

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 repair technician"  
means a person who holds a license under this chapter to repair  
damaged fixed or moveable glass in a motor vehicle.

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

1           (6) "Licensed glazier" means a person who holds a  
2 license under this chapter to perform glazing.

3           (7) "Trainee" means a person not licensed under this  
4 chapter who performs automotive glass work or glazing under the  
5 supervision of a licensed automotive glass replacement technician,  
6 licensed automotive glass repair technician, or licensed glazier.

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

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

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

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

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

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

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

26                   (B) the instructor does not perform the  
27 automotive glass work or glazing in this state for more than 30 days

1 each calendar year; and

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

4 (4) a trainee performing assigned automotive glass  
5 work or glazing under the direct on-site supervision of a licensed  
6 automotive glass replacement technician, licensed automotive glass  
7 repair technician, or licensed glazier in accordance with this  
8 chapter and board rules;

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

13 (6) a person fabricating glass products;

14 (7) a person installing, maintaining, repairing, or  
15 servicing glass in or around a single-family residence owned and  
16 occupied or to be occupied by the person, subject to any inspection  
17 and approval required by other law;

18 (8) a person that holds the person out to be a retail  
19 seller of glass products and engages in the retail sale of glass  
20 products, if the person does not also engage in automotive glass  
21 work or glazing; and

22 (9) a person who:

23 (A) installs safety-backed mirror products; or

24 (B) repairs or replaces flat glass in residential  
25 buildings that does not exceed 30 square feet.

26 Sec. 1306.004. APPLICATION OF SUNSET ACT. The Glass  
27 Technicians Board of Examiners is subject to Chapter 325,

1 Government Code (Texas Sunset Act). Unless continued in existence  
2 as provided by that chapter, the board is abolished September 1,  
3 2017.

4 [Sections 1306.005-1306.050 reserved for expansion]

5 SUBCHAPTER B. GLASS TECHNICIANS BOARD OF EXAMINERS

6 Sec. 1306.051. BOARD; MEMBERSHIP. (a) The Glass  
7 Technicians Board of Examiners consists of nine members appointed  
8 by the governor with the advice and consent of the senate as  
9 follows:

10 (1) one licensed automotive glass replacement  
11 technician;

12 (2) one member who is an owner or principal of a  
13 company engaged in the business of replacing automotive glass;

14 (3) one licensed automotive glass repair technician;

15 (4) one member who is an owner or principal of a  
16 company engaged in the business of repairing automotive glass;

17 (5) one licensed glazier;

18 (6) one member who is an owner or principal of a  
19 company engaged in the business of glazing; and

20 (7) three members who represent the public.

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

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

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

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

4           (2) is employed by or participates in the management  
5 of a business entity or other organization regulated by the board or  
6 receiving funds from the board;

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

11           (4) uses or receives a substantial amount of tangible  
12 goods, services, or money from the board, other than compensation  
13 or reimbursement authorized by law for board membership,  
14 attendance, or expenses.

15           Sec. 1306.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
16 In this section, "Texas trade association" means a cooperative and  
17 voluntarily joined association of business or professional  
18 competitors in this state designed to assist its members and its  
19 industry or profession in dealing with mutual business or  
20 professional problems and in promoting their common interest.

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

26           (1) the person is an officer, employee, manager, or  
27 paid consultant of a Texas trade association in the field of

1 automotive glass work or glazing; or

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

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

10 Sec. 1306.054. TERMS; VACANCIES. (a) Members of the board  
11 serve staggered six-year terms. The terms of three members expire  
12 on January 31 of each odd-numbered year.

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

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

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

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

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

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

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

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

3           (3) is ineligible for membership under Section  
4 1306.053;

5           (4) cannot, because of illness or disability,  
6 discharge the member's duties for a substantial part of the member's  
7 term; or

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

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

15           (c) If the executive director has knowledge that a potential  
16 ground for removal of a board member exists, the executive director  
17 shall notify the presiding officer of the board of the potential  
18 ground. The presiding officer shall then notify the governor and  
19 the attorney general that a potential ground for removal exists. If  
20 the potential ground for removal involves the presiding officer,  
21 the executive director shall notify the next highest officer of the  
22 board, who shall notify the governor and the attorney general that a  
23 potential ground for removal exists.

24           Sec. 1306.058. TRAINING. (a) A person who is appointed to  
25 and qualifies for office as a member of the board may not vote,  
26 deliberate, or be counted as a member in attendance at a meeting of  
27 the board until the person completes a training program that

1 complies with this section.

2 (b) The training program must provide the person with  
3 information regarding:

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

6 (2) the results of the most recent formal audit of the  
7 board;

8 (3) the requirements of laws relating to open  
9 meetings, public information, administrative procedure, and  
10 conflict of interest; and

11 (4) any applicable ethics policies adopted by the  
12 board or the Texas Ethics Commission.

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

18 Sec. 1306.059. QUALIFICATIONS AND STANDARDS OF CONDUCT  
19 INFORMATION. The executive director or the executive director's  
20 designee shall provide to members of the board, as often as  
21 necessary, information regarding their:

22 (1) qualifications for office under this chapter; and

23 (2) responsibilities under applicable laws relating  
24 to standards of conduct for state officers.

25 Sec. 1306.060. REIMBURSEMENT. A board member is entitled  
26 to reimbursement for expenses as provided by the General  
27 Appropriations Act.



1       Sec. 1306.061. APPLICATION OF OPEN MEETINGS, OPEN RECORDS,  
2 AND ADMINISTRATIVE PROCEDURE LAWS. Except as provided by this  
3 chapter, the board is subject to Chapters 551, 552, and 2001,  
4 Government Code.

5       [Sections 1306.062-1306.100 reserved for expansion]

6               SUBCHAPTER C. BOARD POWERS AND DUTIES

7       Sec. 1306.101. RULES. The board shall adopt rules  
8 consistent with this chapter for the administration of this chapter  
9 and the operation of the board.

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

11               (1) evaluate the qualifications of license applicants  
12 and issue licenses to qualified applicants;

13               (2) contract with a nationally recognized testing  
14 organization, such as the National Glass Association or another  
15 organization whose examination is determined by the board to be at  
16 least as stringent as the applicable examination given by the  
17 National Glass Association, to develop and administer to applicants  
18 who apply for a license under this chapter a written automotive  
19 glass replacement technician examination, automotive glass repair  
20 technician examination, or glazier examination;

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

23               (4) by rule establish safety standards in accordance  
24 with accepted industry standards for:

25                       (A) automotive glass replacement that are at  
26 least as stringent as the 2002 Auto Glass Replacement Safety  
27 Standards developed by the American National Standards Institute;

1 and

2 (B) glazing and automotive glass repair that are  
3 at least as stringent as national safety standards recognized by  
4 the board for glazing and automotive glass repair; and

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

7 Sec. 1306.103. FEES. The board shall set and collect  
8 application, license, renewal, and other necessary fees in amounts  
9 that are reasonable and necessary to cover the costs of  
10 administering and enforcing this chapter.

11 Sec. 1306.104. RULES RESTRICTING ADVERTISING OR  
12 COMPETITIVE BIDDING. (a) The board may not adopt rules restricting  
13 advertising or competitive bidding by a person regulated by the  
14 board except to prohibit false, misleading, or deceptive practices  
15 by that person.

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

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

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

22 (3) relates to the size or duration of an  
23 advertisement by the person; or

24 (4) restricts the use of a trade name in advertising by  
25 the person.

26 Sec. 1306.105. RULES ON CONSEQUENCES OF CRIMINAL  
27 CONVICTION. (a) The board shall adopt rules necessary to comply

1 with Chapter 53.

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

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

7 (1) the attendance of a witness for examination under  
8 oath; and

9 (2) the production for inspection and copying of  
10 records and other evidence relevant to the investigation of an  
11 alleged violation of this chapter.

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

17 (c) The court shall order a person to comply with the  
18 subpoena if the court determines that good cause exists for issuing  
19 the subpoena.

20 Sec. 1306.107. USE OF TECHNOLOGY. The board shall  
21 implement a policy requiring the board to use appropriate  
22 technological solutions to improve the board's ability to perform  
23 its functions. The policy must ensure that the public is able to  
24 interact with the board on the Internet.

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

1           (1) negotiated rulemaking procedures under Chapter  
2 2008, Government Code, for the adoption of board rules; and

3           (2) appropriate alternative dispute resolution  
4 procedures under Chapter 2009, Government Code, to assist in the  
5 resolution of internal and external disputes under the board's  
6 jurisdiction.

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

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

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

14           (2) serve as a resource for any training needed to  
15 implement the procedures for negotiated rulemaking or alternative  
16 dispute resolution; and

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

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

21           Sec. 1306.110. ANNUAL REPORT. (a) The board shall file  
22 annually with the governor and the presiding officer of each house  
23 of the legislature a complete and detailed written report  
24 accounting for all money received and disbursed by the board during  
25 the preceding fiscal year.

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

1 [Sections 1306.111-1306.150 reserved for expansion]

2 SUBCHAPTER D. EXECUTIVE DIRECTOR AND PERSONNEL

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

6 (b) The board shall set the compensation of the executive  
7 director.

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

10 Sec. 1306.153. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a)  
11 The executive director or the executive director's designee shall  
12 prepare and maintain a written policy statement that implements a  
13 program of equal employment opportunity to ensure that all  
14 personnel decisions 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 to recruitment, evaluation, selection, training, and promotion of  
19 personnel, that show the intent of the board to avoid the unlawful  
20 employment practices described by Chapter 21, Labor Code; and

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

25 (c) The policy statement must:

26 (1) be updated annually;

27 (2) be reviewed by the civil rights division of the

1 Texas Workforce Commission for compliance with Subsection (b)(1);  
2 and

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

4 Sec. 1306.154. STATE EMPLOYEE INCENTIVE PROGRAM. The  
5 executive director or the executive director's designee shall  
6 provide to commission employees information and training on the  
7 benefits and methods of participation in the state employee  
8 incentive program.

9 Sec. 1306.155. DIVISION OF RESPONSIBILITIES. The board  
10 shall develop and implement policies that clearly separate the  
11 policy-making responsibilities of the board and the management  
12 responsibilities of the executive director and the staff of the  
13 board.

14 [Sections 1306.156-1306.200 reserved for expansion]

15 SUBCHAPTER E. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

16 Sec. 1306.201. PUBLIC INTEREST INFORMATION. (a) The board  
17 shall prepare and disseminate consumer information that describes  
18 the regulatory functions of the board and the procedures by which  
19 consumer complaints are filed with and resolved by the board.

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

22 Sec. 1306.202. COMPLAINTS. (a) The board by rule shall  
23 establish methods by which consumers and service recipients are  
24 notified of the name, mailing address, and telephone number of the  
25 board for the purpose of directing complaints to the board. The  
26 board may provide for that notice:

27 (1) on each form, application, or written contract for

1 services of a person regulated under this chapter;

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

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

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

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

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

14 (2) a summary of the results of the review or  
15 investigation of the complaint; and

16 (3) information about the disposition of the  
17 complaint.

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

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

22 Sec. 1306.204. GENERAL RULES REGARDING COMPLAINT  
23 INVESTIGATION AND DISPOSITION. The board shall adopt rules  
24 concerning the investigation of a complaint filed with the board.  
25 The rules must:

26 (1) distinguish between categories of complaints;

27 (2) ensure that complaints are not dismissed without

1 appropriate consideration;

2 (3) require that the board be advised of a complaint  
3 that is dismissed and that a letter be sent to the person who filed  
4 the complaint explaining the action taken on the dismissed  
5 complaint;

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

8 (5) prescribe guidelines concerning the categories of  
9 complaints that require the use of a private investigator and the  
10 procedures for the board to obtain the services of a private  
11 investigator.

12 Sec. 1306.205. DISPOSITION OF COMPLAINT. (a) The board  
13 shall:

14 (1) dispose of each complaint in a timely manner; and

15 (2) establish a schedule for conducting each phase of  
16 a complaint that is under the control of the board not later than  
17 the 30th day after the date the board receives the complaint.

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

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

26 Sec. 1306.206. PUBLIC PARTICIPATION. (a) The board shall  
27 develop and implement policies that provide the public with a



1 reasonable opportunity to appear before the board and to speak on  
2 any issue under the board's jurisdiction.

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

6 Sec. 1306.207. INFORMAL SETTLEMENT CONFERENCE. The board  
7 shall establish guidelines for an informal settlement conference  
8 related to a complaint filed with the board.

9 [Sections 1306.208-1306.250 reserved for expansion]

10 SUBCHAPTER F. LICENSING REQUIREMENTS

11 Sec. 1306.251. LICENSE REQUIRED. (a) Except as provided by  
12 Section 1306.003, a person may not practice automotive glass work  
13 or glazing unless the person holds a license issued by the board  
14 under this chapter.

15 (b) Unless a person holds a license issued under this  
16 chapter, a person may not use the title or represent or imply the  
17 person has the title "licensed automotive glass replacement  
18 technician," "licensed automotive glass repair technician," or  
19 "licensed glazier."

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

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

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

24 (2) have successfully completed a primary education  
25 through at least the eighth grade or an equivalent educational  
26 program;

27 (3) pass the required examination;

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

3           (5) pay all required fees.

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

7           (1) successfully completed a training program that is  
8 approved by the board and is at least as stringent as the Auto Glass  
9 Technical Institute training program developed by the National  
10 Glass Association or a similar training program selected by the  
11 board; and

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

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

17           (1) successfully completed a windshield repair  
18 manufacturer factory training program or other equivalent program  
19 approved by the board;

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

22           (3) performed not less than 200 automotive glass  
23 repairs as a trainee.

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

26           (1) successfully completed a training program  
27 approved by the board that is at least as stringent as the Glass

1 Installer Technical Institute training program developed by the  
2 National Glass Association or a similar training program selected  
3 by the board; and

4 (2) worked as a trainee in glazing for not less than  
5 one year.

6 Sec. 1306.253. EXAMINATION. An examination required for  
7 issuance of a license under this chapter must test entry level  
8 knowledge of automotive glass replacement work, automotive glass  
9 repair work, or glazing, including OSHA standards and industry  
10 safety standards such as the Auto Glass Replacement Safety Standard  
11 developed by the American National Standards Institute.

12 Sec. 1306.254. EXAMINATION RESULTS. The board shall notify  
13 each applicant of the results of a licensing examination not later  
14 than the 30th day after the date the board receives the results of  
15 the examination.

16 Sec. 1306.255. REEXAMINATION. (a) An applicant who fails  
17 to pass a required examination may not apply to retake the  
18 examination before the expiration of one month from the date the  
19 applicant is notified of the results of the examination.

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

22 (1) the applicant successfully completes the  
23 additional training required by the board; and

24 (2) the expiration of 180 days from the date the  
25 applicant was notified of the results of the most recent  
26 examination.

27 Sec. 1306.256. PROVISIONAL LICENSE. The board may issue a

1 provisional license to an applicant who:

2 (1) holds a license from another state that has  
3 license requirements substantially equivalent to those of this  
4 state;

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

6 (3) pays the required fees.

7 Sec. 1306.257. LICENSE EXPIRATION DATE. (a) An automotive  
8 glass replacement technician license and a glazier license issued  
9 under this chapter are valid for three years and may be renewed in  
10 accordance with this chapter and board rules.

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

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

16 (d) For a year in which the license expiration date is  
17 changed, license fees payable on January 1 shall be prorated on a  
18 monthly basis so that each license holder pays only the portion of  
19 the fee that is allocable to the number of months during which the  
20 license is valid. On renewal of the license on the new expiration  
21 date, the total license renewal fee is payable.

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

25 (b) At least 30 days before the expiration of a person's  
26 license, the board shall send written notice of the impending  
27 license expiration to the person at the person's last known address

1 according to the board's records.

2 (c) A person whose license has been expired for 90 days or  
3 less may renew the license by paying to the board the required  
4 renewal fee and an additional fee equal to one-half of the  
5 examination fee for the license. If a person's license has been  
6 expired for more than 90 days but less than one year, the person may  
7 renew the license by paying to the board all unpaid renewal fees and  
8 an additional fee equal to the examination fee for the license.

9 [Sections 1306.259-1306.300 reserved for expansion]

10 SUBCHAPTER G. DISCIPLINARY PROCEDURES

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

14 (1) violates this chapter or a rule adopted by the  
15 board;

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

18 (3) obtains or attempts to obtain a license by fraud or  
19 misrepresentation;

20 (4) has been convicted of a felony;

21 (5) committed an act that constitutes gross negligence  
22 in the auto glass replacement, auto glass repair work, or glazing  
23 and that results in injury to another person;

24 (6) engages in dishonorable, unethical, or  
25 unprofessional conduct likely to deceive, defraud, or harm the  
26 public;

27 (7) is habitually intoxicated or participates in the

1 illegal use of drugs;

2 (8) directly or indirectly gives or receives a fee,  
3 commission, rebate, or other compensation for a service regulated  
4 by this chapter that is not performed;

5 (9) fails to respond to a written request for  
6 information by the board not later than the 60th day after the date  
7 the person receives the request;

8 (10) has had a license or certification revoked or  
9 suspended or other disciplinary action taken by another state or  
10 territory;

11 (11) aids a person not licensed under this chapter in  
12 the performance of automotive glass replacement, automotive glass  
13 repair work, or glazing that requires a license under this chapter;  
14 or

15 (12) makes material misstatements in an application  
16 for a license or renewal under this chapter.

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

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

22 (2) limit practice to the areas prescribed by the  
23 board; or

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

27 Sec. 1306.302. HEARING. (a) If the board proposes to

1 revoke or suspend a person's license, the person is entitled to a  
2 hearing before the board.

3 (b) A member of the board or employee of the department may  
4 communicate directly or indirectly with a party to the proceeding  
5 or with the party's representative only if notice and an  
6 opportunity to participate are given to each party.

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

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

13 Sec. 1306.304. TEMPORARY LICENSE SUSPENSION. (a) The  
14 board or a three-member committee of board members designated by  
15 the board shall temporarily suspend the license of a license holder  
16 if the board or committee determines from the evidence or  
17 information presented to it that continued practice by the license  
18 holder would constitute a continuing and imminent threat to the  
19 public welfare.

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

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

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

27 (c) The board or the State Office of Administrative Hearings

1 shall hold a preliminary hearing on a date not later than the 14th  
2 day after the date of the temporary suspension to determine if there  
3 is a probable cause to believe that a continuing and imminent threat  
4 to the public welfare still exists. A final hearing on the matter  
5 shall be held not later than the 60th day after the date of the  
6 temporary suspension.

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

9 (1) informal disposition of a contested case under  
10 Section 2001.056, Government Code; and

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

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

14 (1) provide the complainant and the license holder an  
15 opportunity to be heard; and

16 (2) require the presence of a representative of the  
17 attorney general or the department's legal counsel to advise the  
18 board or the department's employees.

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

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

25 (b) Rules adopted under this section must include  
26 procedures to:

27 (1) monitor for compliance a license holder who is



1 ordered by the board to perform certain acts; and

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

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

9 (b) The amount of a refund ordered as provided in an  
10 agreement resulting from an informal settlement conference may not  
11 exceed the amount the consumer paid to the license holder for a  
12 service regulated by this chapter. The board may not require  
13 payment of other damages or estimate harm in a refund order.

14 [Sections 1306.309-1306.350 reserved for expansion]

15 SUBCHAPTER H. ADMINISTRATIVE PENALTY

16 Sec. 1306.351. IMPOSITION OF ADMINISTRATIVE PENALTY. The  
17 board may impose an administrative penalty on a person licensed  
18 under this chapter who violates this chapter or a rule or order  
19 adopted under this chapter.

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

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

26 (1) the seriousness of the violation, including the  
27 nature, circumstances, extent, and gravity of the violation;

- (2) the economic harm caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

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

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

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

- (1) the facts on which the determination is based; and
- (2) the board's recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

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

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended administrative penalty; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

1       Sec. 1306.354. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
2 Not later than the 10th day after the date the person receives the  
3 notice, the person in writing may:

4           (1) accept the determination and recommended  
5 administrative penalty of the board; or

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

8       (b) If the person accepts the determination and recommended  
9 penalty of the board, the board by order shall approve the  
10 determination and impose the recommended penalty.

11       Sec. 1306.355. HEARING. (a) If the person requests a  
12 hearing or fails to respond in a timely manner to the notice, the  
13 board shall set a hearing and give written notice of the hearing to  
14 the person.

15       (b) An administrative law judge of the State Office of  
16 Administrative Hearings shall hold the hearing. The administrative  
17 law judge shall:

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

19           (2) promptly issue to the board a proposal for a  
20 decision about the occurrence of the violation and the amount of any  
21 proposed administrative penalty.

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

25           (1) a violation occurred and impose an administrative  
26 penalty; or

27           (2) a violation did not occur.

1        (b) The notice of the board's order given to the person must  
2 include a statement of the right of the person to judicial review of  
3 the order.

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

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

7                (1) pay the administrative penalty; or

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

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

12                (1) stay enforcement of the penalty by:

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

15                        (B) giving the court a supersedeas bond approved  
16 by the court and that:

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

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

20                (2) request the court to stay enforcement of the  
21 penalty by:

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

25                        (B) giving a copy of the affidavit to the board by  
26 certified mail.

27        (c) If the board receives a copy of an affidavit under

1 Subsection (b)(2), the board may file with the court, not later than  
2 the fifth day after the date the copy is received, a contest to the  
3 affidavit.

4 (d) The court shall hold a hearing on the facts alleged in  
5 the affidavit as soon as practicable and shall stay the enforcement  
6 of the penalty on finding that the alleged facts are true. The  
7 person who files an affidavit has the burden of proving that the  
8 person is financially unable to pay the penalty and to give a  
9 supersedeas bond.

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

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

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

18 (b) If the court does not sustain the finding that a  
19 violation occurred, the court shall order that a penalty is not  
20 owed.

21 Sec. 1306.360. REMITTANCE OF PENALTY AND INTEREST. (a) If  
22 the person paid the administrative penalty and if the amount of the  
23 penalty is reduced or the penalty is not upheld by the court, the  
24 court shall order, when the court's judgment becomes final, that  
25 the appropriate amount plus accrued interest be remitted to the  
26 person.

27 (b) The interest accrues at the rate charged on loans to

1 depository institutions by the New York Federal Reserve Bank.

2 (c) The interest shall be paid for the period beginning on  
3 the date the penalty is paid and ending on the date the penalty is  
4 remitted.

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

9 (b) If the person gave a supersedeas bond and the amount of  
10 the penalty is reduced, the court shall order the release of the  
11 bond after the person pays the reduced amount.

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

15 [Sections 1306.363-1306.400 reserved for expansion]

16 SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

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

21 (b) The attorney general or the appropriate county or  
22 district attorney shall represent the board in an action under this  
23 section.

24 Sec. 1306.402. CEASE AND DESIST ORDER. (a) If it appears  
25 to the board that a person who is not licensed under this chapter is  
26 violating this chapter, a rule adopted under this chapter, or  
27 another state statute or rule relating to automotive glass work or

1 glazing, the board after notice and opportunity for a hearing may  
2 issue a cease and desist order prohibiting the person from engaging  
3 in the activity.

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

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

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

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

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

19 (b) For the initial members of the Glass Technicians Board  
20 of Examiners, the automotive glass replacement technician, the  
21 automotive glass repair technician, and the glazier members are not  
22 required to be licensed under Chapter 1306, Occupations Code, as  
23 added by this Act, until September 1, 2006.

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

26 (1) adopt rules, procedures, and fees under Chapter  
27 1306, Occupations Code, as added by this Act; and

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

5           SECTION 4. (a) The Glass Technicians Board of Examiners  
6 shall issue a license to a qualified applicant under this section  
7 who:

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

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

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

15           (4) pays the application fee.

16           (b) An applicant for a license under this section must be a  
17 certified automotive glass replacement technician, automotive  
18 glass repair technician, or glazier on the effective date of this  
19 Act.

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

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