

1-1 By: Carona S.B. No. 1193
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 May 21, 2003, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; May 21, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the regulation of barbers and related occupations,
1-9 barbershops and specialty shops, and barber schools; providing a
1-10 criminal penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsection (b), Section 1601.051, Occupations
1-13 Code, is amended to read as follows:

1-14 (b) One member appointed under Subsection (a)(1) must be a
1-15 resident of a county with a population of 75,000 [~~25,000~~] or less.

1-16 SECTION 2. Subsection (b), Section 1601.253, Occupations
1-17 Code, is amended to read as follows:

1-18 (b) The board shall issue a Class A barber certificate to an
1-19 applicant who:

1-20 (1) complies with the application requirements of this
1-21 chapter;

1-22 (2) passes the examination with an average grade of at
1-23 least 75 percent;

1-24 (3) pays a fee set by board rule [~~not to exceed \$100~~];
1-25 and

1-26 (4) possesses the other qualifications required by
1-27 this chapter.

1-28 SECTION 3. Subsections (a) and (c), Section 1601.254,
1-29 Occupations Code, are amended to read as follows:

1-30 (a) An applicant for a teacher's certificate must:

1-31 (1) be a Class A barber;

1-32 (2) have at least five years' experience as a
1-33 practicing barber in a barbershop, two years of which occurred in
1-34 the two years preceding the application date; and

1-35 (3) submit an examination fee set by board rule [~~not to~~
1-36 ~~exceed \$100~~] with the application.

1-37 (c) The board shall issue a teacher's certificate to an
1-38 applicant who:

1-39 (1) passes the appropriate examination; and

1-40 (2) pays a certificate fee set by board rule [~~not to~~
1-41 ~~exceed~~;

1-42 [~~(A) \$100, if the applicant fulfills the~~
1-43 ~~certificate requirements during the period beginning November 1 of~~
1-44 ~~an odd-numbered year and extending through October 31 of the~~
1-45 ~~following year; or~~

1-46 [~~(B) \$50, if the applicant fulfills the~~
1-47 ~~certificate requirements during the period beginning November 1 of~~
1-48 ~~an even-numbered year and extending through October 31 of the~~
1-49 ~~following year].~~

1-50 SECTION 4. Subsections (b) and (d), Section 1601.256,
1-51 Occupations Code, are amended to read as follows:

1-52 (b) An applicant for a barber technician license must:

1-53 (1) be at least 16 years of age;

1-54 (2) have completed the seventh grade or the equivalent
1-55 of the seventh grade;

1-56 (3) have completed a course of instruction in a
1-57 board-approved training program consisting of not less than 300
1-58 hours in a period of not less than eight weeks; and

1-59 (4) submit a [~~\$10 administration~~] fee set by board
1-60 rule with the application.

1-61 (d) The board shall issue a barber technician license to an
1-62 applicant who:

1-63 (1) possesses the qualifications described by
1-64 Subsection (b);

- 2-1 (2) passes the appropriate examination;
- 2-2 (3) pays a license fee set by the board [~~not to exceed~~
- 2-3 ~~\$100~~]; and
- 2-4 (4) has not committed an act that is a ground for
- 2-5 denial of a license.

2-6 SECTION 5. Subsections (b) and (c), Section 1601.257,

- 2-7 Occupations Code, are amended to read as follows:
- 2-8 (b) An applicant for a manicurist license must:
 - 2-9 (1) be at least 17 [~~16~~] years of age;
 - 2-10 (2) have completed the seventh grade or the equivalent
 - 2-11 of the seventh grade;
 - 2-12 (3) have completed a board-approved training program
 - 2-13 consisting of 600 hours of instruction in manicuring; and
 - 2-14 (4) submit a [~~\$10 administration~~] fee set by board
 - 2-15 rule with the application.

- 2-16 (c) The board shall issue a manicurist license to an
- 2-17 applicant who:
- 2-18 (1) possesses the qualifications described by
- 2-19 Subsection (b);
- 2-20 (2) passes the appropriate examination;
- 2-21 (3) pays a license fee set by board rule [~~not to exceed~~
- 2-22 ~~\$30~~]; and
- 2-23 (4) has not committed an act that is a ground for
- 2-24 denial of a license.

2-25 SECTION 6. Section 1601.260, Occupations Code, is amended

- 2-26 to read as follows:
- 2-27 Sec. 1601.260. ELIGIBILITY FOR STUDENT PERMIT. (a) An
- 2-28 applicant for a permit to be a student in a barber school must:
- 2-29 (1) submit an enrollment application to the board in
 - 2-30 the form prescribed by the board;
 - 2-31 (2) have completed the seventh grade;
 - 2-32 (3) satisfy other requirements specified by the board;
 - 2-33 and
 - 2-34 (4) submit with the application a nonrefundable
 - 2-35 application fee set by board rule [~~in an amount not to exceed \$25~~].

2-36 (b) A separate application is required for each enrollment,

- 2-37 reenrollment, or transfer enrollment. The application fee applies
- 2-38 only to the first enrollment. The board may [~~not~~] charge a separate
- 2-39 [~~the application~~] fee set by board rule for any later enrollment,
- 2-40 reenrollment, or transfer enrollment.
- 2-41 SECTION 7. Subsection (b), Section 1601.261, Occupations
- 2-42 Code, is amended to read as follows:
- 2-43 (b) The board by rule shall set the fee for an examination
 - 2-44 necessary to receive a certificate to practice barbering or to
 - 2-45 practice as a barber technician or a manicurist [~~in an amount not to~~
 - 2-46 ~~exceed \$50~~].

2-47 SECTION 8. Section 1601.266, Occupations Code, is amended

- 2-48 to read as follows:
- 2-49 Sec. 1601.266. DUPLICATE CERTIFICATE. The board may issue
- 2-50 a duplicate certificate on written application of the certificate
- 2-51 holder and payment of a fee set by board rule [~~not to exceed \$10~~].

2-52 SECTION 9. Section 1601.301, Occupations Code, is amended

- 2-53 by amending Subsection (b) and adding Subsections (c) and (d) to
- 2-54 read as follows:
- 2-55 (b) A person who owns, operates, or manages a barbershop or
 - 2-56 specialty shop must, not later than the third day after the date on
 - 2-57 which the shop opens for business, [+
 - 2-58 [-(1)] submit an application to the board for an
 - 2-59 appropriate permit for the [each] shop, accompanied by the
 - 2-60 application fee set by board rule [+, and
 - 2-61 [-(2) register with the board the person's full name and
 - 2-62 the location of each shop].

- 2-63 (c) The application must provide:
- 2-64 (1) the permanent address of the barbershop or
- 2-65 specialty shop;
- 2-66 (2) the legal description of the premises to be
- 2-67 licensed;
- 2-68 (3) the person's full name; and
- 2-69 (4) any other information required by the board.

3-1 (d) A person operating under a barbershop permit or
3-2 specialty shop permit may not move the operation to another
3-3 location without submitting a new application to the board,
3-4 accompanied by the application fee set by board rule.

3-5 SECTION 10. Section 1601.303, Occupations Code, is amended
3-6 to read as follows:

3-7 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. (a) The
3-8 board shall issue a barbershop permit to an applicant if:

3-9 (1) the applicant holds a Class A barber certificate
3-10 and is an owner of the shop or is practicing barbering at the shop;

3-11 [~~(2) the applicant has practiced barbering for at~~
3-12 ~~least 12 months;~~] and

3-13 (2) [~~(3)~~] the shop meets the minimum health standards
3-14 for barbershops set by the board and all other rules of the board.

3-15 (b) If a barber is not the owner of the barbershop, the shop
3-16 owner's name must also appear on the barbershop permit.

3-17 SECTION 11. Subsection (b), Section 1601.304, Occupations
3-18 Code, is amended to read as follows:

3-19 (b) An applicant for a manicurist specialty shop permit must
3-20 submit:

3-21 (1) an application that includes:

3-22 (A) the shop's address;

3-23 (B) the legal description of the premises for
3-24 which the permit is sought; and

3-25 (C) any other information required by the board;
3-26 and

3-27 (2) an inspection fee in an amount set by board rule
3-28 [~~not to exceed \$50~~].

3-29 SECTION 12. Subsection (b), Section 1601.353, Occupations
3-30 Code, is amended to read as follows:

3-31 (b) An applicant for a barber school permit must submit to
3-32 the board:

3-33 (1) a detailed drawing and chart of the proposed
3-34 physical layout of the school, showing the departments, floor
3-35 space, equipment, lights, and outlets;

3-36 (2) photographs of the proposed site for the school,
3-37 including the interior and exterior of the building, rooms, and
3-38 departments;

3-39 (3) a detailed copy of the training program;

3-40 (4) a copy of the catalogue and promotional literature
3-41 of the school;

3-42 (5) a copy of the building lease or proposed building
3-43 lease if the building is not owned by the school;

3-44 (6) a sworn statement showing the ownership of the
3-45 school; and

3-46 (7) a permit fee set by board rule [~~not to exceed~~
3-47 ~~\$1,000~~].

3-48 SECTION 13. Subsection (b), Section 1601.356, Occupations
3-49 Code, is amended to read as follows:

3-50 (b) A barber school that is not approved by the board on
3-51 initial inspection may be reinspected. The board shall charge a
3-52 reinspection fee in an amount set by board rule [~~not to exceed~~
3-53 ~~\$500~~].

3-54 SECTION 14. Subsection (c), Section 1601.402, Occupations
3-55 Code, is amended to read as follows:

3-56 (c) The board shall issue a renewal certificate or license
3-57 on receipt of a renewal application in the form prescribed by the
3-58 board, accompanied by a renewal fee in an amount set by board rule
3-59 [~~equal to the original certificate or license fee but not to exceed~~
3-60 ~~\$100~~].

3-61 SECTION 15. Section 1601.403, Occupations Code, is amended
3-62 to read as follows:

3-63 Sec. 1601.403. RENEWAL OF TEACHER'S CERTIFICATE. The board
3-64 shall renew a teacher's certificate biennially on or before
3-65 November 1 of each odd-numbered year on payment of a renewal fee set
3-66 by board rule [~~not to exceed \$100~~].

3-67 SECTION 16. Subsections (b) and (c), Section 1601.404,
3-68 Occupations Code, are amended to read as follows:

3-69 (b) A Class A barber or license holder whose certificate or

4-1 license has been expired for not more than five years may reinstate
 4-2 the person's certificate or license by applying to the board and
 4-3 submitting a personal affidavit that the board determines provides
 4-4 a justification for issuing a certificate or license to the person.
 4-5 The person must pay a fee set by board rule [~~equal to the amount of~~
 4-6 ~~the current certificate or license fee~~] and an additional
 4-7 delinquency fee set by board rule [~~of \$30~~] for each year or part of a
 4-8 year the certificate or license has been expired.

4-9 (c) A Class A barber or license holder who retires from
 4-10 practice and whose certificate or license has been expired for more
 4-11 than five years may qualify for a new certificate or license by
 4-12 applying to the board and by:

4-13 (1) making a proper showing to the board, supported by
 4-14 a personal affidavit;

4-15 (2) paying an examination fee set by board rule [~~not to~~
 4-16 ~~exceed \$100~~];

4-17 (3) passing a satisfactory examination conducted by
 4-18 the board; and

4-19 (4) paying the fee for an original certificate or
 4-20 license.

4-21 SECTION 17. Subsection (b), Section 1601.405, Occupations
 4-22 Code, is amended to read as follows:

4-23 (b) The board shall issue a renewal certificate or license
 4-24 on application and payment of the current [~~a~~] renewal fee not later
 4-25 than the 90th day after the date the person is released or
 4-26 discharged from active duty in the armed forces. [~~The renewal fee~~
 4-27 ~~is:~~

4-28 [~~(1) \$10 if the application and payment are made~~
 4-29 ~~during the period beginning November 1 of an odd-numbered year and~~
 4-30 ~~ending October 31 of the following year; or~~

4-31 [~~(2) \$5 if the application and payment are made during~~
 4-32 ~~the period beginning November 1 of an even-numbered year and ending~~
 4-33 ~~October 31 of the following year.]~~

4-34 SECTION 18. Section 1601.406, Occupations Code, is amended
 4-35 to read as follows:

4-36 Sec. 1601.406. RENEWAL OF BARBERSHOP OR SPECIALTY SHOP
 4-37 PERMIT. (a) A barbershop permit or specialty shop permit expires
 4-38 on the second anniversary of the date of issuance of the permit
 4-39 [~~July 1 of each odd-numbered year~~].

4-40 (b) A barbershop permit holder may renew the permit by
 4-41 paying a renewal fee set by board rule [~~not to exceed \$70~~].

4-42 (c) A specialty shop permit holder may renew the permit by
 4-43 submitting to the board a renewal application accompanied by a
 4-44 renewal fee set by board rule [~~not to exceed \$50~~].

4-45 SECTION 19. Subsection (b), Section 1601.407, Occupations
 4-46 Code, is amended to read as follows:

4-47 (b) A barber school may renew its permit by paying a renewal
 4-48 fee set by board rule [~~not to exceed \$300~~].

4-49 SECTION 20. Section 1601.408, Occupations Code, is amended
 4-50 to read as follows:

4-51 Sec. 1601.408. RENEWAL OF EXPIRED PERMIT. A person holding
 4-52 a barbershop, specialty shop, or barber school permit that has been
 4-53 expired for more than 30 days may renew the person's permit by
 4-54 submitting to the board a renewal application accompanied by:

4-55 (1) the regular renewal fee; and

4-56 (2) an additional delinquency fee set by board rule
 4-57 [~~of \$30~~] for each year or part of a year the permit has been expired.

4-58 SECTION 21. Subchapter I, Chapter 1601, Occupations Code,
 4-59 is amended by adding Section 1601.409 to read as follows:

4-60 Sec. 1601.409. CONTINUING EDUCATION. The board may
 4-61 recognize, prepare, or administer continuing education programs
 4-62 for the practice of barbering. Participation in the programs is
 4-63 voluntary.

4-64 SECTION 22. Section 1601.501, Occupations Code, is amended
 4-65 to read as follows:

4-66 Sec. 1601.501. DISPLAY OF BARBERSHOP OR SPECIALTY SHOP
 4-67 PERMIT. The holder of a [A] barbershop permit or specialty shop
 4-68 permit [~~holder~~] must display the permit in a conspicuous place in
 4-69 the shop for which the permit is issued.

5-1 SECTION 23. Section 1601.506, Occupations Code, is amended
 5-2 to read as follows:

5-3 Sec. 1601.506. CLEANLINESS. The board by rule shall adopt
 5-4 reasonable standards for cleanliness applicable to each holder of a
 5-5 license or permit under this chapter [~~(a) A person in charge of a~~
 5-6 ~~barbershop or specialty shop shall:~~

5-7 [~~(1) keep the shop and all furniture, tools,~~
 5-8 ~~appliances, and other equipment used at the shop in a clean~~
 5-9 ~~condition;~~

5-10 [~~(2) wash thoroughly, at least once daily, and~~
 5-11 ~~otherwise maintain the cleanliness of each comb, hairbrush, or~~
 5-12 ~~similar item used in the shop; and~~

5-13 [~~(3) sterilize, at least once after each use, each~~
 5-14 ~~mug, shaving brush, razor, scissors, shears, clippers, or tweezers~~
 5-15 ~~used in the shop].~~

5-16 [~~(b) A barber or other person regulated under this chapter~~
 5-17 ~~shall immediately after using:~~

5-18 [~~(1) a mug, shaving brush, or clippers for the service~~
 5-19 ~~of a person, sterilize the equipment by immersing it in boiling~~
 5-20 ~~water for at least one minute; or~~

5-21 [~~(2) a razor or scissors, shears, or tweezers for the~~
 5-22 ~~service of a person, sterilize the equipment by:~~

5-23 [~~(A) immersing it for at least 10 minutes in a~~
 5-24 ~~five percent aqueous solution of carbolic acid; or~~

5-25 [~~(B) immersing it in boiling water for at least~~
 5-26 ~~one minute.~~

5-27 [~~(c) A barber or other person regulated under this chapter~~
 5-28 ~~may not:~~

5-29 [~~(1) use for the service of a customer:~~

5-30 [~~(A) a comb or hairbrush or any similar item that~~
 5-31 ~~is not thoroughly clean;~~

5-32 [~~(B) a mug, shaving brush, or razor or shears,~~
 5-33 ~~scissors, clippers, or tweezers that are not thoroughly clean or~~
 5-34 ~~that have not been sterilized since last used; or~~

5-35 [~~(C) a towel or washcloth that has not been~~
 5-36 ~~laundered since last used;~~

5-37 [~~(2) serve a customer unless the person thoroughly~~
 5-38 ~~cleans the person's hands immediately before the service;~~

5-39 [~~(3) use on more than one person the same piece of alum~~
 5-40 ~~or other material to stop the flow of blood;~~

5-41 [~~(4) shave a person when the surface to be shaved is~~
 5-42 ~~inflamed, is broken out, or contains pus;~~

5-43 [~~(5) permit any person to use the headrest of any~~
 5-44 ~~barber's chair under the person's control until after the headrest~~
 5-45 ~~has been covered with a towel that has been laundered since last~~
 5-46 ~~used or with clean new paper or a similar clean substance;~~

5-47 [~~(6) use a powder puff or sponge in the service of a~~
 5-48 ~~customer unless it has been sterilized since last used;~~

5-49 [~~(7) use a finger bowl unless it has been sterilized~~
 5-50 ~~since last used and fresh water or other liquid has been placed in~~
 5-51 ~~the bowl; or~~

5-52 [~~(8) serve a customer without the use of a sanitized~~
 5-53 ~~neck strip, cloth towel, or paper towel between the customer and the~~
 5-54 ~~chair cloth.~~

5-55 [~~(d) A person subject to Subsection (c) may use a neck~~
 5-56 ~~duster in providing services for a customer.]~~

5-57 SECTION 24. Subsection (a), Section 1601.560, Occupations
 5-58 Code, is amended to read as follows:

5-59 (a) In addition to the teacher required by Section
 5-60 1601.355(b), a barber school that provides training leading to
 5-61 issuance of a Class A barber certificate shall have at least one
 5-62 qualified instructor, holding a Class A certificate, for every 25
 5-63 [20] students on the premises [~~for instruction in practical work~~].
 5-64 A teacher may serve as an instructor in practical work in addition
 5-65 to holding a position as a theory teacher.

5-66 SECTION 25. Subsections (a) and (b), Section 1601.651,
 5-67 Occupations Code, are amended to read as follows:

5-68 (a) The attorney general may file an action for an
 5-69 injunction or other proceeding to:

6-1 (1) enforce this chapter; or
6-2 (2) enjoin a barber, barbershop owner, or barber
6-3 school from operating in violation of this chapter.

6-4 (b) A barber, barbershop owner, or barber school that
6-5 operates in violation of this chapter is liable to the state for a
6-6 civil penalty in the amount of \$25 a day for each day a violation
6-7 occurs. The attorney general may bring an action under this
6-8 subsection. The attorney general shall bring an action under this
6-9 subsection in Travis County.

6-10 SECTION 26. Subchapter N, Chapter 1601, Occupations Code,
6-11 is amended by adding Section 1601.652 to read as follows:

6-12 Sec. 1601.652. CRIMINAL PENALTY. (a) A person commits an
6-13 offense if the person violates this chapter or a rule adopted under
6-14 this chapter.

6-15 (b) An offense under this section is a misdemeanor
6-16 punishable by a fine of not less than \$100 or more than \$300.

6-17 SECTION 27. Subsection (a), Section 1601.705, Occupations
6-18 Code, is amended to read as follows:

6-19 (a) If the person requests a hearing [~~or fails to respond in~~
6-20 ~~a timely manner to the notice~~], the executive director shall set a
6-21 hearing and give written notice of the hearing to the person. An
6-22 administrative law judge of the State Office of Administrative
6-23 Hearings shall hold the hearing.

6-24 SECTION 28. Sections 1601.264, 1601.302, 1601.310,
6-25 1601.311, Subsection (d), Section 1601.402, and Section 1601.503,
6-26 Occupations Code, are repealed.

6-27 SECTION 29. Chapter 1601, Occupations Code, as amended by
6-28 this Act, applies only to a license or permit issued, or a fee
6-29 charged, by the State Board of Barber Examiners on or after the
6-30 effective date of this Act.

6-31 SECTION 30. This Act takes effect immediately if it
6-32 receives a vote of two-thirds of all the members elected to each
6-33 house, as provided by Section 39, Article III, Texas Constitution.
6-34 If this Act does not receive the vote necessary for immediate
6-35 effect, this Act takes effect September 1, 2003.

6-36 * * * * *