

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of glass technicians;
providing administrative penalties.

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

SECTION 1. Title 8, Occupations Code, is amended by adding
Chapter 1306 to read as follows:

CHAPTER 1306. GLASS TECHNICIANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1306.001. SHORT TITLE. This chapter may be cited as
the Glass Technicians License Act.

Sec. 1306.002. DEFINITIONS. In this chapter:

(1) "Automotive glass work" means installing,
maintaining, or repairing fixed or moveable glass in a motor
vehicle.

(2) "Board" means the Glass Technicians Board of
Examiners.

(3) "Glazing" means installing, maintaining, or
repairing glass in a residential or commercial building.

(4) "Licensed automotive glass replacement
technician" means a person who holds a license under this chapter to
perform automotive glass work.

(5) "Licensed glazier" means a person who holds a
license under this chapter to perform glazing, including, where
appropriate, an ironworker.

1 (6) "Trainee" means a person not licensed under this
2 chapter who performs automotive glass work or glazing under the
3 supervision of a licensed automotive glass replacement technician,
4 licensed glazier, or a person registered as an apprentice with an
5 apprenticeship program involving glazing which is approved by the
6 United States Department of Labor Bureau of Apprenticeship and
7 Training.

8 Sec. 1306.003. EXEMPTIONS. The following persons are not
9 required to be licensed under this chapter to perform the actions
10 listed:

11 (1) a person employed by a federal, state, or local
12 governmental agency performing automotive glass work or glazing as
13 an assigned duty for which the person has been properly trained;

14 (2) a student performing automotive glass work or
15 glazing as part of a board-approved educational or training program
16 if:

17 (A) the work product produced by the student as
18 part of the program is not intended for public use; or

19 (B) the student, while performing assigned
20 duties, is supervised by a licensed instructor;

21 (3) a glass instructor certified by the National Glass
22 Association or another certification organization approved by the
23 board or licensed by another state, if:

24 (A) the instructor is performing automotive
25 glass work or glazing in this state as part of a board-approved
26 educational or training program;

27 (B) the instructor does not perform the

1 automotive glass work or glazing in this state for more than 30 days
2 each calendar year; and

3 (C) the work product of the educational or
4 training program is not intended for public use;

5 (4) an employee of a business entity, whose primary
6 duties include automotive glass work or glazing performed on
7 premises owned or leased by the business for the use of the business
8 and not intended for use by the public;

9 (5) a person fabricating glass products;

10 (6) a person installing, maintaining, repairing, or
11 servicing glass in or around a single-family residence owned and
12 occupied or to be occupied by the person, subject to any inspection
13 and approval required by other law;

14 (7) a person who:

15 (A) is a maintenance person or maintenance
16 engineer and is a regular employee of the owner, lessee, or
17 management company of the property where the work is being
18 performed;

19 (B) performs the work in connection with the
20 business in which the person is employed; and

21 (C) does not engage in the business of automotive
22 glass work or glazing for hire to the general public;

23 (8) a person that holds the person out to be a retail
24 seller of glass products and engages in the retail sale of glass
25 products, if the person does not also engage in automotive glass
26 work or glazing; and

27 (9) a person who:

1 (A) installs safety-backed mirror products;

2 (B) repairs or replaces flat glass in residential
3 buildings that does not exceed 30 square feet; or

4 (C) is engaged exclusively in the business of
5 automotive glass repair.

6 Sec. 1306.004. APPLICATION OF SUNSET ACT. The Glass
7 Technicians Board of Examiners is subject to Chapter 325,
8 Government Code (Texas Sunset Act). Unless continued in existence
9 as provided by that chapter, the board is abolished September 1,
10 2017.

11 [Sections 1306.005-1306.050 reserved for expansion]

12 SUBCHAPTER B. GLASS TECHNICIANS BOARD OF EXAMINERS

13 Sec. 1306.051. BOARD; MEMBERSHIP. (a) The Glass
14 Technicians Board of Examiners consists of nine members appointed
15 by the governor with the advice and consent of the senate as
16 follows:

17 (1) two licensed automotive glass replacement
18 technicians;

19 (2) two members who are owners or principals of a
20 company engaged in the business of replacing automotive glass;

21 (3) one member who is a licensed glazier who is
22 affiliated with a labor organization whose members are involved in
23 glazing;

24 (4) one member who is a licensed glazier who is not
25 affiliated with a labor organization whose members are involved in
26 glazing;

27 (5) one member who is an owner or principal of a

1 company engaged in the business of glazing which is a signatory to a
2 collective bargaining agreement with a labor organization whose
3 members are involved in glazing;

4 (6) one member who is an owner or principal of a
5 company engaged in the business of glazing which is not a signatory
6 to a collective bargaining agreement with a labor organization
7 whose members are involved in glazing; and

8 (7) one member who is a representative of the
9 consuming public.

10 (b) Appointments to the board shall be made without regard
11 to the race, color, disability, sex, religion, age, or national
12 origin of the appointee.

13 Sec. 1306.052. MEMBER ELIGIBILITY. (a) To qualify as a
14 board member, a person must be a resident of this state.

15 (b) A person is not eligible for appointment as a public
16 member of the board if the person or the person's spouse:

17 (1) is registered, certified, or licensed by an
18 occupational regulatory agency in the field of automotive glass
19 work or glazing;

20 (2) is employed by or participates in the management
21 of a business entity or other organization regulated by the board or
22 receiving funds from the board;

23 (3) owns or controls, directly or indirectly, more
24 than a 10 percent interest in a business entity or other
25 organization regulated by the board or receiving funds from the
26 board; or

27 (4) uses or receives a substantial amount of tangible

1 goods, services, or money from the board, other than compensation
2 or reimbursement authorized by law for board membership,
3 attendance, or expenses.

4 Sec. 1306.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

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

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

15 (1) the person is an officer, employee, manager, or
16 paid consultant of a Texas trade association in the field of
17 automotive glass work or glazing; or

18 (2) the person's spouse is an officer, manager, or paid
19 consultant of a Texas trade association in the field of automotive
20 glass work or glazing.

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

26 Sec. 1306.054. TERMS; VACANCIES. (a) Members of the board
27 serve staggered six-year terms. The terms of three members expire

1 on January 31 of each odd-numbered year.

2 (b) A vacancy on the board shall be filled by appointment of
3 the governor.

4 Sec. 1306.055. PRESIDING OFFICER. The governor shall
5 designate a member of the board as presiding officer of the board to
6 serve in that capacity at the pleasure of the governor.

7 Sec. 1306.056. MEETINGS; OFFICIAL RECORD. (a) The board
8 shall meet at least once each year.

9 (b) The board may meet at other times at the call of the
10 presiding officer or as provided by board rule.

11 (c) The board shall keep an official record of all board
12 meetings and proceedings.

13 Sec. 1306.057. GROUNDS FOR REMOVAL. (a) It is a ground for
14 removal from the board that a member:

15 (1) does not have at the time of taking office the
16 qualifications required by Sections 1306.051 and 1306.052;

17 (2) does not maintain during service on the board the
18 qualifications required by Sections 1306.051 and 1306.052;

19 (3) is ineligible for membership under Section
20 1306.053;

21 (4) cannot, because of illness or disability,
22 discharge the member's duties for a substantial part of the member's
23 term; or

24 (5) is absent from more than half of the regularly
25 scheduled board meetings that the member is eligible to attend
26 during a calendar year without an excuse approved by a majority vote
27 of the board.

1 (b) The validity of an action of the board is not affected by
2 the fact that it is taken when a ground for removal of a board member
3 exists.

4 (c) If the executive director has knowledge that a potential
5 ground for removal of a board member exists, the executive director
6 shall notify the presiding officer of the board of the potential
7 ground. The presiding officer shall then notify the governor and
8 the attorney general that a potential ground for removal exists. If
9 the potential ground for removal involves the presiding officer,
10 the executive director shall notify the next highest officer of the
11 board, who shall notify the governor and the attorney general that a
12 potential ground for removal exists.

13 Sec. 1306.058. TRAINING. (a) A person who is appointed to
14 and qualifies for office as a member of the board may not vote,
15 deliberate, or be counted as a member in attendance at a meeting of
16 the board until the person completes a training program that
17 complies with this section.

18 (b) The training program must provide the person with
19 information regarding:

20 (1) this chapter and the board's programs, functions,
21 rules, and budget;

22 (2) the results of the most recent formal audit of the
23 board;

24 (3) the requirements of laws relating to open
25 meetings, public information, administrative procedure, and
26 conflict of interest; and

27 (4) any applicable ethics policies adopted by the

1 board or the Texas Ethics Commission.

2 (c) A person appointed to the board is entitled to
3 reimbursement, as provided by the General Appropriations Act, for
4 travel expenses incurred in attending the training program
5 regardless of whether the attendance at the program occurs before
6 or after the person qualifies for office.

7 Sec. 1306.059. QUALIFICATIONS AND STANDARDS OF CONDUCT
8 INFORMATION. The executive director or the executive director's
9 designee shall provide to members of the board, as often as
10 necessary, information regarding their:

- 11 (1) qualifications for office under this chapter; and
12 (2) responsibilities under applicable laws relating
13 to standards of conduct for state officers.

14 Sec. 1306.060. REIMBURSEMENT. A board member is entitled
15 to reimbursement for expenses as provided by the General
16 Appropriations Act.

17 Sec. 1306.061. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,
18 AND ADMINISTRATIVE PROCEDURE LAWS. Except as provided by this
19 chapter, the board is subject to Chapters 551, 552, and 2001,
20 Government Code.

21 [Sections 1306.062-1306.100 reserved for expansion]

22 SUBCHAPTER C. BOARD POWERS AND DUTIES

23 Sec. 1306.101. RULES. The board shall adopt rules
24 consistent with this chapter for the administration of this chapter
25 and the operation of the board.

26 Sec. 1306.102. GENERAL POWERS AND DUTIES. The board shall:

- 27 (1) evaluate the qualifications of license applicants

1 and issue licenses to qualified applicants;

2 (2) contract with a nationally recognized testing
3 organization, such as the National Glass Association or another
4 organization whose examination is determined by the board to be at
5 least as stringent as the applicable examination given by the
6 National Glass Association, to develop and administer to applicants
7 who apply for a license under this chapter a written automotive
8 glass replacement technician examination, automotive glass repair
9 technician examination, or glazier examination;

10 (3) establish standards of ethical conduct for persons
11 performing automotive glass work or glazing;

12 (4) by rule establish safety standards in accordance
13 with accepted industry standards for:

14 (A) automotive glass replacement that are at
15 least as stringent as the 2002 Auto Glass Replacement Safety
16 Standards developed by the American National Standards Institute;
17 and

18 (B) glazing and automotive glass repair that are
19 at least as stringent as national safety standards recognized by
20 the board for glazing and automotive glass repair; and

21 (5) establish continuing education requirements for
22 renewal of each type of license issued under this chapter.

23 Sec. 1306.103. FEES. The board shall set and collect
24 application, license, renewal, and other necessary fees in amounts
25 that are reasonable and necessary to cover the costs of
26 administering and enforcing this chapter.

27 Sec. 1306.104. RULES RESTRICTING ADVERTISING OR

1 COMPETITIVE BIDDING. (a) The board may not adopt rules
2 restricting advertising or competitive bidding by a person
3 regulated by the board except to prohibit false, misleading, or
4 deceptive practices by that person.

5 (b) The board may not include in its rules to prohibit
6 false, misleading, or deceptive practices by a person regulated by
7 the board a rule that:

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

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

11 (3) relates to the size or duration of an
12 advertisement by the person; or

13 (4) restricts the use of a trade name in advertising by
14 the person.

15 Sec. 1306.105. RULES ON CONSEQUENCES OF CRIMINAL
16 CONVICTION. (a) The board shall adopt rules necessary to comply
17 with Chapter 53.

18 (b) In its rules under this section, the board shall list
19 the specific offenses for which a conviction would constitute
20 grounds for the board to take action under Section 53.021.

21 Sec. 1306.106. SUBPOENA. (a) The board may request and,
22 if necessary, compel by subpoena:

23 (1) the attendance of a witness for examination under
24 oath; and

25 (2) the production for inspection and copying of
26 records and other evidence relevant to the investigation of an
27 alleged violation of this chapter.

1 (b) If a person fails to comply with a subpoena issued under
2 this section, the board, acting through the attorney general, may
3 file suit to enforce the subpoena in a district court in Travis
4 County or in the county in which a hearing conducted by the board
5 may be held.

6 (c) The court shall order a person to comply with the
7 subpoena if the court determines that good cause exists for issuing
8 the subpoena.

9 Sec. 1306.107. USE OF TECHNOLOGY. The board shall
10 implement a policy requiring the board to use appropriate
11 technological solutions to improve the board's ability to perform
12 its functions. The policy must ensure that the public is able to
13 interact with the board on the Internet.

14 Sec. 1306.108. NEGOTIATED RULEMAKING AND ALTERNATIVE
15 DISPUTE RESOLUTION POLICY. (a) The board shall develop and
16 implement a policy to encourage the use of:

17 (1) negotiated rulemaking procedures under Chapter
18 2008, Government Code, for the adoption of board rules; and

19 (2) appropriate alternative dispute resolution
20 procedures under Chapter 2009, Government Code, to assist in the
21 resolution of internal and external disputes under the board's
22 jurisdiction.

23 (b) The board's procedures relating to alternative dispute
24 resolution must conform, to the extent possible, to any model
25 guidelines issued by the State Office of Administrative Hearings
26 for the use of alternative dispute resolution by state agencies.

27 (c) The board shall designate a trained person to:

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

3 (2) serve as a resource for any training needed to
4 implement the procedures for negotiated rulemaking or alternative
5 dispute resolution; and

6 (3) collect data concerning the effectiveness of those
7 procedures, as implemented by the board.

8 Sec. 1306.109. COMMITTEES. The board may appoint
9 committees that it considers necessary to carry out its duties.

10 Sec. 1306.110. ANNUAL REPORT. (a) The board shall file
11 annually with the governor and the presiding officer of each house
12 of the legislature a complete and detailed written report
13 accounting for all money received and disbursed by the board during
14 the preceding fiscal year.

15 (b) The annual report must be in the form and be reported in
16 the time provided by the General Appropriations Act.

17 [Sections 1306.111-1306.150 reserved for expansion]

18 SUBCHAPTER D. EXECUTIVE DIRECTOR AND PERSONNEL

19 Sec. 1306.151. EXECUTIVE DIRECTOR. (a) The board shall
20 employ an executive director. The executive director is the
21 executive head of the board and performs its administrative duties.

22 (b) The board shall set the compensation of the executive
23 director.

24 Sec. 1306.152. PERSONNEL. The executive director may
25 employ personnel as necessary to implement this chapter.

26 Sec. 1306.153. EQUAL EMPLOYMENT OPPORTUNITY POLICY.
27 (a) The executive director or the executive director's designee

1 shall prepare and maintain a written policy statement that
2 implements a program of equal employment opportunity to ensure that
3 all personnel decisions are made without regard to race, color,
4 disability, sex, religion, age, or national origin.

5 (b) The policy statement must include:

6 (1) personnel policies, including policies relating
7 to recruitment, evaluation, selection, training, and promotion of
8 personnel, that show the intent of the board to avoid the unlawful
9 employment practices described by Chapter 21, Labor Code; and

10 (2) an analysis of the extent to which the composition
11 of the board's personnel is in accordance with state and federal law
12 and a description of reasonable methods to achieve compliance with
13 state and federal law.

14 (c) The policy statement must:

15 (1) be updated annually;

16 (2) be reviewed by the civil rights division of the
17 Texas Workforce Commission for compliance with Subsection (b)(1);
18 and

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

20 Sec. 1306.154. STATE EMPLOYEE INCENTIVE PROGRAM. The
21 executive director or the executive director's designee shall
22 provide to board employees information and training on the benefits
23 and methods of participation in the state employee incentive
24 program.

25 Sec. 1306.155. DIVISION OF RESPONSIBILITIES. The board
26 shall develop and implement policies that clearly separate the
27 policy-making responsibilities of the board and the management

1 responsibilities of the executive director and the staff of the
2 board.

3 [Sections 1306.156-1306.200 reserved for expansion]

4 SUBCHAPTER E. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

5 Sec. 1306.201. PUBLIC INTEREST INFORMATION. (a) The board
6 shall prepare and disseminate consumer information that describes
7 the regulatory functions of the board and the procedures by which
8 consumer complaints are filed with and resolved by the board.

9 (b) The board shall make the information available to the
10 public and appropriate state agencies.

11 Sec. 1306.202. COMPLAINTS. (a) The board by rule shall
12 establish methods by which consumers and service recipients are
13 notified of the name, mailing address, and telephone number of the
14 board for the purpose of directing complaints to the board. The
15 board may provide for that notice:

16 (1) on each form, application, or written contract for
17 services of a person regulated under this chapter;

18 (2) on a sign prominently displayed in the place of
19 business of each person regulated under this chapter; or

20 (3) in a bill for service provided by a person
21 regulated under this chapter.

22 (b) The board shall list with its regular telephone number
23 any toll-free telephone number established under other state law
24 that may be called to present a complaint about a glass technician.

25 Sec. 1306.203. RECORDS OF COMPLAINTS. (a) The board shall
26 maintain a system to promptly and efficiently act on complaints
27 filed with the board. The board shall maintain:

1 (1) information about the parties to the complaint and
2 the subject matter of the complaint;

3 (2) a summary of the results of the review or
4 investigation of the complaint; and

5 (3) information about the disposition of the
6 complaint.

7 (b) The board shall make information available describing
8 its procedures for complaint investigation and resolution.

9 (c) The board shall periodically notify the parties of the
10 status of the complaint until final disposition of the complaint.

11 Sec. 1306.204. GENERAL RULES REGARDING COMPLAINT
12 INVESTIGATION AND DISPOSITION. The board shall adopt rules
13 concerning the investigation of a complaint filed with the board.
14 The rules must:

15 (1) distinguish between categories of complaints;

16 (2) ensure that complaints are not dismissed without
17 appropriate consideration;

18 (3) require that the board be advised of a complaint
19 that is dismissed and that a letter be sent to the person who filed
20 the complaint explaining the action taken on the dismissed
21 complaint;

22 (4) ensure that the person who files a complaint has an
23 opportunity to explain the allegations made in the complaint; and

24 (5) prescribe guidelines concerning the categories of
25 complaints that require the use of a private investigator and the
26 procedures for the board to obtain the services of a private
27 investigator.

1 Sec. 1306.205. DISPOSITION OF COMPLAINT. (a) The board
2 shall:

3 (1) dispose of each complaint in a timely manner; and
4 (2) establish a schedule for conducting each phase of
5 a complaint that is under the control of the board not later than
6 the 30th day after the date the board receives the complaint.

7 (b) Each party shall be notified of the projected time
8 requirements for pursuing the complaint. The board shall notify
9 each party to the complaint of any change in the schedule
10 established under Subsection (a)(2) not later than the seventh day
11 after the date the change is made.

12 (c) The executive director shall notify the board of a
13 complaint that is not resolved within the time prescribed by the
14 board for resolving the complaint.

15 Sec. 1306.206. PUBLIC PARTICIPATION. (a) The board shall
16 develop and implement policies that provide the public with a
17 reasonable opportunity to appear before the board and to speak on
18 any issue under the board's jurisdiction.

19 (b) The board shall prepare and maintain a written plan that
20 describes how a person who does not speak English may be provided
21 reasonable access to the board's programs.

22 Sec. 1306.207. INFORMAL SETTLEMENT CONFERENCE. The board
23 shall establish guidelines for an informal settlement conference
24 related to a complaint filed with the board.

25 [Sections 1306.208-1306.250 reserved for expansion]

26 SUBCHAPTER F. LICENSING REQUIREMENTS

27 Sec. 1306.251. LICENSE REQUIRED. (a) Except as provided

1 by Section 1306.003, a person may not practice automotive glass
2 work or glazing unless the person holds a license issued by the
3 board under this chapter.

4 (b) Unless a person holds a license issued under this
5 chapter, a person may not use the title or represent or imply the
6 person has the title "licensed automotive glass replacement
7 technician," "licensed automotive glass repair technician," or
8 "licensed glazier."

9 (c) A license issued under this chapter is nontransferable.

10 Sec. 1306.252. ELIGIBILITY REQUIREMENTS. (a) To be
11 eligible for a license under this chapter, an applicant must:

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

13 (2) have successfully completed a primary education
14 through at least the eighth grade or an equivalent educational
15 program;

16 (3) pass the required examination;

17 (4) submit an application on the form prescribed by
18 the board and any other information required by board rule; and

19 (5) pay all required fees.

20 (b) In addition to the requirements under Subsection (a), an
21 applicant applying for an automotive glass replacement technician
22 license must have:

23 (1) successfully completed a training program that is
24 approved by the board and is at least as stringent as the Auto Glass
25 Technical Institute training program developed by the National
26 Glass Association or a similar training program selected by the
27 board; and

1 (2) worked as a trainee in automotive glass
2 replacement work for not less than six months.

3 (c) In addition to the requirements under Subsection (a), an
4 applicant applying for an automotive glass repair technician
5 license must have:

6 (1) successfully completed a windshield repair
7 manufacturer factory training program or other equivalent program
8 approved by the board;

9 (2) worked as a trainee in automotive glass repair
10 work for not less than six months; and

11 (3) performed not less than 200 automotive glass
12 repairs as a trainee.

13 (d) In addition to the requirements under Subsection (a), an
14 applicant applying for a glazier license must have:

15 (1) successfully completed a training program
16 approved by the board that is at least as stringent as the Glass
17 Installer Technical Institute training program developed by the
18 National Glass Association or a similar training program selected
19 by the board and worked as a trainee in glazing for not less than one
20 year; or

21 (2) successfully completed Apprenticeship Training or
22 Journeymen Upgrading in the practice of glazing as part of a program
23 recognized or approved by the United States Department of Labor
24 Bureau of Apprenticeship and Training.

25 Sec. 1306.253. EXAMINATION. An examination required for
26 issuance of a license under this chapter must test entry level
27 knowledge of automotive glass replacement work, automotive glass

1 repair work, or glazing, including OSHA standards and industry
2 safety standards such as the Auto Glass Replacement Safety Standard
3 developed by the American National Standards Institute.

4 Sec. 1306.254. EXAMINATION RESULTS. The board shall notify
5 each applicant of the results of a licensing examination not later
6 than the 30th day after the date the board receives the results of
7 the examination.

8 Sec. 1306.255. REEXAMINATION. (a) An applicant who fails
9 to pass a required examination may not apply to retake the
10 examination before the expiration of one month from the date the
11 applicant is notified of the results of the examination.

12 (b) An applicant who fails to pass the required examination
13 three times may not retake the examination before:

14 (1) the applicant successfully completes the
15 additional training required by the board; and

16 (2) the expiration of 180 days from the date the
17 applicant was notified of the results of the most recent
18 examination.

19 Sec. 1306.256. PROVISIONAL LICENSE. The board may issue a
20 provisional license to an applicant who:

21 (1) holds a license from another state that has
22 license requirements substantially equivalent to those of this
23 state;

24 (2) submits the information required by the board; and

25 (3) pays the required fees.

26 Sec. 1306.257. LICENSE EXPIRATION DATE. (a) An automotive
27 glass replacement technician license and a glazier license issued

1 under this chapter are valid for three years and may be renewed in
2 accordance with this chapter and board rules.

3 (b) An automotive glass repair technician license is valid
4 for five years and may be renewed in accordance with this chapter
5 and board rules.

6 (c) The board by rule may adopt a system under which
7 licenses expire on various dates during the year.

8 (d) For a year in which the license expiration date is
9 changed, license fees payable on January 1 shall be prorated on a
10 monthly basis so that each license holder pays only the portion of
11 the fee that is allocable to the number of months during which the
12 license is valid. On renewal of the license on the new expiration
13 date, the total license renewal fee is payable.

14 Sec. 1306.258. LICENSE RENEWAL. (a) A person may renew an
15 unexpired license by paying the required renewal fee to the board
16 before the expiration date of the license.

17 (b) At least 30 days before the expiration of a person's
18 license, the board shall send written notice of the impending
19 license expiration to the person at the person's last known address
20 according to the board's records.

21 (c) A person whose license has been expired for 90 days or
22 less may renew the license by paying to the board the required
23 renewal fee and an additional fee equal to one-half of the
24 examination fee for the license. If a person's license has been
25 expired for more than 90 days but less than one year, the person may
26 renew the license by paying to the board all unpaid renewal fees and
27 an additional fee equal to the examination fee for the license.

1 [Sections 1306.259-1306.300 reserved for expansion]

2 SUBCHAPTER G. DISCIPLINARY PROCEDURES

3 Sec. 1306.301. GROUNDS FOR DISCIPLINARY ACTION. (a) The
4 board shall revoke, suspend, or refuse to renew a license or shall
5 reprimand a license holder if the license holder:

6 (1) violates this chapter or a rule adopted by the
7 board;

8 (2) performs automotive glass work or glazing in
9 violation of this chapter or a rule adopted by the board;

10 (3) obtains or attempts to obtain a license by fraud or
11 misrepresentation;

12 (4) committed an act that constitutes gross negligence
13 in the auto glass replacement, auto glass repair work, or glazing
14 and that results in injury to another person;

15 (5) engages in dishonorable, unethical, or
16 unprofessional conduct likely to deceive, defraud, or harm the
17 public;

18 (6) is habitually intoxicated or participates in the
19 illegal use of drugs;

20 (7) directly or indirectly gives or receives a fee,
21 commission, rebate, or other compensation for a service regulated
22 by this chapter that is not performed;

23 (8) fails to respond to a written request for
24 information by the board not later than the 60th day after the date
25 the person receives the request;

26 (9) has had a license or certification revoked or
27 suspended or other disciplinary action taken by another state or

1 territory;

2 (10) aids a person not licensed under this chapter in
3 the performance of automotive glass replacement, automotive glass
4 repair work, or glazing that requires a license under this chapter;
5 or

6 (11) makes material misstatements in an application
7 for a license or renewal under this chapter.

8 (b) The board may place on probation a person whose license
9 is suspended. If a license suspension is probated, the board may
10 require the person to:

11 (1) report regularly to the board on matters that are
12 the basis of the probation;

13 (2) limit practice to the areas prescribed by the
14 board; or

15 (3) continue or review professional education or
16 training until the person attains a degree of skill satisfactory to
17 the board in those areas that are the basis of the probation.

18 Sec. 1306.302. HEARING. (a) If the board proposes to
19 revoke or suspend a person's license, the person is entitled to a
20 hearing before the board.

21 (b) A member of the board or employee of the board may
22 communicate directly or indirectly with a party to the proceeding
23 or with the party's representative only if notice and an
24 opportunity to participate are given to each party.

25 Sec. 1306.303. SCHEDULE OF SANCTIONS. (a) The board by
26 rule shall adopt a broad schedule of sanctions for violations under
27 this chapter.

1 (b) The State Office of Administrative Hearings shall use
2 the schedule for any sanction imposed under this chapter as the
3 result of a hearing conducted by that office.

4 Sec. 1306.304. TEMPORARY LICENSE SUSPENSION. (a) The
5 board or a three-member committee of board members designated by
6 the board shall temporarily suspend the license of a license holder
7 if the board or committee determines from the evidence or
8 information presented to it that continued practice by the license
9 holder would constitute a continuing and imminent threat to the
10 public welfare.

11 (b) The board or committee may temporarily suspend a license
12 without notice or hearing under this section if:

13 (1) action is taken to initiate proceedings for a
14 hearing before the board or the State Office of Administrative
15 Hearings simultaneously with the temporary suspension; and

16 (2) a hearing is held as soon as practicable under this
17 chapter and Chapter 2001, Government Code.

18 (c) The board or the State Office of Administrative Hearings
19 shall hold a preliminary hearing on a date not later than the 14th
20 day after the date of the temporary suspension to determine if there
21 is a probable cause to believe that a continuing and imminent threat
22 to the public welfare still exists. A final hearing on the matter
23 shall be held not later than the 60th day after the date of the
24 temporary suspension.

25 Sec. 1306.305. INFORMAL PROCEDURES. (a) The board by rule
26 shall adopt procedures governing:

27 (1) informal disposition of a contested case under

1 Section 2001.056, Government Code; and

2 (2) an informal proceeding held in compliance with
3 Section 2001.054, Government Code.

4 (b) Rules adopted under Subsection (a) must:

5 (1) provide the complainant and the license holder an
6 opportunity to be heard; and

7 (2) require the presence of a representative of the
8 attorney general or the board's legal counsel to advise the board or
9 the board's employees.

10 Sec. 1306.306. ADMINISTRATIVE PROCEDURE. A proceeding to
11 suspend or revoke a license under this subchapter is governed by
12 Chapter 2001, Government Code.

13 Sec. 1306.307. MONITORING OF LICENSE HOLDER. (a) The
14 board by rule shall develop a system for monitoring a license
15 holder's compliance with this chapter.

16 (b) Rules adopted under this section must include
17 procedures to:

18 (1) monitor for compliance a license holder who is
19 ordered by the board to perform certain acts; and

20 (2) identify and monitor license holders who represent
21 a risk to the public.

22 Sec. 1306.308. REFUND. (a) Subject to Subsection (b), the
23 board may order a license holder to pay a refund to a consumer as
24 provided in an agreement resulting from an informal settlement
25 conference instead of or in addition to imposing an administrative
26 penalty under this chapter.

27 (b) The amount of a refund ordered as provided in an

1 agreement resulting from an informal settlement conference may not
2 exceed the amount the consumer paid to the license holder for a
3 service regulated by this chapter. The board may not require
4 payment of other damages or estimate harm in a refund order.

5 [Sections 1306.309-1306.350 reserved for expansion]

6 SUBCHAPTER H. ADMINISTRATIVE PENALTY

7 Sec. 1306.351. IMPOSITION OF ADMINISTRATIVE PENALTY. The
8 board may impose an administrative penalty on a person licensed
9 under this chapter who violates this chapter or a rule or order
10 adopted under this chapter.

11 Sec. 1306.352. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The
12 amount of the administrative penalty may not be less than \$50 or
13 more than \$5,000 for each violation. Each day a violation continues
14 or occurs is a separate violation for the purpose of imposing a
15 penalty.

16 (b) The amount of the penalty shall be based on:

17 (1) the seriousness of the violation, including the
18 nature, circumstances, extent, and gravity of the violation;

19 (2) the economic harm caused by the violation;

20 (3) the history of previous violations;

21 (4) the amount necessary to deter a future violation;

22 (5) efforts to correct the violation; and

23 (6) any other matter that justice may require.

24 (c) The board by rule shall adopt an administrative penalty
25 schedule based on the criteria listed in Subsection (b) for
26 violations of this chapter or board rules to ensure that the amounts
27 of penalties imposed are appropriate to the violation. The board

1 shall provide the administrative penalty schedule to the public on
2 request.

3 Sec. 1306.353. REPORT AND NOTICE OF VIOLATION AND PENALTY.

4 (a) If the board determines that a violation occurred, the board
5 may issue to the board a report stating:

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

7 (2) the board's recommendation on the imposition of an
8 administrative penalty, including a recommendation on the amount of
9 the penalty.

10 (b) Not later than the 14th day after the date the report is
11 issued, the board shall give written notice of the report to the
12 person. The notice must:

13 (1) include a brief summary of the alleged violation;

14 (2) state the amount of the recommended administrative
15 penalty; and

16 (3) inform the person of the person's right to a
17 hearing on the occurrence of the violation, the amount of the
18 penalty, or both.

19 Sec. 1306.354. PENALTY TO BE PAID OR HEARING REQUESTED.

20 (a) Not later than the 10th day after the date the person receives
21 the notice, the person in writing may:

22 (1) accept the determination and recommended
23 administrative penalty of the board; or

24 (2) request a hearing on the occurrence of the
25 violation, the amount of the penalty, or both.

26 (b) If the person accepts the determination and recommended
27 penalty of the board, the board by order shall approve the

1 determination and impose the recommended penalty.

2 Sec. 1306.355. HEARING. (a) If the person requests a
3 hearing or fails to respond in a timely manner to the notice, the
4 board shall set a hearing and give written notice of the hearing to
5 the person.

6 (b) An administrative law judge of the State Office of
7 Administrative Hearings shall hold the hearing. The administrative
8 law judge shall:

9 (1) make findings of fact and conclusions of law; and

10 (2) promptly issue to the board a proposal for a
11 decision about the occurrence of the violation and the amount of any
12 proposed administrative penalty.

13 Sec. 1306.356. DECISION BY BOARD. (a) Based on the
14 findings of fact, conclusions of law, and proposal for decision,
15 the board by order may determine that:

16 (1) a violation occurred and impose an administrative
17 penalty; or

18 (2) a violation did not occur.

19 (b) The notice of the board's order given to the person must
20 include a statement of the right of the person to judicial review of
21 the order.

22 Sec. 1306.357. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

23 (a) Not later than the 30th day after the date the board's order
24 becomes final, the person shall:

25 (1) pay the administrative penalty; or

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

1 (b) Within the 30-day period prescribed by Subsection (a), a
2 person who files a petition for judicial review may:

3 (1) stay enforcement of the penalty by:

4 (A) paying the penalty to the court for placement
5 in an escrow account; or

6 (B) giving the court a supersedeas bond approved
7 by the court and that:

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

9 (ii) is effective until judicial review of
10 the board's order is final; or

11 (2) request the court to stay enforcement of the
12 penalty by:

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

16 (B) giving a copy of the affidavit to the board by
17 certified mail.

18 (c) If the board receives a copy of an affidavit under
19 Subsection (b)(2), the board may file with the court, not later than
20 the fifth day after the date the copy is received, a contest to the
21 affidavit.

22 (d) The court shall hold a hearing on the facts alleged in
23 the affidavit as soon as practicable and shall stay the enforcement
24 of the penalty on finding that the alleged facts are true. The
25 person who files an affidavit has the burden of proving that the
26 person is financially unable to pay the penalty and to give a
27 supersedeas bond.

1 Sec. 1306.358. COLLECTION OF PENALTY. (a) If the person
2 does not pay the administrative penalty and the enforcement of the
3 penalty is not stayed, the penalty may be collected.

4 (b) The attorney general may sue to collect the penalty.

5 Sec. 1306.359. DETERMINATION BY COURT. (a) If a court
6 sustains the determination that a violation occurred, the court may
7 uphold or reduce the amount of the administrative penalty and order
8 the person to pay the full or reduced penalty.

9 (b) If the court does not sustain the finding that a
10 violation occurred, the court shall order that a penalty is not
11 owed.

12 Sec. 1306.360. REMITTANCE OF PENALTY AND INTEREST. (a) If
13 the person paid the administrative penalty and if the amount of the
14 penalty is reduced or the penalty is not upheld by the court, the
15 court shall order, when the court's judgment becomes final, that
16 the appropriate amount plus accrued interest be remitted to the
17 person.

18 (b) The interest accrues at the rate charged on loans to
19 depository institutions by the New York Federal Reserve Bank.

20 (c) The interest shall be paid for the period beginning on
21 the date the penalty is paid and ending on the date the penalty is
22 remitted.

23 Sec. 1306.361. RELEASE OF BOND. (a) If the person gave a
24 supersedeas bond and the penalty is not upheld by the court, the
25 court shall order, when the court's judgment becomes final, the
26 release of the bond.

27 (b) If the person gave a supersedeas bond and the amount of

1 the penalty is reduced, the court shall order the release of the
2 bond after the person pays the reduced amount.

3 Sec. 1306.362. ADMINISTRATIVE PROCEDURE. A proceeding to
4 impose an administrative penalty is considered to be a contested
5 case under Chapter 2001, Government Code.

6 [Sections 1306.363-1306.400 reserved for expansion]

7 SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

8 Sec. 1306.401. INJUNCTIVE RELIEF. (a) The board may
9 commence an action in its own name for an injunction to restrain a
10 violation of this chapter. An action under this section is in
11 addition to any other action authorized by law.

12 (b) The attorney general shall represent the board in an
13 action under this section unless the appropriate county or district
14 attorney, upon request, agrees to represent the board.

15 Sec. 1306.402. CEASE AND DESIST ORDER. (a) If it appears
16 to the board that a person who is not licensed under this chapter is
17 violating this chapter, a rule adopted under this chapter, or
18 another state statute or rule relating to automotive glass work or
19 glazing, the board after notice and opportunity for a hearing may
20 issue a cease and desist order prohibiting the person from engaging
21 in the activity.

22 (b) A violation of an order under this section constitutes
23 grounds for imposing an administrative penalty under this chapter.

24 SECTION 2. (a) Not later than the 90th day after the
25 effective date of this Act, the governor shall make appointments to
26 the Glass Technicians Board of Examiners. In making the initial
27 appointments to the board, the governor shall designate:

1 (1) one professional member, one public member, and
2 one member who is owner or principal of a company for terms expiring
3 January 31, 2007;

4 (2) one professional member, one public member, and
5 one member who is owner or principal of a company for terms expiring
6 January 31, 2009; and

7 (3) one professional member, one public member, and
8 one member who is owner or principal of a company for terms expiring
9 January 31, 2011.

10 (b) For the initial members of the Glass Technicians Board
11 of Examiners, the automotive glass replacement technician members
12 and the glazier members are not required to be licensed under
13 Chapter 1306, Occupations Code, as added by this Act, until
14 September 1, 2006.

15 SECTION 3. Not later than May 1, 2006, the Glass Technicians
16 Board of Examiners shall:

17 (1) adopt rules, procedures, and fees under Chapter
18 1306, Occupations Code, as added by this Act; and

19 (2) contract with a nationally recognized testing
20 organization for the administration of the license examinations
21 required by Section 1306.102, Occupations Code, as added by this
22 Act.

23 SECTION 4. (a) The Glass Technicians Board of Examiners
24 shall issue a license to a qualified applicant under this section
25 who:

26 (1) applies for a license under this section not later
27 than June 1, 2006;

1 (2) submits to the board the information required by
2 board rule;

3 (3) holds a current auto glass repair, auto glass
4 replacement, or glass installer certificate issued by the National
5 Glass Association or other certification approved by the board;

6 (4) is a participant or has successfully completed a
7 United States Department of Labor Bureau of Apprenticeship Training
8 recognized or approved program related to the practice of glazing;
9 and

10 (5) pays the application fee.

11 (b) An applicant for a license under this section must be a
12 certified automotive glass replacement technician, automotive
13 glass repair technician, or glazier on the effective date of this
14 Act.

15 SECTION 5. (a) Except as provided by Subsection (b) of
16 this section, this Act takes effect September 1, 2005.

17 (b) Section 1306.251, Occupations Code, as added by this
18 Act, and Subchapters G, H, and I, Chapter 1306, Occupations Code, as
19 added by this Act, take effect September 1, 2006.