.051. LICENSING. (a) The department, with the  
11 advice of the council, shall prepare licensing examinations.

12 (b) The department shall ~~and~~ evaluate the qualifications  
13 of license applicants.

14 (c) [~~(b)~~] The executive director ~~[commissioner]~~ shall issue  
15 licenses to applicants who qualify.

16 SECTION 25.003. Section 1902.052, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1902.052. RULES. (a) The commission ~~[commissioner]~~  
19 shall adopt rules as necessary to enforce this chapter.

20 (b) The commission ~~[commissioner]~~ may not adopt a rule under  
21 this chapter that:

22 (1) regulates the installation or repair of well pumps  
23 and equipment by:

24 (A) a person on property the person owns or  
25 controls for the person's own use;

26 (B) an employee of a person described by  
27 Paragraph (A); or

1 (C) a person who is not hired or compensated and  
2 who acts on behalf of a person described by Paragraph (A); or

3 (2) requires a person who owns or controls property or  
4 possesses a well to complete, repair, or retrofit the well to any  
5 standard other than a standard in effect at the time the well was  
6 originally completed unless the well is found to be a threat to  
7 public health and safety or to water quality.

8 SECTION 25.004. Section 1902.152(b), Occupations Code, is  
9 amended to read as follows:

10 (b) An applicant must pay to the department an [~~a~~  
11 ~~nonrefundable~~] examination fee at the time the application is  
12 submitted.

13 SECTION 25.005. Section 1902.162, Occupations Code, is  
14 amended to read as follows:

15 Sec. 1902.162. WAIVER FOR APPLICANT LICENSED IN ANOTHER  
16 STATE. The commission [~~commissioner~~] may adopt rules allowing  
17 waiver of a license requirement for an applicant who is licensed in  
18 another state that has license requirements substantially  
19 equivalent to those of this state.

20 SECTION 25.006. Section 1902.251, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1902.251. INSTALLING AND REPAIRING PUMPS. An  
23 installer shall install or repair pumps under standards and  
24 procedures adopted by the commission [~~commissioner~~] with the advice  
25 of the council.

26 SECTION 25.007. Section 1902.252(b), Occupations Code, is  
27 amended to read as follows:



1 (b) To avoid injury or pollution, the installer shall repair  
2 or properly complete the well under standards and procedures  
3 adopted by the commission [~~commissioner~~].

4 SECTION 25.008. The following laws are repealed:

- 5 (1) Section 1902.001(2), Occupations Code;  
6 (2) Section 1902.101, Occupations Code;  
7 (3) Section 1902.155(b), Occupations Code;  
8 (4) Section 1902.156, Occupations Code;  
9 (5) Section 1902.157, Occupations Code;  
10 (6) Section 1902.160, Occupations Code;  
11 (7) Section 1902.204, Occupations Code; and  
12 (8) Subchapters G and H, Chapter 1902, Occupations  
13 Code.

14 ARTICLE 26. WEATHER MODIFICATION

15 SECTION 26.001. Section 1.01, Chapter 376, Acts of the 77th  
16 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
17 Civil Statutes), is amended by amending Subdivision (1) and adding  
18 Subdivision (2-a) to read as follows:

19 (1) "Commission" [~~"Commissioner"~~] has the meaning  
20 assigned by Section 51.001, Occupations Code.

21 (2-a) "Executive director" means the executive  
22 director of the department.

23 SECTION 26.002. Article 1, Chapter 376, Acts of the 77th  
24 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
25 Civil Statutes), is amended by adding Section 1.02 to read as  
26 follows:

27 Sec. 1.02. APPLICABILITY OF OTHER LAW. Sections 51.404 and

1 51.405, Occupations Code, do not apply to this article.

2 SECTION 26.003. Section 1.11, Chapter 376, Acts of the 77th  
3 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
4 Civil Statutes), is amended to read as follows:

5 Sec. 1.11. RULES. The commission [~~department~~] may adopt  
6 rules necessary to:

7 (1) exercise the powers and perform the duties under  
8 this article;

9 (2) establish procedures and conditions for the  
10 issuance of licenses and permits under this article; and

11 (3) establish standards and instructions to govern the  
12 carrying out of research or projects in weather modification and  
13 control that the commission [~~department~~] considers necessary or  
14 desirable to minimize danger to health or property.

15 SECTION 26.004. Section 1.13, Chapter 376, Acts of the 77th  
16 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
17 Civil Statutes), is amended to read as follows:

18 Sec. 1.13. ADVISORY COMMITTEES. The commission  
19 [~~department~~] may establish advisory committees to advise the  
20 commission [~~department~~] and to make recommendations to the  
21 commission [~~department~~] concerning legislation, policies,  
22 administration, research, and other matters related to the  
23 department's duties, powers, or functions under this article. If  
24 the commission establishes an advisory committee under this  
25 section, the presiding officer of the commission, with the  
26 commission's approval, shall appoint a member of the committee to  
27 serve as the presiding officer of the committee for a two-year term.

1 SECTION 26.005. Section 1.16, Chapter 376, Acts of the 77th  
2 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
3 Civil Statutes), is amended to read as follows:

4 Sec. 1.16. INTERSTATE COMPACTS. The commission  
5 [~~commissioner~~] may represent the state in matters pertaining to  
6 plans, procedures, or negotiations for interstate compacts  
7 relating to weather modification and control.

8 SECTION 26.006. Section 1.18(b), Chapter 376, Acts of the  
9 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's  
10 Texas Civil Statutes), is amended to read as follows:

11 (b) The department with approval of the commission  
12 [~~commissioner~~] may conduct and may contract for research and  
13 development activities relating to the purposes of this section.

14 SECTION 26.007. Section 1.31, Chapter 376, Acts of the 77th  
15 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
16 Civil Statutes), is amended to read as follows:

17 Sec. 1.31. LICENSE AND PERMIT REQUIRED. Except as provided  
18 by rule of the commission [~~department~~] under Section 1.32 of this  
19 article, a person may not engage in activities for weather  
20 modification and control:

21 (1) without a weather modification license and weather  
22 modification permit issued by the department; or

23 (2) in violation of any term or condition of the  
24 license or permit.

25 SECTION 26.008. Section 1.32, Chapter 376, Acts of the 77th  
26 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
27 Civil Statutes), is amended to read as follows:

1           Sec. 1.32. EXEMPTIONS. (a) The commission [~~department~~] by  
2 rule, to the extent it considers exemptions practical, shall  
3 provide for exempting the following activities from the license and  
4 permit requirements of this article:

5                   (1) research, development, and experiments conducted  
6 by state and federal agencies, institutions of higher learning, and  
7 bona fide nonprofit research organizations;

8                   (2) laboratory research and experiments;

9                   (3) activities of an emergent nature for protection  
10 against fire, frost, sleet, or fog; and

11                   (4) activities normally conducted for purposes other  
12 than inducing, increasing, decreasing, or preventing precipitation  
13 or hail.

14           (b) The commission [~~department~~] by rule may modify or revoke  
15 an exemption.

16           SECTION 26.009. Section 1.41(v), Chapter 376, Acts of the  
17 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's  
18 Texas Civil Statutes), is amended to read as follows:

19                   (v) The commission [~~department~~] by rule shall define hail  
20 suppression as used in this section, using the most current  
21 scientifically accepted technological concepts.

22           SECTION 26.010. Section 1.64, Chapter 376, Acts of the 77th  
23 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
24 Civil Statutes), is amended to read as follows:

25           Sec. 1.64. PROCEDURES. The commission [~~department~~] by rule  
26 shall establish procedures for public notice and any public hearing  
27 under this subchapter.

1 SECTION 26.011. Section 1.65, Chapter 376, Acts of the 77th  
2 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
3 Civil Statutes), is amended to read as follows:

4 Sec. 1.65. HEARINGS. A hearing under this article  
5 [~~subchapter~~] shall be conducted in accordance with the hearing  
6 rules adopted by the commission [~~department~~] and the applicable  
7 provisions of Chapters 51, Occupations Code, and [~~Chapter~~] 2001,  
8 Government Code.

9 SECTION 26.012. Section 1.66, Chapter 376, Acts of the 77th  
10 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
11 Civil Statutes), is amended to read as follows:

12 Sec. 1.66. CONSENT. If a permit holder or license holder  
13 requests or consents to the revocation or suspension of the permit  
14 or license, the commission [~~commissioner~~] may revoke or suspend the  
15 permit or license without a hearing.

16 SECTION 26.013. The following laws are repealed:

17 (1) Section 1.34, Chapter 376, Acts of the 77th  
18 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
19 Civil Statutes);

20 (2) Section 1.38, Chapter 376, Acts of the 77th  
21 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
22 Civil Statutes); and

23 (3) Section 1.68, Chapter 376, Acts of the 77th  
24 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
25 Civil Statutes).

26 ARTICLE 27. CONFORMING AMENDMENTS RELATED TO CERTAIN PROGRAMS

27 TRANSFERRED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1 SECTION 27.001. The heading to Chapter 37, Water Code, is  
2 amended to read as follows:

3 CHAPTER 37. OCCUPATIONAL LICENSING AND REGISTRATION PROGRAMS  
4 ADMINISTERED BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

5 SECTION 27.002. Section 37.002, Water Code, is amended to  
6 read as follows:

7 Sec. 37.002. RULES. The commission shall adopt any rules  
8 necessary to:

9 (1) establish occupational licenses and registrations  
10 prescribed by Sections 26.0301 and [~~7~~] 26.3573 [~~7~~, ~~26.452~~, ~~26.456~~,  
11 ~~and 34.007~~] of this code and Sections 341.033, 341.034(a) and (b)  
12 [~~341.034~~], 361.027, and 366.071, Health and Safety Code;

13 (2) establish classes and terms of occupational  
14 licenses and registrations; and

15 (3) administer the provisions of this chapter and  
16 other laws governing occupational licenses and registrations under  
17 the commission's jurisdiction.

18 SECTION 27.003. Section 37.003, Water Code, is amended to  
19 read as follows:

20 Sec. 37.003. LICENSE OR REGISTRATION REQUIRED. A person  
21 may not engage in a business, occupation, or profession described  
22 by Section 26.0301 or [~~7~~] 26.3573 [~~7~~, ~~26.452~~, ~~26.456~~, ~~or 34.007~~] of  
23 this code or Section 341.033, 341.034(a) or (b) [~~341.034~~], 361.027,  
24 366.014, or 366.071, Health and Safety Code, unless the person  
25 holds the appropriate license or registration issued by the  
26 commission.

27 SECTION 27.004. Subtitle F, Title 2, Water Code, is amended

1 by adding Chapter 38 to read as follows:

2 CHAPTER 38. OCCUPATIONAL LICENSING PROGRAMS ADMINISTERED BY TEXAS

3 DEPARTMENT OF LICENSING AND REGULATION

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 38.001. DEFINITIONS. In this chapter, terms have the  
6 meanings assigned by Section 51.001, Occupations Code.

7 [Sections 38.002-38.050 reserved for expansion]

8 SUBCHAPTER B. POWERS AND DUTIES

9 Sec. 38.051. ADMINISTRATION. The department shall  
10 administer this chapter.

11 Sec. 38.052. RULES. The commission shall adopt any rules  
12 necessary to:

13 (1) establish occupational licenses prescribed by  
14 Sections 26.452 and 26.456 of this code and Sections 341.034(c),  
15 (d), and (e), Health and Safety Code; and

16 (2) establish classes and terms of occupational  
17 licenses.

18 Sec. 38.053. CONTRACTS. The department may contract with  
19 persons to provide services required by this chapter. The  
20 department may authorize contractors to collect reasonable fees for  
21 the services provided.

22 Sec. 38.054. COMPLIANCE INFORMATION. In administering this  
23 chapter, the department may require a person to provide information  
24 about any other occupational license held by the person, including:

25 (1) the state in which the license was issued;

26 (2) the current status of the license; and

27 (3) whether the license was ever denied, suspended,

1 revoked, surrendered, or withdrawn.

2 Sec. 38.055. ROSTER OF LICENSE HOLDERS. The department  
3 shall maintain and make available to the public a roster of persons  
4 who hold licenses issued under this chapter.

5 [Sections 38.056-38.100 reserved for expansion]

6 SUBCHAPTER C. LICENSE REQUIREMENTS

7 Sec. 38.101. LICENSE REQUIRED. A person may not engage in a  
8 business, occupation, or profession described by Section 26.452 or  
9 26.456 of this code or Section 341.034(c), (d), or (e), Health and  
10 Safety Code, unless the person holds the appropriate license.

11 Sec. 38.102. QUALIFICATIONS. The commission may establish  
12 qualifications for each license issued under this chapter.

13 Sec. 38.103. ISSUANCE AND DENIAL OF LICENSES. (a) The  
14 commission shall establish requirements and uniform procedures for  
15 issuing licenses under this chapter.

16 (b) After notice and hearing, the commission may deny an  
17 application for a license by an applicant who:

18 (1) has a record in the preceding five years of  
19 continuing violations of statutes or rules adopted under statutes;

20 (2) has engaged in fraud or deceit in obtaining or  
21 applying for a license;

22 (3) has demonstrated gross negligence, incompetence,  
23 or misconduct in the performance of activities authorized by a  
24 license;

25 (4) made an intentional misstatement or  
26 misrepresentation of fact in information required to be maintained  
27 or submitted to the commission by the license holder;



1           (5) failed to keep and transmit records as required by  
2 a statute or a rule adopted under a statute; or

3           (6) at the time the application is submitted, is  
4 indebted to the state for a fee, penalty, or tax imposed by a  
5 statute or a rule adopted under a statute.

6           Sec. 38.104. RENEWAL OF LICENSE. The commission shall  
7 establish requirements and uniform procedures for renewing  
8 licenses.

9           Sec. 38.105. LICENSING EXAMINATIONS. (a) The department  
10 shall prescribe the content of licensing examinations. The  
11 department shall base the examinations on laws, rules, job duties,  
12 and standards relating to licenses issued under this chapter.

13           (b) The department shall determine the location and  
14 frequency of examinations.

15           (c) The department shall ensure that an otherwise qualified  
16 person with a physical, mental, or developmental disability is  
17 provided with a reasonable opportunity to take a licensing  
18 examination.

19           ARTICLE 28. GENERAL CONFORMING AMENDMENTS

20           SECTION 28.001. Section 57.044, Government Code, is amended  
21 to read as follows:

22           Sec. 57.044. COURT INTERPRETER LICENSE. To qualify for a  
23 court interpreter license under this subchapter, an individual must  
24 apply on a form prescribed by the executive director [~~commissioner~~]  
25 and demonstrate, in the manner required by the executive director  
26 [~~commissioner~~], reasonable proficiency in interpreting English and  
27 court proceedings for individuals who can hear but who do not

1 comprehend English or communicate in English.

2 SECTION 28.002. Sections 57.046(a) and (c), Government  
3 Code, are amended to read as follows:

4 (a) The executive director [~~commissioner~~] shall prepare  
5 examinations under this subchapter that test an applicant's  
6 knowledge, skill, and efficiency in interpreting under this  
7 subchapter.

8 (c) Examinations shall be offered in the state at least  
9 twice a year at times and places designated by the executive  
10 director [~~commissioner~~].

11 SECTION 28.003. The heading to Section 57.047, Government  
12 Code, is amended to read as follows:

13 Sec. 57.047. [~~COMMISSIONER—AND~~] DEPARTMENT DUTIES;  
14 INSPECTIONS.

15 SECTION 28.004. Section 57.047(a), Government Code, is  
16 amended to read as follows:

17 (a) The executive director [~~commissioner~~] shall enforce  
18 this subchapter.

19 SECTION 28.005. Section 754.020, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 754.020. DEPOSIT OF FEES. Fees collected under this  
22 subchapter shall be deposited to the credit of an account in the  
23 general revenue fund that may be used by the executive director  
24 [~~commissioner~~] only to administer and enforce this subchapter and  
25 to reimburse expenses of board members provided by this subchapter.

26 SECTION 28.006. Section 754.021, Health and Safety Code, is  
27 amended to read as follows:

1           Sec. 754.021. LIST OF INSPECTORS; PERSONNEL. The executive  
2 director [~~commissioner~~] may:

3           (1) compile a list of ASME-QEI-1 certified inspectors  
4 who are registered with the department to perform an inspection  
5 under this subchapter; and

6           (2) employ personnel as necessary to enforce this  
7 subchapter.

8           SECTION 28.007. Section 754.022, Health and Safety Code, is  
9 amended to read as follows:

10          Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the executive  
11 director [~~commissioner~~] learns of a situation of noncompliance  
12 under Section 754.019, the executive director [~~commissioner~~] shall  
13 send notice by certified mail of the noncompliance and the actions  
14 required to remedy the noncompliance to the record owner of the real  
15 property on which the equipment that is the subject of the  
16 noncompliance is located.

17          SECTION 28.008. Sections 755.023(a), (c), and (d), Health  
18 and Safety Code, are amended to read as follows:

19          (a) The executive director [~~commissioner~~] shall appoint a  
20 chief inspector of boilers to administer the boiler program. The  
21 chief inspector must:

22           (1) be a resident of this state and a citizen of the  
23 United States;

24           (2) have at least five years' experience in the  
25 construction, installation, inspection, operation, maintenance, or  
26 repair of boilers; and

27           (3) pass a written examination that demonstrates the

1 necessary ability to judge the safety of boilers.

2 (c) As needed, the executive director [~~commissioner~~] shall  
3 appoint persons with qualifications similar to those of the chief  
4 inspector to serve as deputy inspectors.

5 (d) The executive director [~~commissioner~~] may employ  
6 clerical assistants as necessary to carry out this chapter.

7 SECTION 28.009. Sections 755.024(a), (b), (f), and (g),  
8 Health and Safety Code, are amended to read as follows:

9 (a) To be an authorized inspector, a person must obtain a  
10 commission as a boiler inspector from the executive director  
11 [~~commissioner~~] and must be continuously employed by an inspection  
12 agency.

13 (b) The executive director [~~commissioner~~], by written  
14 examination, shall determine the qualifications of an applicant for  
15 a commission to be an authorized inspector.

16 (f) After proper investigation, the executive director  
17 [~~commissioner~~] may accept an inspection commission issued to a  
18 person by any other jurisdiction that has a written examination  
19 equal to that of this state.

20 (g) For good cause, the executive director [~~commissioner~~]  
21 may rescind a commission issued by this state.

22 SECTION 28.010. Sections 755.025(a), (f), and (g), Health  
23 and Safety Code, are amended to read as follows:

24 (a) The executive director [~~commissioner~~] shall require  
25 each boiler to be inspected internally and externally at the time of  
26 initial installation and at subsequent intervals as provided by  
27 this section. The executive director [~~commissioner~~] may provide

1 that the inspection be performed by any inspector.

2 (f) The executive director [~~commissioner~~] shall designate  
3 the manner of inspection for nuclear boilers, the form of the  
4 inspection report, and the information to be reported. The  
5 executive director [~~commissioner~~] and the owner of a nuclear boiler  
6 shall establish the intervals of inspection for the boiler.

7 (g) The executive director [~~commissioner~~] may authorize the  
8 inspection of a boiler at any reasonable time if the executive  
9 director [~~commissioner~~] determines that the boiler may be in an  
10 unsafe condition. The executive director [~~commissioner~~] shall  
11 notify the inspection agency that insures that boiler and request  
12 the authorized inspector employed by that agency to participate  
13 with the chief inspector or a deputy inspector in a joint inspection  
14 of the boiler not later than the 20th day after the date on which the  
15 executive director [~~commissioner~~] notifies the inspection agency.  
16 An additional charge may not be made for the joint inspection.

17 SECTION 28.011. Sections 755.026(a), (c), (d), and (e),  
18 Health and Safety Code, are amended to read as follows:

19 (a) With the approval of the executive director  
20 [~~commissioner~~] and the inspection agency that has jurisdiction for  
21 the power boiler, the interval between internal inspections may be  
22 extended to a period not exceeding a total of 48 months. For other  
23 unfired steam boilers or steam collection or liberation drums of  
24 process steam generators, the inspection interval may be extended  
25 to the next scheduled downtime of the boiler, but not exceeding a  
26 total of 84 months.

27 (c) The executive director [~~commissioner~~] and the

1 inspection agency may grant an additional extension for a period  
2 not exceeding 120 days to the inspection interval covered by the  
3 boiler's certificate of operation on receipt of a request for  
4 extension stating that an emergency exists. Before the extension  
5 may be granted, the inspection agency must make an external  
6 inspection of the boiler, and the conditions imposed under  
7 Subsection (b) must be met.

8 (d) If an extended period between internal inspections is  
9 approved by the executive director [~~commissioner~~] and the  
10 inspection agency, the executive director [~~commissioner~~] shall  
11 issue a new certificate of operation for the extended period of  
12 operation.

13 (e) If the interval between internal inspections of a gas  
14 fired boiler is extended under Subsection (a), the executive  
15 director [~~commissioner~~] and inspection agency shall require that an  
16 inspection of the gas regulator or pressure reducing valve that  
17 services the boiler be performed as part of the next regularly  
18 scheduled external certificate inspection of the boiler to verify  
19 proper venting of gas to a safe point of discharge.

20 SECTION 28.012. Sections 755.027(a) and (c), Health and  
21 Safety Code, are amended to read as follows:

22 (a) Not later than the 30th day after the date on which a  
23 certificate inspection is performed by an authorized inspector, the  
24 inspection agency employing the authorized inspector shall file a  
25 report with the executive director [~~commissioner~~] in the manner  
26 specified by the executive director [~~department~~].

27 (c) An inspection agency shall notify the executive

1 director [~~commissioner~~] in writing of the cancellation or  
2 expiration of any insurance policy issued by that agency to cover a  
3 boiler located in this state, and shall include in the notice the  
4 reason for the cancellation or expiration. The notice must state  
5 the date the policy was issued and the date on which the  
6 cancellation or expiration takes effect.

7 SECTION 28.013. Section 755.028, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 755.028. SPECIAL INSPECTIONS. The executive director  
10 [~~commissioner~~] may provide a special inspection service to the  
11 owners, operators, and manufacturers of boilers. The service may  
12 include surveys required for certification to construct, assemble,  
13 or repair boilers or pressure vessels.

14 SECTION 28.014. Section 755.029(a), Health and Safety Code,  
15 is amended to read as follows:

16 (a) The executive director [~~commissioner~~] shall issue to  
17 the owner or operator of a boiler a certificate of operation for the  
18 boiler if after a certificate inspection:

19 (1) the boiler is found to be in a safe condition for  
20 operation; and

21 (2) the owner or operator has paid the fees assessed  
22 under Section 755.030.

23 SECTION 28.015. Section 755.042, Health and Safety Code, is  
24 amended to read as follows:

25 Sec. 755.042. PROSECUTION; INJUNCTION. (a) A prosecution  
26 may not be maintained if the issuance or renewal of a certificate of  
27 operation has been requested for a boiler but has not been acted on.

1 However, the executive director [~~commissioner~~] may petition a  
2 district court for an injunction to restrain the operation of the  
3 boiler until the condition restraining its use is corrected and a  
4 certificate of operation is issued if the executive director  
5 [~~commissioner~~] determines that the operation of the boiler without  
6 a certificate of operation constitutes a serious menace to the life  
7 and safety of the persons in or about the premises. The attorney  
8 general or the district or county attorney may bring the suit, and  
9 venue is in the county in which the boiler is located or in Travis  
10 County. It is not necessary for the prosecutor to verify the  
11 pleadings or for the state to execute a bond.

12 (b) The executive director's [~~commissioner's~~] affidavit  
13 that a certificate of operation or an application for a certificate  
14 does not exist for a boiler, and the affidavit of the chief  
15 inspector or a deputy inspector that the operation of the boiler  
16 constitutes a menace to the life and safety of persons in or about  
17 the premises, are sufficient proof to warrant the immediate  
18 issuance of a temporary restraining order.

19 SECTION 28.016. Section 91.003(a), Labor Code, is amended  
20 to read as follows:

21 (a) Each state agency that in performing duties under other  
22 law affects the regulation of staff leasing services shall  
23 cooperate with the department [~~the commissioner~~] and other state  
24 agencies as necessary to implement and enforce this chapter.

25 SECTION 28.017. Section 91.015(c), Labor Code, is amended  
26 to read as follows:

27 (c) Before denying a license application, the department



1 shall provide written notice to an applicant specifying the reasons  
2 for the denial. The department shall provide the applicant at least  
3 30 days after the date of the notice to address the reasons for the  
4 denial. For good cause and on a showing of a good faith effort to  
5 remedy the reasons for the denial, the executive director  
6 [~~commissioner~~] may grant an additional 30 days to remedy the  
7 reasons for denial.

8 SECTION 28.018. Section 91.048, Labor Code, is amended to  
9 read as follows:

10 Sec. 91.048. REQUIRED INFORMATION. Each license holder  
11 shall:

12 (1) maintain adequate books and records regarding the  
13 license holder's duties and responsibilities;

14 (2) maintain and make available at all times to the  
15 executive director [~~commissioner~~] the following information, which  
16 shall be treated as proprietary and confidential and is exempt from  
17 disclosure to persons other than other governmental agencies having  
18 a reasonable, legitimate purpose for obtaining the information:

19 (A) the correct name, address, and telephone  
20 number of each client company;

21 (B) each client company contract; and

22 (C) a listing by classification code as described  
23 in the "Standard Industrial Classification Manual" published by the  
24 United States Office of Management and Budget, of each client  
25 company;

26 (3) notify the department of any addition or deletion  
27 of a controlling person as listed on the license application or

1 renewal form by providing the name of the person not later than the  
2 45th day after the date on which the person is added or deleted as a  
3 controlling person; and

4 (4) provide a biographical history to the department  
5 in connection with the addition of a new controlling person.

6 SECTION 28.019. Section 91.062(a), Labor Code, is amended  
7 to read as follows:

8 (a) The executive director [~~commissioner~~] may notify the  
9 attorney general of a violation of this chapter. The attorney  
10 general may apply to a district court in Travis County for  
11 permission to file for quo warranto relief, injunctive relief, or  
12 both.

13 SECTION 28.020. Section 92.014(a), Labor Code, is amended  
14 to read as follows:

15 (a) The department shall issue a temporary common worker  
16 employer license to a person who meets the application requirements  
17 established by the executive director [~~commissioner~~] and pays the  
18 application and registration fees set by the commission.

19 SECTION 28.021. Section 92.031(a), Labor Code, is amended  
20 to read as follows:

21 (a) A person commits an offense if the person knowingly or  
22 intentionally violates:

23 (1) this chapter;

24 (2) a rule adopted under this chapter; or

25 (3) an administrative order adopted [~~by the~~  
26 ~~commissioner~~] under this chapter.

27 SECTION 28.022. Sections 1152.154(a) and (c), Occupations

1 Code, are amended to read as follows:

2 (a) An applicant for registration must file an application  
3 with the department on a printed form prescribed by the executive  
4 director [~~commissioner~~].

5 (c) The department shall refund the registration fee if the  
6 executive director [~~commissioner~~] does not approve the  
7 application.

8 SECTION 28.023. Section 1152.156, Occupations Code, is  
9 amended to read as follows:

10 Sec. 1152.156. ELIGIBILITY TO REGISTER AS PROPERTY TAX  
11 CONSULTANT. (a) In addition to satisfying the requirements of  
12 Section 1152.155, an applicant for registration as a property tax  
13 consultant must:

14 (1) complete at least 15 classroom hours of  
15 educational courses approved by the executive director  
16 [~~commissioner~~], including at least four hours of instruction on  
17 laws and legal issues in this state related to property tax  
18 consulting services; or

19 (2) if the person is eligible for registration under  
20 Section 1152.155(b), submit to the commission evidence that the  
21 applicant has completed at least four classroom hours of  
22 educational programs or courses on the laws and legal issues in this  
23 state related to property tax consulting services.

24 (b) The executive director [~~commissioner~~] may give  
25 appropriate credit to an initial applicant for:

26 (1) educational courses on principles of law related  
27 to property tax consulting services completed by the applicant not

1 more than two years before the date of application; and

2 (2) educational programs or courses completed by the  
3 applicant on:

4 (A) property taxation;

5 (B) the property tax system;

6 (C) property tax administration;

7 (D) ethical standards; or

8 (E) general principles of appraisal, accounting,  
9 or law as they relate to property tax consulting services.

10 SECTION 28.024. Section 1152.159, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1152.159. CREDITS FOR SENIOR PROPERTY TAX CONSULTANT  
13 APPLICANTS. (a) The executive director [~~commissioner~~] shall grant  
14 credit to an applicant for registration as a senior property tax  
15 consultant as follows:

16 (1) two credits for each year the applicant completed  
17 at an institution of higher education that meets program and  
18 accreditation standards comparable to those for public  
19 institutions of higher education as determined by the Texas Higher  
20 Education Coordinating Board, not to exceed six credits;

21 (2) four credits to an applicant who holds a bachelor's  
22 degree or equivalent from an institution of higher education  
23 described by Subdivision (1); and

24 (3) one credit for each year in excess of five years  
25 that the applicant's primary occupation involved the performance or  
26 supervision of property tax consulting services or property  
27 appraisal, assessment, or taxation, not to exceed 10 credits.

1           (b) The executive director [~~commissioner~~] may grant  
2 additional credits to an applicant for registration as a senior  
3 property tax consultant for:

4           (1) successful completion of educational programs or  
5 courses on:

- 6                   (A) property taxation;
- 7                   (B) the property tax system;
- 8                   (C) property tax administration;
- 9                   (D) ethical standards; or
- 10                  (E) general principles of appraisal, accounting,

11 and law as they relate to property tax consulting services;

12           (2) completion of other educational programs or  
13 courses; or

14           (3) advanced or postgraduate educational achievement,  
15 occupational experience, professional licenses, or professional  
16 designations obtained from recognized associations, institutes, or  
17 organizations.

18           (c) The executive director [~~commissioner~~] may assign not  
19 less than one credit or more than five credits to a program or  
20 course described by Subsection (b)(1). In determining the amount  
21 of credit for the program or course, the executive director  
22 [~~commissioner~~] shall consider:

- 23                   (1) the nature of the program or course;
- 24                   (2) the number of actual instructional hours in the  
25 program or course;
- 26                   (3) whether an examination is required for successful  
27 completion of the program or course; and

1           (4) other factors the executive director  
2 ~~[commissioner]~~ determines appropriate.

3           SECTION 28.025. Section 1152.162, Occupations Code, is  
4 amended to read as follows:

5           Sec. 1152.162. ISSUANCE OF CERTIFICATE OF REGISTRATION.

6           (a) The executive director ~~[commissioner]~~ shall act on an initial  
7 application for registration filed under Section 1152.154 not later  
8 than the 31st day after the date the department receives the  
9 application.

10           (b) The executive director ~~[commissioner]~~ shall issue to an  
11 applicant who qualifies for registration the appropriate  
12 certificate of registration.

13           SECTION 28.026. Section 1202.055, Occupations Code, is  
14 amended to read as follows:

15           Sec. 1202.055. SECRETARY; PERSONNEL. The executive  
16 director ~~[commissioner]~~ shall:

17           (1) act as secretary of the council; and

18           (2) provide personnel from the department necessary to  
19 perform staff functions for the council.

20           SECTION 28.027. Sections 1202.105(b) and (c), Occupations  
21 Code, are amended to read as follows:

22           (b) The executive director ~~[commissioner]~~ shall recommend  
23 qualified third-party inspectors and design review agencies to the  
24 council.

25           (c) The executive director ~~[commissioner]~~ shall publish a  
26 list of all approved inspectors and design review agencies.

27           SECTION 28.028. Section 1302.002(12), Occupations Code, is

1 amended to conform to Section 1, Chapter 790, Acts of the 77th  
2 Legislature, Regular Session, 2001, to read as follows:

3 (12) "Mechanical integrity" means the condition of a  
4 product, a system, or equipment installed in accordance with its  
5 intended purpose and according to:

6 (A) standards at least as strict as the standards  
7 provided by:

8 (i) the Uniform Mechanical Code [~~published~~  
9 ~~jointly by the International Conference of Building Officials and~~  
10 ~~the International Association of Plumbing and Mechanical~~  
11 ~~Officials, or their successor organizations~~]; and [~~or~~]

12 (ii) the International [~~Standard~~]  
13 Mechanical Code [~~published by the Southern Building Code Congress~~  
14 ~~International, Inc., or its successor organization~~];

15 (B) all other applicable codes; and

16 (C) the manufacturer's specifications.

17 SECTION 28.029. Section 1302.102, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1302.102. INSURANCE REQUIREMENTS. (a) The executive  
20 director [~~commissioner~~] shall set insurance requirements for a  
21 license holder under this chapter.

22 (b) The executive director [~~commissioner~~] may waive the  
23 insurance requirements for a license holder who does not engage in  
24 air conditioning and refrigeration contracting for the public.

25 SECTION 28.030. Section 1302.151, Occupations Code, is  
26 amended to read as follows:

27 Sec. 1302.151. CONSUMER INTEREST INFORMATION. (a) The

1 executive director [~~commissioner~~] shall prepare information of  
2 consumer interest describing:

3 (1) the functions performed by the executive director  
4 [~~commissioner~~] under this chapter; and

5 (2) the rights of a consumer affected by this chapter.

6 (b) The information must describe the procedure by which a  
7 consumer complaint is filed with and resolved by the executive  
8 director [~~commissioner~~].

9 (c) The executive director [~~commissioner~~] shall make the  
10 information available to the public.

11 SECTION 28.031. Section 1302.203, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1302.203. EX OFFICIO MEMBERS. The executive director  
14 [~~commissioner~~] and the chief administrator of this chapter serve as  
15 ex officio, nonvoting members of the advisory board.

16 SECTION 28.032. Section 1302.253(a), Occupations Code, is  
17 amended to read as follows:

18 (a) The executive director [~~commissioner~~] shall issue a  
19 Class A or Class B air conditioning and refrigeration contractor  
20 license.

21 SECTION 28.033. Sections 1302.256(a) and (c), Occupations  
22 Code, are amended to read as follows:

23 (a) An applicant for a license must submit a verified  
24 application on a form prescribed by the executive director  
25 [~~commissioner~~].

26 (c) The application must be accompanied by:

27 (1) a statement containing evidence satisfactory to



1 the executive director [~~commissioner~~] of the applicant's practical  
2 experience required by Section 1302.255(a)(2); and

3 (2) the examination fee.

4 SECTION 28.034. Section 1302.257, Occupations Code, is  
5 amended to read as follows:

6 Sec. 1302.257. EXAMINATIONS. (a) The executive director  
7 [~~commissioner~~] shall prescribe:

8 (1) a separate examination for each class of license;  
9 and

10 (2) within each class of license, a separate  
11 examination for:

12 (A) an environmental air conditioning  
13 endorsement; and

14 (B) a commercial refrigeration and process  
15 cooling or heating endorsement.

16 (b) The executive director [~~commissioner~~] shall prescribe  
17 the method and content of an examination administered under this  
18 chapter and shall set compliance requirements for the examination.  
19 To obtain an endorsement, an applicant must pass the examination  
20 for the endorsement.

21 (c) The examination shall be offered on a monthly basis or  
22 more frequently as determined by the executive director  
23 [~~commissioner~~].

24 (d) The examination shall be offered at locations within the  
25 state as determined by the executive director [~~commissioner~~]. The  
26 examination may be offered by computer at locations within the  
27 state as determined by the executive director [~~commissioner~~].

1 SECTION 28.035. Section 1302.260(a), Occupations Code, is  
2 amended to read as follows:

3 (a) On payment of the license fee, the executive director  
4 [~~commissioner~~] shall issue an air conditioning and refrigeration  
5 contractor license to an applicant who:

6 (1) meets the requirements of this subchapter;

7 (2) provides evidence of insurance coverage required  
8 by the executive director [~~commissioner~~] in accordance with this  
9 chapter; and

10 (3) passes the applicable examination.

11 SECTION 28.036. Section 1302.303(b), Occupations Code, is  
12 amended to read as follows:

13 (b) The municipality shall report a violation of the  
14 ordinance to the executive director [~~commissioner~~] not later than  
15 the 10th day after the date the municipality acts to enforce the  
16 ordinance.

17 SECTION 28.037. Section 1302.451, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1302.451. EMERGENCY AND CEASE AND DESIST ORDERS. (a)  
20 The executive director [~~commissioner~~] may issue an emergency order  
21 as necessary to enforce this chapter if the executive director  
22 [~~commissioner~~] determines that an emergency exists requiring  
23 immediate action to protect the public health and safety.

24 (b) The executive director [~~commissioner~~] may issue the  
25 emergency order without notice and hearing or with any notice and  
26 hearing the executive director [~~commissioner~~] considers  
27 practicable under the circumstances. The executive director

1 ~~[commissioner]~~ shall set the time and place for a hearing to affirm,  
2 modify, or set aside an emergency order that was issued without a  
3 hearing.

4 (c) The executive director ~~[commissioner]~~ may issue a cease  
5 and desist order.

6 SECTION 28.038. Section 1304.007, Occupations Code, is  
7 amended to read as follows:

8 Sec. 1304.007. GENERAL INVESTIGATIVE POWER OF EXECUTIVE  
9 DIRECTOR ~~[COMMISSIONER]~~. (a) The executive director  
10 ~~[commissioner]~~ may investigate a provider, administrator, or other  
11 person as necessary to enforce this chapter and protect service  
12 contract holders in this state.

13 (b) On request of the executive director ~~[commissioner]~~, a  
14 provider shall make the records required by Section 1304.155  
15 available to the executive director ~~[commissioner]~~ as necessary to  
16 enable the executive director ~~[commissioner]~~ to reasonably  
17 determine compliance with this chapter.

18 SECTION 28.039. Section 1304.102, Occupations Code, is  
19 amended to read as follows:

20 Sec. 1304.102. APPLICATION FOR REGISTRATION. (a) An  
21 applicant for registration must submit an application to the  
22 executive director ~~[commissioner]~~.

23 (b) The application must:

24 (1) be in the form prescribed by the executive  
25 director ~~[commissioner]~~; and

26 (2) include evidence satisfactory to the executive  
27 director ~~[commissioner]~~ of compliance with the applicable

1 financial security requirements prescribed by Section 1304.151.

2 SECTION 28.040. Section 1304.104, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1304.104. INFORMATION CONCERNING NUMBER OF SERVICE  
5 CONTRACTS SOLD. Information concerning the number of service  
6 contracts sold by a provider that is submitted under Section  
7 1304.103:

8 (1) is a trade secret to which Section 552.110,  
9 Government Code, applies; and

10 (2) may be used only by the executive director  
11 [~~commissioner~~] and the department in developing the tiered fee  
12 schedule under Section 1304.103.

13 SECTION 28.041. Section 1304.152(b), Occupations Code, is  
14 amended to read as follows:

15 (b) The insurer may not cancel the policy until the insurer  
16 delivers to the provider a written notice of cancellation that  
17 complies with the notice requirements prescribed by Articles  
18 21.49-2A and 21.49-2B, Insurance Code, for cancellation of an  
19 insurance policy under those articles. The provider shall forward  
20 a copy of the cancellation notice to the executive director  
21 [~~commissioner~~] not later than the 15th business day after the date  
22 the notice is delivered to the provider. Cancellation of the policy  
23 does not reduce the insurer's responsibility for a service contract  
24 issued by the provider and insured under the policy before the date  
25 of the cancellation.

26 SECTION 28.042. Sections 1304.155(b) and (d), Occupations  
27 Code, are amended to read as follows:

1 (b) The records required by this section may be maintained  
2 in an electronic medium or through other recordkeeping technology.  
3 If a record is not in a hard copy, the provider must be able to  
4 reformat the record into a legible hard copy at the request of the  
5 executive director [~~commissioner~~].

6 (d) A provider that discontinues business in this state  
7 shall retain its records until the provider furnishes the executive  
8 director [~~commissioner~~] with proof satisfactory to the executive  
9 director [~~commissioner~~] that the provider has discharged all  
10 obligations to service contract holders in this state.

11 SECTION 28.043. Section 1304.202, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1304.202. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
14 executive director [~~commissioner~~] may institute an action under  
15 Section 51.352 for injunctive relief to restrain a violation or a  
16 threatened violation of this chapter or an order issued or rule  
17 adopted under this chapter.

18 (b) In addition to the injunctive relief provided by  
19 Subsection (a), the executive director [~~commissioner~~] may  
20 institute an action for a civil penalty as provided by Section  
21 51.352. The amount of a civil penalty assessed under this section  
22 may not exceed:

23 (1) \$2,500 for each violation; or

24 (2) \$50,000 in the aggregate for all violations of a  
25 similar nature.

26 SECTION 28.044. Section 1802.002, Occupations Code, is  
27 amended to read as follows:

1           Sec. 1802.002. APPLICABILITY. This chapter does not apply  
2 to:

3           (1) a sale conducted by order of a United States court  
4 under Title 11, United States Code;

5           (2) a sale conducted by an employee of the United  
6 States, this state, or a political subdivision of this state in the  
7 course and scope of employment;

8           (3) a sale conducted by a charitable or nonprofit  
9 organization, if the auctioneer receives no compensation;

10           (4) a sale conducted by an individual of the  
11 individual's property if the individual is not engaged in the  
12 business of selling property as an auctioneer on a recurring basis;

13           (5) a foreclosure sale of real property personally  
14 conducted by a trustee under a deed of trust;

15           (6) a foreclosure sale of personal property personally  
16 conducted by:

17           (A) a person who holds a security interest in the  
18 property, including a mortgage; or

19           (B) an employee or agent of a person described by  
20 Paragraph (A) acting in the course and scope of employment, if:

21           (i) the employee or agent is not otherwise  
22 engaged in the auction business; and

23           (ii) all property for sale in the auction is  
24 subject to a security agreement;

25           (7) a sale conducted by sealed bid;

26           (8) an auction conducted only for student training  
27 purposes as part of a course of study approved by the executive

1 director [~~commissioner~~] for auctioneers;

2 (9) an auction conducted by a posted stockyard or  
3 market agency as defined by the federal Packers and Stockyards Act  
4 (7 U.S.C. Section 181 et seq.), as amended;

5 (10) an auction of livestock conducted by a nonprofit  
6 livestock trade association chartered in this state, if the auction  
7 involves only the sale of livestock owned by members of the trade  
8 association; or

9 (11) an auction conducted by a charitable or nonprofit  
10 organization chartered in this state, if the auction:

11 (A) is part of a fair that is organized under  
12 state, county, or municipal authority; and

13 (B) involves only the sale of property owned by  
14 the organization's members.

15 SECTION 28.045. Section 1802.051(a), Occupations Code, is  
16 amended to read as follows:

17 (a) A person may not act as an auctioneer or associate  
18 auctioneer in an auction held in this state unless the person is an  
19 individual who holds a license issued by the executive director  
20 [~~commissioner~~] under this chapter.

21 SECTION 28.046. Section 1802.054, Occupations Code, is  
22 amended to read as follows:

23 Sec. 1802.054. APPLICATION FOR LICENSE. An applicant for a  
24 license must apply to the executive director [~~commissioner~~] on a  
25 form provided by the executive director [~~commissioner~~] that  
26 establishes the applicant's eligibility for the license. The  
27 application must be accompanied by:

- 1 (1) the required bond;
- 2 (2) the required license fee; and
- 3 (3) either:

4 (A) the permit number of a sales tax permit  
5 issued to the applicant by the comptroller under Subchapter F,  
6 Chapter 151, Tax Code; or

7 (B) proof of exemption from the tax permit  
8 requirement under Chapter 151, Tax Code.

9 SECTION 28.047. Sections 1802.055(a) and (b), Occupations  
10 Code, are amended to read as follows:

11 (a) An individual who establishes that the individual is  
12 eligible for an auctioneer's license may apply to the executive  
13 director [~~commissioner~~] to take the license examination. The  
14 application must be accompanied by the examination fee.

15 (b) On receipt of an examination application and fee, the  
16 executive director [~~commissioner~~] shall furnish the applicant  
17 with:

18 (1) study materials and references on which the  
19 examination will be based; and

20 (2) a schedule specifying the dates and places the  
21 examination will be offered.

22 SECTION 28.048. Sections 1802.056(b) and (c), Occupations  
23 Code, are amended to read as follows:

24 (b) The license examination shall be offered at least four  
25 times each year at locations designated by the executive director  
26 [~~commissioner~~].

27 (c) The executive director [~~commissioner~~] shall prepare:



- 1           (1) examinations for an auctioneer's license; and  
2           (2) study and reference materials on which the  
3 examinations are based.

4           SECTION 28.049. Section 1802.152(a), Occupations Code, is  
5 amended to read as follows:

- 6           (a) The department is the manager of the fund and shall:  
7               (1) administer the fund without appropriation;  
8               (2) maintain books and records as required by the  
9 executive director [~~commissioner~~];  
10           (3) appear at hearings or judicial proceedings; and  
11           (4) invest and reinvest the fund's assets as  
12 instructed by the executive director [~~commissioner~~].

13           SECTION 28.050. Section 1802.155(b), Occupations Code, is  
14 amended to read as follows:

- 15           (b) If the fund contains insufficient assets to pay the  
16 consumer:  
17               (1) the department shall record the time and date an  
18 order for payment to a consumer was received; and  
19               (2) the executive director [~~commissioner~~] shall pay  
20 consumers for whom an order is recorded under Subdivision (1) as  
21 funds become available in the order of the recorded time and date of  
22 the order.

23           SECTION 28.051. Section 1802.156, Occupations Code, is  
24 amended to read as follows:

25           Sec. 1802.156. EDUCATION EXPENDITURES PERMITTED. The  
26 executive director [~~commissioner~~] may use amounts in excess of  
27 \$250,000 in the fund to:

1           (1) advance education and research in the  
2 auctioneering profession for the benefit of license holders and to  
3 improve and increase the efficiency of the industry;

4           (2) underwrite educational seminars, training  
5 centers, and other educational projects for the use and benefit of  
6 license holders;

7           (3) sponsor, contract, and underwrite other  
8 educational and research projects that advance the auctioneering  
9 profession in this state; and

10          (4) cooperate with associations of auctioneers and  
11 other groups for the education and advancement of the auctioneering  
12 profession in this state.

13          SECTION 28.052. Sections 1802.205(a) and (b), Occupations  
14 Code, are amended to read as follows:

15          (a) If the department's determination under Section  
16 1802.202 is not disputed by the auctioneer or the aggrieved party,  
17 the executive director [~~commissioner~~] shall pay the claim from the  
18 fund, subject to Section 1802.206.

19          (b) If a hearing is held on the department's determination,  
20 the executive director [~~commissioner~~] shall pay to the aggrieved  
21 party the amount of actual damages determined by the executive  
22 director [~~commissioner~~].

23          SECTION 28.053. Section 1802.206(a), Occupations Code, is  
24 amended to read as follows:

25          (a) The executive director [~~commissioner~~] may not pay a  
26 single aggrieved party more than \$10,000.

27          SECTION 28.054. Section 1802.208, Occupations Code, is

1 amended to read as follows:

2           Sec. 1802.208. SUBROGATION.     If the executive director  
3 [~~commissioner~~] pays a claim against an auctioneer, the department  
4 is subrogated to all rights of the aggrieved party against the  
5 auctioneer to the extent of the amount paid to the aggrieved party.

6           SECTION 28.055. Section 1901.051(b), Occupations Code, is  
7 amended to read as follows:

8           (b) The executive director [~~commissioner~~] shall issue  
9 licenses to applicants who qualify.

10          SECTION 28.056. Section 1901.151, Occupations Code, is  
11 amended to read as follows:

12          Sec. 1901.151. LICENSE REQUIRED. A person may not act or  
13 offer to act as a driller unless the person holds a license issued  
14 by the executive director [~~commissioner~~] under this chapter and  
15 rules adopted under this chapter.

16          SECTION 28.057. Section 1901.402, Occupations Code, is  
17 amended to read as follows:

18          Sec. 1901.402. INJUNCTION       AND       OTHER       ENFORCEMENT  
19 PROVISIONS. (a) The executive director [~~commissioner~~] may bring  
20 an action to enjoin a person from violating this chapter.

21          (b) The executive director [~~commissioner~~] may enforce by  
22 injunction or other appropriate remedy in a court any rule,  
23 decision, determination, or order adopted or entered under this  
24 chapter.

25          SECTION 28.058. Section 1901.403, Occupations Code, is  
26 amended to read as follows:

27          Sec. 1901.403. VENUE.           The executive director

1 ~~[commissioner]~~ may bring an action in:

2 (1) Travis County; or

3 (2) the county in which:

4 (A) the offending activity occurred; or

5 (B) the person engaging in the activity resides.

6 SECTION 28.059. Section 1901.404(b), Occupations Code, is  
7 amended to read as follows:

8 (b) At the request of the executive director  
9 ~~[commissioner]~~, the attorney general shall bring an action in the  
10 name of the state for injunctive relief, to recover a civil penalty,  
11 or for both injunctive relief and a civil penalty, as authorized by  
12 this subchapter.

13 SECTION 28.060. Section 1902.151, Occupations Code, is  
14 amended to read as follows:

15 Sec. 1902.151. LICENSE REQUIRED. A person may not act or  
16 offer to act as an installer unless the person holds a license  
17 issued by the executive director ~~[commissioner]~~ under rules adopted  
18 under this chapter.

19 SECTION 28.061. Section 1902.402, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1902.402. INJUNCTION AND OTHER ENFORCEMENT  
22 PROVISIONS. (a) The executive director ~~[commissioner]~~ may bring  
23 an action to enjoin a person from violating this chapter.

24 (b) The executive director ~~[commissioner]~~ may enforce by  
25 injunction or other appropriate remedy in a court any rule,  
26 decision, determination, or order adopted or entered under this  
27 chapter.

1 SECTION 28.062. Section 1902.403, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1902.403. VENUE. The executive director  
4 [~~commissioner~~] may bring an action in:

- 5 (1) Travis County; or
- 6 (2) the county in which:
  - 7 (A) the offending activity occurred; or
  - 8 (B) the person engaging in the activity resides.

9 SECTION 28.063. Section 1902.404(b), Occupations Code, is  
10 amended to read as follows:

11 (b) At the request of the executive director  
12 [~~commissioner~~], the attorney general shall bring an action in the  
13 name of the state for injunctive relief, to recover a civil penalty,  
14 or for both injunctive relief and a civil penalty, as authorized by  
15 this subchapter.

16 SECTION 28.064. Section 2052.053, Occupations Code, is  
17 amended to read as follows:

18 Sec. 2052.053. INVESTIGATIVE AUTHORITY. (a) The executive  
19 director [~~commissioner~~] shall investigate allegations of activity  
20 that may violate this chapter.

21 (b) The executive director [~~commissioner~~] may enter, at a  
22 reasonable time, a place of business or an establishment in which  
23 activity alleged to violate this chapter may occur. The executive  
24 director [~~commissioner~~] is not required to give advance notice  
25 before entering.

26 SECTION 28.065. Section 2052.102, Occupations Code, is  
27 amended to read as follows:

1           Sec. 2052.102. BOXING PROMOTER LICENSE APPLICATION  
2 REQUIREMENTS. (a) An applicant for a boxing promoter's license  
3 under this chapter must apply on a form furnished by the executive  
4 director [~~commissioner~~].

5           (b) An application must be accompanied by:

6                 (1) a license fee in an amount set by the commission;  
7 and

8                 (2) a surety bond:

9                         (A) subject to approval by the executive director  
10 [~~commissioner~~]; and

11                        (B) conditioned on the applicant's payment of the  
12 tax imposed under Section 2052.151.

13           (c) The executive director [~~commissioner~~] shall establish  
14 the amount of the surety bond required under Subsection (b). The  
15 bond amount may not be less than \$300.

16           SECTION 28.066. Section 2052.108(a), Occupations Code, is  
17 amended to read as follows:

18           (a) An application for a license under Section 2052.107 must  
19 be made on a form furnished by the executive director  
20 [~~commissioner~~].

21           SECTION 28.067. Section 2052.110, Occupations Code, is  
22 amended to read as follows:

23           Sec. 2052.110. LICENSE AND BONDING EXCEPTIONS. The  
24 licensing and bonding requirements of this subchapter do not apply  
25 to:

26                 (1) a boxing event in which the participants do not  
27 receive a money remuneration, purse, or prize for their

1 performances or services if the event is promoted, conducted, or  
2 maintained by:

- 3 (A) an educational institution;  
4 (B) a law enforcement organization;  
5 (C) a Texas National Guard Unit; or  
6 (D) an amateur athletic organization recognized  
7 by the executive director [~~commissioner~~];

8 (2) a nonprofit amateur athletic association  
9 chartered under the law of this state, including a membership club  
10 affiliated with the association located within this state and  
11 recognized by the executive director [~~commissioner~~];

12 (3) an event conducted by a college, school, or  
13 university that is part of the institution's athletic program in  
14 which only students of different educational institutions  
15 participate; or

16 (4) an event in which only members of a troop, battery,  
17 company, or unit of the Texas National Guard or a law enforcement  
18 agency participate.

19 SECTION 28.068. Section 2052.111, Occupations Code, is  
20 amended to read as follows:

21 Sec. 2052.111. DENIAL OF APPLICATION. The executive  
22 director [~~commissioner~~] may deny an application for a license if:

23 (1) the applicant does not meet the qualifications for  
24 the license; or

25 (2) after conducting an investigation and a hearing,  
26 the executive director [~~commissioner~~] determines that the  
27 applicant has violated this chapter or a rule adopted under this

1 chapter.

2 SECTION 28.069. Section 2052.203(b), Occupations Code, is  
3 amended to read as follows:

4 (b) The elimination tournament boxing promoter of a local,  
5 regional, or championship elimination tournament is not required to  
6 require that each elimination tournament contestant wear headgear  
7 approved by the department if the promoter under department rules  
8 notifies the executive director [~~commissioner~~] of the decision not  
9 to use the approved headgear.

10 SECTION 28.070. Sections 2052.252(b) and (e), Occupations  
11 Code, are amended to read as follows:

12 (b) The event may take place only if the executive director  
13 [~~commissioner~~] approves the event not later than seven days before  
14 the date the event begins.

15 (e) The event is subject to the supervision of the executive  
16 director [~~commissioner~~].

17 SECTION 28.071. Section 2052.302, Occupations Code, is  
18 amended to read as follows:

19 Sec. 2052.302. FORFEITURE OF PURSE. The executive director  
20 [~~commissioner~~] may order a boxer or manager to forfeit to this state  
21 a purse in an amount of not more than \$1,000 for violating this  
22 chapter or a rule adopted under this chapter.

23 SECTION 28.072. Sections 2052.304(a) and (b), Occupations  
24 Code, are amended to read as follows:

25 (a) A person may seek review of a decision or an order of the  
26 executive director [~~commissioner~~] under this chapter by filing a  
27 petition for review in a district court in Travis County not later



1 than the 30th day after the date on which the decision or order of  
2 the executive director [~~commissioner~~] is final if the person is:

3 (1) a party to an administrative hearing in which the  
4 decision or order is issued; and

5 (2) aggrieved by the decision or order.

6 (b) The filing of a petition for review under Subsection (a)  
7 does not stay the effect of the decision or order of the executive  
8 director [~~commissioner~~] that is the subject of the petition. The  
9 executive director [~~commissioner~~] or the district court in which  
10 the petition for review is filed may order a stay on appropriate  
11 terms.

12 SECTION 28.073. Section 2052.305, Occupations Code, is  
13 amended to read as follows:

14 Sec. 2052.305. SERVICE OF PROCESS. A petition for review  
15 filed under Section 2052.304 must be served on:

16 (1) the executive director [~~commissioner~~]; and

17 (2) all parties of record to a hearing before the  
18 executive director [~~commissioner~~] that relates to the matter for  
19 which the petition for review is filed.

20 SECTION 28.074. Section 2052.306(a), Occupations Code, is  
21 amended to read as follows:

22 (a) On receipt of a petition for review served under Section  
23 2052.305, the executive director [~~commissioner~~], not later than the  
24 date on which the answer to the petition must be filed or the date on  
25 which the record is made available to the executive director  
26 [~~commissioner~~], whichever date is later, shall certify to the  
27 district court in which the petition is filed the record of the

1 proceedings to which the petition relates.

2 SECTION 28.075. Section 2052.307, Occupations Code, is  
3 amended to read as follows:

4 Sec. 2052.307. JUDICIAL REVIEW. (a) A district court  
5 reviewing a decision or an order of the executive director  
6 [~~commissioner~~] under this subchapter shall try the action without a  
7 jury in the same manner as a civil action, except that evidence is  
8 not admissible unless the evidence was presented at the hearing or  
9 noticed in the record of the hearing before the executive director  
10 [~~commissioner~~]. The petitioner has the burden of proof in the  
11 action.

12 (b) The court may:

13 (1) affirm the decision or order of the executive  
14 director [~~commissioner~~]; or

15 (2) remand the matter to the executive director  
16 [~~commissioner~~] for further proceedings.

17 SECTION 28.076. Section 2052.308, Occupations Code, is  
18 amended to read as follows:

19 Sec. 2052.308. APPEAL. (a) The petitioner or executive  
20 director [~~commissioner~~] may appeal a final judgment of a court  
21 conducting a review under this subchapter in the same manner as a  
22 civil action.

23 (b) The executive director [~~commissioner~~] is not required  
24 to file an appeal bond.

25 SECTION 28.077. Section 2151.101(a), Occupations Code, is  
26 amended to read as follows:

27 (a) A person may not operate an amusement ride unless the

1 person:

2 (1) has had the amusement ride inspected at least once  
3 a year by an insurer or a person with whom the insurer has  
4 contracted;

5 (2) obtains a written certificate from the insurer or  
6 person with whom the insurer has contracted stating that the  
7 amusement ride:

8 (A) has been inspected;

9 (B) meets the standards for insurance coverage;

10 and

11 (C) is covered by the insurance required by  
12 Subdivision (3);

13 (3) has an insurance policy currently in effect  
14 written by an insurance company authorized to do business in this  
15 state or by a surplus lines insurer, as defined by Chapter 981  
16 [~~Article 1.14-2~~], Insurance Code, or has an independently procured  
17 policy subject to Chapter 101 [~~Article 1.14-1~~], Insurance Code,  
18 insuring the owner or operator against liability for injury to  
19 persons arising out of the use of the amusement ride in an amount of  
20 not less than:

21 (A) \$100,000 per occurrence with a \$300,000  
22 annual aggregate for Class A amusement rides; and

23 (B) \$1,000,000 per occurrence for Class B  
24 amusement rides;

25 (4) files with the executive director [~~commissioner~~],  
26 as required by this chapter, the inspection certificate and the  
27 insurance policy or a photocopy of the certificate or policy

1 authorized by the executive director [~~commissioner~~]; and

2 (5) files with each sponsor, lessor, landowner, or  
3 other person responsible for the amusement ride being offered for  
4 use by the public a photocopy of the inspection certificate and the  
5 insurance policy required by this subsection.

6 SECTION 28.078. Section 2501.053(a), Occupations Code, is  
7 amended to read as follows:

8 (a) Not later than the 30th day before the date a personnel  
9 service begins operating in this state, the owner of the service  
10 must file notice with the executive director [~~commissioner~~].

11 SECTION 28.079. Section 2501.055(a), Occupations Code, is  
12 amended to read as follows:

13 (a) On receipt of a notice filed under Section 2501.053, the  
14 executive director [~~commissioner~~] shall issue to the owner a  
15 certificate of authority to do business as a personnel service not  
16 later than the 15th day after the date the notice is filed if the  
17 owner:

18 (1) pays the filing fee required for the certificate;  
19 and

20 (2) complies with the requirements of Section  
21 2501.054.

22 SECTION 28.080. Section 2501.057, Occupations Code, is  
23 amended to read as follows:

24 Sec. 2501.057. RENEWAL OF CERTIFICATE. The executive  
25 director [~~commissioner~~] shall issue a renewal of a certificate of  
26 authority on the receipt of:

27 (1) a renewal notice from the owner that contains the

1 information required by Section 2501.053;

2 (2) a renewal fee; and

3 (3) security that complies with Section 2501.054.

4 SECTION 28.081. The heading to Subchapter D, Chapter 2501,  
5 Occupations Code, is amended to read as follows:

6 SUBCHAPTER D. ENFORCEMENT [~~BY COMMISSIONER~~]

7 SECTION 28.082. Section 2501.151, Occupations Code, is  
8 amended to read as follows:

9 Sec. 2501.151. ENFORCEMENT. (a) The executive director  
10 [~~commissioner~~] shall enforce Section 2501.102 and may investigate a  
11 personnel service as necessary to enforce that section.

12 (b) The attorney general shall assist the executive  
13 director [~~commissioner~~] on request.

14 SECTION 28.083. Section 2501.253(a), Occupations Code, is  
15 amended to read as follows:

16 (a) In addition to the amount awarded to a complainant under  
17 Section 2501.154(b), the executive director [~~commissioner~~] may  
18 impose on the personnel service an administrative penalty equal to  
19 two times the amount awarded under that subsection. A penalty  
20 collected under this section shall be deposited in the state  
21 treasury.

22 SECTION 28.084. Sections 2502.052(a) and (b), Occupations  
23 Code, are amended to read as follows:

24 (a) To obtain a certificate of authority, an owner must:

25 (1) file with the executive director [~~commissioner~~] a  
26 sworn application accompanied by the required application fee; and

27 (2) file with the department security that complies

1 with Section 2502.053.

2 (b) The application must be in the form prescribed by the  
3 executive director [~~commissioner~~] and include:

4 (1) the address of the principal location of the  
5 career counseling service;

6 (2) the assumed name, if any, under which the career  
7 counseling service will operate;

8 (3) the name and address of each owner; and

9 (4) a statement that the owner has read and is familiar  
10 with this chapter.

11 SECTION 28.085. Section 2502.053(a), Occupations Code, is  
12 amended to read as follows:

13 (a) Before the executive director [~~commissioner~~] may issue  
14 a certificate of authority to an owner, the owner must file with the  
15 department a bond in the amount of \$10,000 that is:

16 (1) executed by a surety company authorized to do  
17 business in this state;

18 (2) payable to the state; and

19 (3) conditioned on the faithful performance of the  
20 owner's obligations under this chapter.

21 SECTION 28.086. Sections 2502.054(a) and (b), Occupations  
22 Code, are amended to read as follows:

23 (a) The executive director [~~commissioner~~] shall issue a  
24 certificate of authority to do business as a career counseling  
25 service to an applicant who meets the requirements of this  
26 subchapter.

27 (b) The executive director [~~commissioner~~] shall process a

1 certificate application not later than the 15th day after the date  
2 the application is filed.

3 SECTION 28.087. Section 2502.251, Occupations Code, is  
4 amended to read as follows:

5 Sec. 2502.251. ENFORCEMENT. (a) The executive director  
6 [~~commissioner~~] shall enforce this chapter and may investigate a  
7 career counseling service as necessary.

8 (b) The attorney general shall assist the executive  
9 director [~~commissioner~~] on request.

10 SECTION 28.088. Section 2502.301, Occupations Code, is  
11 amended to read as follows:

12 Sec. 2502.301. ADMINISTRATIVE PENALTY. In addition to the  
13 amount awarded to a complainant under Section 2502.254(b), the  
14 executive director [~~commissioner~~] may impose on the career  
15 counseling service an administrative penalty equal to two times the  
16 amount awarded under that subsection. A penalty collected under  
17 this section shall be deposited in the state treasury.

18 SECTION 28.089. Section 7(a), Article 9035, Revised  
19 Statutes, is amended to read as follows:

20 (a) To ensure the adequate performance of a warrantor's  
21 obligations to a consumer, each warrantor shall comply with  
22 financial security requirements by:

23 (1) insuring its vehicle protection products under a  
24 reimbursement insurance policy issued by an insurer authorized to  
25 engage in the business of insurance in this state or under a surplus  
26 lines insurance policy issued by an insurer eligible to place  
27 coverage in this state as regulated under Chapter 981 [~~Article~~

1 ~~1.14-2~~], Insurance Code; or

2 (2) providing any other form of comparable financial  
3 security approved by the executive director [~~commissioner~~].

4 SECTION 28.090. Section 1.14, Chapter 376, Acts of the 77th  
5 Legislature, Regular Session, 2001 (Article 165c, Vernon's Texas  
6 Civil Statutes), is amended to read as follows:

7 Sec. 1.14. PERSONNEL. The executive director  
8 [~~commissioner~~] may, as provided by the General Appropriations Act,  
9 appoint and fix the compensation of any personnel, including  
10 specialists and consultants, necessary to perform duties and  
11 functions under this article.

12 SECTION 28.091. Section 1.41(e), Chapter 376, Acts of the  
13 77th Legislature, Regular Session, 2001 (Article 165c, Vernon's  
14 Texas Civil Statutes), is amended to read as follows:

15 (e) On written request of at least 25 qualified voters  
16 residing in the target area or operational area mentioned in the  
17 notice requesting an election accompanied by unsigned petitions,  
18 the county clerk of each county within the target area or  
19 operational area shall certify and mark for identification  
20 petitions for circulation. An application for a petition seeking  
21 an election to disapprove the issuance of a permit must be headed:  
22 "Application for Election to Disapprove a Weather Modification  
23 Permit." The application shall contain a statement just ahead of  
24 the signatures of the applicants stating the following: "It is the  
25 hope, purpose, and intent of the applicants whose signatures appear  
26 on this application to see disapproved the issuance of a permit for  
27 weather modification, including hail suppression." An application



1 for a petition seeking an election to approve the issuance of a  
2 permit shall be headed: "Application for Election to Approve a  
3 Weather Modification Permit." The application shall contain a  
4 statement just ahead of the signatures of the applicants as  
5 follows: "It is the hope, purpose, and intent of the applicants  
6 whose signatures appear on this petition to see approved the  
7 issuance of a permit for weather modification, including hail  
8 suppression." On the return to the county clerks of petitions  
9 signed by at least 10 percent of the qualified voters residing in  
10 each county within the target area or operational area in the notice  
11 requesting an election, the commissioners court of each county  
12 shall call and hold an election. Notice under Chapter 111, Local  
13 Government Code, of the commissioners court meeting to call and  
14 hold the election is not required. The date of the election shall  
15 be determined by the commissioners court in accordance with this  
16 section, notwithstanding Sections 41.004 and 41.0041, Election  
17 Code. The petition must be filed with the clerk of each county  
18 within 30 days immediately following the first publication of  
19 notice. The election must be held within 45 days after the date the  
20 petition is received to determine whether or not the qualified  
21 voters in the target area or operational area approve the issuance  
22 of the permit. Immediately on calling the election, the clerk of  
23 each county within the target area or operational area shall notify  
24 the executive director [~~commissioner~~] of the date of the election.  
25 Except as otherwise provided in this article, elections must be  
26 held in accordance with the Election Code.

27 SECTION 28.092. The changes in law made by this article to

1 Section 755.024, Health and Safety Code, regarding the terminology  
2 used to identify a commission or license issued by the Texas  
3 Department of Licensing and Regulation, do not affect the validity  
4 of a commission or license issued by the department under that  
5 section.

6 ARTICLE 29. GENERAL TRANSITION; EFFECTIVE DATE

7 SECTION 29.001. The changes in law made by this Act  
8 regarding the powers and duties of the executive director of the  
9 Texas Department of Licensing and Regulation that are transferred  
10 to the Texas Commission of Licensing and Regulation do not affect  
11 the status of a complaint, investigation, or other proceeding. A  
12 rule or form adopted by the executive director before the effective  
13 date of this Act remains in effect as a rule or form of the  
14 department until amended or changed.

15 SECTION 29.002. This Act takes effect September 1, 2003.