

By: Whitmire

S.B. No. 411

A BILL TO BE ENTITLED

AN ACT

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

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

7 ARTICLE 1. TEXAS BOARD OF BARBERING AND COSMETOLOGY

8 SECTION 1.01. Title 9, Occupations Code, is amended by  
9 adding Chapter 1603 to read as follows:

10 CHAPTER 1603. TEXAS BOARD OF BARBERING AND COSMETOLOGY

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 1603.001. GENERAL DEFINITIONS. (a) In this chapter:

13 (1) "Board" means the Texas Board of Barbering and  
14 Cosmetology.

15 (2) "Executive director" means the executive director  
16 of the board.

17 (b) Unless the context clearly indicates otherwise, the  
18 definitions in Chapters 1601 and 1602 apply to this chapter.

19 Sec. 1603.002. APPLICATION OF SUNSET ACT. (a) The Texas  
20 Board of Barbering and Cosmetology is subject to Chapter 325,  
21 Government Code (Texas Sunset Act). Unless continued in existence  
22 as provided by that chapter, the board is abolished and this  
23 chapter, Chapter 1601, and Chapter 1602 expire September 1, 2009.

24 (b) In the review of the board by the Sunset Advisory

1 Commission, as required by this section, the commission shall limit  
2 its review to the appropriateness of recommendations made by the  
3 commission to the 79th Legislature. In the Sunset Advisory  
4 Commission's report to the 81st Legislature, the commission may  
5 include any recommendation it considers appropriate.

6 [Sections 1603.003-1603.050 reserved for expansion]

7 SUBCHAPTER B. TEXAS BOARD OF BARBERING AND COSMETOLOGY

8 Sec. 1603.051. BOARD; MEMBERSHIP. (a) The Texas Board of  
9 Barbering and Cosmetology consists of nine members appointed by the  
10 governor as follows:

11 (1) three barber members, one of whom must be a Class A  
12 barber certificate holder, one of whom must be a barbershop permit  
13 holder, and one of whom must be a barber school permit holder;

14 (2) three cosmetologist members, one of whom must be  
15 an operator license holder, one of whom must be a beauty or  
16 specialty shop license holder, and one of whom must be a private  
17 beauty culture school license holder; and

18 (3) three public members.

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

22 Sec. 1603.052. MEMBER ELIGIBILITY. (a) To qualify as a  
23 board member, a person must:

24 (1) be a United States citizen;

25 (2) be at least 25 years of age; and

26 (3) unless the person is a public member, have been  
27 actively engaged in the field of barbering or cosmetology that is

1 the basis of the person's qualification for office under Section  
2 1603.051 for not less than the five years preceding appointment.

3 (b) A person may not be a public member of the board if the  
4 person or the person's spouse:

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

7 (2) is employed by or participates in the management  
8 of a business entity or other organization regulated by or  
9 receiving money from the board;

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

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

17 (c) An operator license holder is not eligible for  
18 appointment as a board member if the license holder has a direct or  
19 indirect affiliation with or a financial or other interest in a  
20 private beauty culture school or beauty shop.

21 (d) A beauty shop license holder is not eligible for  
22 appointment as a board member if the license holder has a direct or  
23 indirect affiliation with or a financial or other interest in a  
24 private beauty culture school.

25 (e) A private beauty culture school license holder is not  
26 eligible for appointment as a board member if the license holder has  
27 a direct or indirect affiliation with or a financial or other

1 interest in a beauty shop.

2 Sec. 1603.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
3 In this section, "Texas trade association" means a cooperative and  
4 voluntarily joined statewide association of business or  
5 professional competitors in this state designed to assist its  
6 members and its industry or profession in dealing with mutual  
7 business or professional problems and in promoting their common  
8 interest.

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

15 (1) the person is an officer, employee, or paid  
16 consultant of a Texas trade association in the field of barbering or  
17 cosmetology; or

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

21 (c) A person may not be a member of the board or act as the  
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. 1603.054. TERMS; VACANCY. (a) Board members serve  
27 staggered six-year terms, with three members' terms expiring on

1 February 1 of each odd-numbered year.

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

4 Sec. 1603.055. GROUNDS FOR REMOVAL. (a) It is a ground for  
5 removal from the board that a member:

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

8 (2) does not maintain during service on the board the  
9 qualifications required by Section 1603.051;

10 (3) is ineligible for membership under Section  
11 1603.052 or 1603.053;

12 (4) cannot, because of illness or disability,  
13 discharge the member's duties for a substantial part of the member's  
14 term; or

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

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

22 (c) If the executive director has knowledge that a potential  
23 ground for removal exists, the executive director shall notify the  
24 presiding officer of the board of the potential ground. The  
25 presiding officer shall then notify the governor and the attorney  
26 general that a potential ground for removal exists. If the  
27 potential ground for removal involves the presiding officer, the

1 executive director shall notify the next highest ranking officer of  
2 the board, who shall then notify the governor and the attorney  
3 general that a potential ground for removal exists.

4 Sec. 1603.056. PER DIEM; REIMBURSEMENT. (a) A board member  
5 is entitled to the per diem set by the General Appropriations Act.

6 (b) A board member is entitled to reimbursement for travel  
7 expenses in accordance with the General Appropriations Act.

8 (c) A board member who seeks reimbursement for expenses  
9 shall present a sworn, complete itemized statement of the number of  
10 days engaged in the board's business and the amount of expenses  
11 incurred by the member.

12 Sec. 1603.057. PRESIDING OFFICER. The governor shall  
13 designate a public member of the board as the presiding officer of  
14 the board to serve in that capacity at the will of the governor.

15 Sec. 1603.058. MEETINGS. (a) The board shall meet at least  
16 once each year.

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

19 Sec. 1603.059. BOARD MEMBER TRAINING. (a) A person who is  
20 appointed to and qualifies for office as a member of the board may  
21 not vote, deliberate, or be counted as a member in attendance at a  
22 meeting of the board until the person completes a training program  
23 that complies with this section.

24 (b) The training program must provide the person with  
25 information regarding:

26 (1) this chapter, Chapters 1601 and 1602, and the  
27 programs, functions, rules, and budget of the board;

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

3           (3) the requirements of laws relating to open  
4 meetings, public information, administrative procedure, and  
5 conflicts of interest; and

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

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

13           [Sections 1603.060-1603.100 reserved for expansion]

14           SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL

15           Sec. 1603.101. EXECUTIVE DIRECTOR. (a) The board shall  
16 employ an executive director. The executive director is the  
17 executive head of the board and performs its administrative duties.

18           (b) The board shall set the compensation of the executive  
19 director.

20           Sec. 1603.102. PERSONNEL. The executive director may  
21 employ personnel as necessary to implement this chapter.

22           Sec. 1603.103. DIVISION OF RESPONSIBILITIES. The board  
23 shall develop and implement policies that clearly separate the  
24 policy-making responsibilities of the board and the management  
25 responsibilities of the executive director and the staff of the  
26 board.

27           [Sections 1603.104-1603.150 reserved for expansion]

SUBCHAPTER D. BOARD POWERS AND DUTIES

Sec. 1603.151. RULES. The board shall adopt rules consistent with this chapter for:

(1) the administration of this chapter and the operation of the board; and

(2) the administration of Chapters 1601 and 1602.

Sec. 1603.152. FEES. The board shall adopt fees in amounts that are reasonable and necessary to provide sufficient revenue to administer the programs under the board's authority, including application, examination, inspection, certificate, license, permit, and renewal fees.

Sec. 1603.153. SANITATION RULES. The board shall establish sanitation rules to prevent the spread of an infectious or contagious disease.

Sec. 1603.154. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by that person.

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

(1) restricts the use of any advertising medium;

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

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



1           (4) restricts the use of a trade name in advertising by  
2 the person.

3           Sec. 1603.155. INSPECTION OF SCHOOLS, SHOPS, AND FACILITIES  
4 BEFORE OPERATION. (a) Until the board determines, by inspection,  
5 that the person has established the school, shop, or facility in  
6 compliance with this chapter, Chapter 1601, or Chapter 1602, a  
7 person may not operate a school, shop, or other facility licensed or  
8 permitted under this chapter, Chapter 1601, or Chapter 1602.

9           (b) A school, shop, or other facility that is not approved  
10 by the board on initial inspection may be reinspected.

11           (c) The school, shop, or other facility shall pay for each  
12 inspection.

13           Sec. 1603.156. PERIODIC AND RISK-BASED INSPECTIONS. (a)  
14 The board may enter and inspect at any time during business hours:

15           (1) the place of business of any person regulated  
16 under this chapter, Chapter 1601, or Chapter 1602; or

17           (2) any place in which the board has probable cause to  
18 believe that a certificate, license, or permit holder is practicing  
19 illegally.

20           (b) At least once every two years, the board shall inspect:

21           (1) the place of business of each permit holder under  
22 Chapter 1601; and

23           (2) each facility licensed under Subchapter G, Chapter  
24 1602.

25           (c) The board may inspect the premises of any person  
26 regulated under this chapter, Chapter 1601, or Chapter 1602 to  
27 investigate a complaint at any time during business hours on

1 receipt of a formal written complaint that the person has violated  
2 this chapter, Chapter 1601, or Chapter 1602.

3 (d) The board shall set priorities for inspections based on  
4 the risk of:

5 (1) a sanitation violation; and

6 (2) a new violation due to the person's inspection and  
7 complaint history.

8 (e) If an inspector discovers a violation of this chapter,  
9 Chapter 1601, Chapter 1602, or a board rule, the inspector shall:

10 (1) provide written notice of the violation to the  
11 violator on a form prescribed by the board; and

12 (2) file a complaint with the executive director.

13 Sec. 1603.157. USE OF TECHNOLOGY. The board shall  
14 implement a policy requiring the board to use appropriate  
15 technological solutions to improve the board's ability to perform  
16 its functions. The policy must ensure that the public is able to  
17 interact with the board on the Internet.

18 Sec. 1603.158. NEGOTIATED RULEMAKING AND ALTERNATIVE  
19 DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and  
20 implement a policy to encourage the use of:

21 (1) negotiated rulemaking procedures under Chapter  
22 2008, Government Code, for the adoption of board rules; and

23 (2) appropriate alternative dispute resolution  
24 procedures under Chapter 2009, Government Code, to assist in the  
25 resolution of internal and external disputes under the board's  
26 jurisdiction.

27 (b) The board's procedures relating to alternative dispute

1 resolution must conform, to the extent possible, to any model  
2 guidelines issued by the State Office of Administrative Hearings  
3 for the use of alternative dispute resolution by state agencies.

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

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

7 (2) serve as a resource for any training needed to  
8 implement the procedures for negotiated rulemaking or alternative  
9 dispute resolution; and

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

12 Sec. 1603.159. RETENTION OF STUDENT RECORDS. The board may  
13 not retain student records, including student transcripts, beyond  
14 the time required by state law.

15 Sec. 1603.160. COMMITTEES. The board may appoint  
16 committees that it considers necessary to carry out its duties.

17 [Sections 1603.161-1603.200 reserved for expansion]

18 SUBCHAPTER E. PUBLIC PARTICIPATION AND COMPLAINT PROCEDURES

19 Sec. 1603.201. PUBLIC INTEREST INFORMATION AND  
20 PARTICIPATION. (a) The board shall develop and implement policies  
21 that provide the public with a reasonable opportunity to appear  
22 before the board and to speak on any issue under the jurisdiction of  
23 the board.

24 (b) The board shall prepare information of public interest  
25 describing the functions of the board. The board shall make the  
26 information available to the public and appropriate state agencies.

27 (c) The board by rule shall establish methods by which

1 consumers and service recipients are notified of the name, mailing  
2 address, and telephone number of the board for the purpose of  
3 directing complaints to the board. The board may provide for that  
4 notice:

5 (1) on each registration form, application, or written  
6 contract for services of a person regulated under this chapter,  
7 Chapter 1601, or Chapter 1602;

8 (2) on a sign prominently displayed in the place of  
9 business of each person regulated under this chapter, Chapter 1601,  
10 or Chapter 1602; or

11 (3) in a bill for service provided by a person  
12 regulated under this chapter, Chapter 1601, or Chapter 1602.

13 Sec. 1603.202. COMPLAINT PROCEDURES. (a) The board shall  
14 adopt a comprehensive procedure for receiving and adjudicating  
15 complaints from consumers and service recipients. The procedures  
16 must address each phase of the complaint process, including  
17 complaint intake, preliminary evaluation, investigation,  
18 adjudication, penalties, and public disclosure.

19 (b) The board shall maintain a system to promptly and  
20 efficiently act on complaints filed with the board. The board shall  
21 maintain:

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

24 (2) a summary of the results of the review or  
25 investigation of the complaint; and

26 (3) information about the disposition of the  
27 complaint.

1       (c) The board shall make information available describing  
2 its procedures for complaint investigation and resolution.

3       (d) The board shall periodically notify the parties of the  
4 status of the complaint until final disposition of the complaint.

5       (e) If the board determines that it lacks jurisdiction to  
6 resolve the complaint, the board shall notify the complainant in  
7 writing that the board is closing the complaint because it lacks  
8 jurisdiction.

9       Sec. 1603.203. ANALYSIS OF COMPLAINTS AND VIOLATIONS. (a)  
10 The board shall develop and maintain a system to analyze the  
11 processing, sources, and types of complaints filed with the board  
12 and the types of violations that occur under this chapter, Chapter  
13 1601, and Chapter 1602.

14       (b) Based on the information under Subsection (a), the board  
15 shall analyze trends in violations and complaints that may require  
16 further attention or technical assistance to help reduce the  
17 frequency of those complaints and violations.

18       (c) The board shall annually compile a statistical analysis  
19 of the complaints filed and violations occurring during the  
20 preceding year, including:

21               (1) the number of complaints filed;

22               (2) a categorization of complaints filed according to  
23 the basis of the complaint and the number of complaints in each  
24 category;

25               (3) the number of complaints filed by board staff;

26               (4) the number of complaints filed by persons other  
27 than board staff;

1           (5) the number of complaints filed over which the  
2 board lacks jurisdiction;

3           (6) the average length of time required to close a  
4 complaint or violation from the time the board receives the  
5 complaint or otherwise initiates an investigation of a possible  
6 violation until the complaint or violation is resolved by a final  
7 order or penalty;

8           (7) the number of complaints resolved and the manner  
9 in which they were resolved, including:

10           (A) the number of complaints dismissed and the  
11 reasons for dismissal; and

12           (B) the number of complaints resulting in  
13 disciplinary action and the type of disciplinary action taken; and

14           (8) the number of complaints filed that are  
15 unresolved, the number of those complaints filed by board staff,  
16 the number of those complaints filed by persons other than board  
17 staff, and the average length of time that the unresolved  
18 complaints have been on file.

19           Sec. 1603.204. INFORMAL SETTLEMENT CONFERENCE. The board  
20 shall establish guidelines for an informal settlement conference  
21 related to a complaint filed with the board.

22           [Sections 1603.205-1603.250 reserved for expansion]

23           SUBCHAPTER F. CERTIFICATE, LICENSE, AND PERMIT REQUIREMENTS

24           Sec. 1603.251. APPLICATION FORM; TIMING. (a) An  
25 application for a certificate, license, or permit must be made on a  
26 form prescribed and provided by the board.

27           (b) An application for an operator license, instructor

1 license, manicurist license, or facialist specialty license must be  
2 filed with the board not later than the 10th day before the date set  
3 for the applicable examination.

4 Sec. 1603.252. DUPLICATE CERTIFICATE, LICENSE, OR PERMIT.  
5 The board shall issue a duplicate certificate, license, or permit  
6 to an applicant who:

7 (1) submits an application for a duplicate  
8 certificate, license, or permit to the board; and

9 (2) pays the required fee.

10 Sec. 1603.253. PROVISIONAL CERTIFICATE OR LICENSE. (a)  
11 The board may issue a provisional certificate or license to an  
12 applicant currently licensed in another jurisdiction who seeks a  
13 certificate or license in this state and who:

14 (1) has been licensed in good standing in the  
15 profession for which the person seeks the certificate or license  
16 for at least two years in another jurisdiction, including a foreign  
17 country, that has requirements substantially equivalent to the  
18 requirements of this chapter, Chapter 1601, or Chapter 1602, as  
19 appropriate; and

20 (2) has passed a national or other examination  
21 recognized by the board relating to the practice of that  
22 profession.

23 (b) A provisional certificate or license is valid until the  
24 date the board approves or denies the provisional certificate or  
25 license holder's application. The board shall issue a certificate  
26 or license to the provisional certificate or license holder if:

27 (1) the provisional certificate or license holder is

1 eligible to hold a certificate or license under Chapter 1601 or  
2 Chapter 1602; or

3 (2) the provisional certificate or license holder  
4 passes the part of the examination under Chapter 1601 or Chapter  
5 1602 that relates to the applicant's knowledge and understanding of  
6 the laws and rules relating to the practice of the profession in  
7 this state and:

8 (A) the board verifies that the provisional  
9 certificate or license holder meets the academic and experience  
10 requirements for the certificate or license; and

11 (B) the provisional certificate or license  
12 holder satisfies any other certificate or license requirements.

13 (c) The board must approve or deny a provisional certificate  
14 or license holder's application for a certificate or license not  
15 later than the 180th day after the date the provisional certificate  
16 or license is issued. The board may extend the 180-day period if  
17 the results of an examination have not been received by the board  
18 before the end of that period.

19 Sec. 1603.254. RECIPROCAL CERTIFICATE, LICENSE, OR PERMIT.

20 (a) A person who holds a license, certificate, or permit to  
21 practice barbering or cosmetology from another state or country  
22 that has standards or work experience requirements that are  
23 substantially equivalent to the requirements of this chapter,  
24 Chapter 1601, or Chapter 1602 may apply for a license, certificate,  
25 or permit to perform the same acts of barbering or cosmetology in  
26 this state that the person practiced in the other state or country.

27 (b) The person must:



1           (1) submit an application for the license,  
2 certificate, or permit to the board; and

3           (2) pay fees in an amount prescribed by the board,  
4 including any applicable license, certificate, or permit fee.

5           (c) A person issued a license, certificate, or permit under  
6 this section:

7           (1) may perform the acts of barbering or cosmetology  
8 stated on the license, certificate, or permit; and

9           (2) is subject to the renewal procedures and fees  
10 provided in this chapter, Chapter 1601, or Chapter 1602 for the  
11 performance of those acts of barbering or cosmetology.

12           [Sections 1603.255-1603.300 reserved for expansion]

13           SUBCHAPTER G. EXAMINATION REQUIREMENTS

14           Sec. 1603.301. WRITTEN EXAMINATION. The board shall select  
15 a written examination for each examination required under this  
16 chapter, Chapter 1601, or Chapter 1602. The written examination  
17 must be:

18           (1) validated by an independent testing professional;  
19 or

20           (2) purchased from a national testing service.

21           Sec. 1603.302. EXAMINATION APPLICATION FOR BARBERS. An  
22 applicant for an examination for a certificate or license issued  
23 under Chapter 1601 must submit to the board a sworn application on a  
24 form prescribed and provided by the board accompanied by:

25           (1) two photographs of the applicant, one of which  
26 accompanies the application and one of which is to be returned to  
27 the applicant to be presented at the examination; and

1           (2) the appropriate examination fee.

2           Sec. 1603.303. EXAMINATION FREQUENCY. (a) The board shall  
3 examine applicants for a Class A barber certificate and a teacher's  
4 certificate at least four times annually, at times and places  
5 designated by the board.

6           (b) The board shall administer examinations for  
7 certificates and licenses issued under Chapter 1602 beginning the  
8 first day of each month. If the first day of the month is a legal  
9 holiday, the examination shall begin on the following day.

10          Sec. 1603.304. LOCATION OF EXAMINATION. (a) The board  
11 shall announce the site of an examination for a certificate or  
12 license issued under Chapter 1602 not later than six months before  
13 the scheduled examination date.

14          (b) The board may not administer an examination in a board  
15 member's school.

16          (c) An examination may not be held at a barber school or  
17 barbershop owned, managed, or operated by a board member.

18          Sec. 1603.305. EARLY EXAMINATION. (a) The board, on  
19 written request by a student, may provide for the early written  
20 examination of an applicant for a Class A barber certificate, a  
21 teacher's certificate, or an operator license who has completed at  
22 least 1,000 hours of instruction in a board-approved training  
23 program.

24          (b) A board inspector may administer an examination under  
25 this section at barber schools or beauty culture schools throughout  
26 the state.

27          Sec. 1603.306. EXAMINATION RESULTS. (a) The board shall

1 notify each examinee of the results of the examination not later  
2 than the 30th day after the date an examination is administered. If  
3 an examination is graded or reviewed by a national testing service,  
4 the board shall notify each examinee of the results of the  
5 examination not later than the 14th day after the date the board  
6 receives the results from the testing service.

7 (b) If the notice of examination results graded or reviewed  
8 by a national testing service will be delayed for longer than 90  
9 days after the examination date, the board shall notify each  
10 examinee of the reason for the delay before the 90th day.

11 (c) If requested in writing by a person who fails the  
12 examination, the board shall provide to the person an analysis of  
13 the person's performance on the examination.

14 [Sections 1603.307-1603.350 reserved for expansion]

15 SUBCHAPTER H. CERTIFICATE, LICENSE, AND PERMIT RENEWAL

16 Sec. 1603.351. CERTIFICATE, LICENSE, AND PERMIT EXPIRATION  
17 AND RENEWAL. (a) A person who is otherwise eligible to renew a  
18 certificate, license, or permit may renew the unexpired  
19 certificate, license, or permit by paying the required renewal fee  
20 to the board before the expiration date of the certificate,  
21 license, or permit. A person whose certificate, license, or permit  
22 has expired may not engage in activities that require a  
23 certificate, license, or permit until the certificate, license, or  
24 permit has been renewed.

25 (b) A person whose certificate, license, or permit has been  
26 expired for 90 days or less may renew the certificate, license, or  
27 permit by paying to the board a renewal fee that is equal to 1-1/2

1 times the normally required renewal fee.

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

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

12 Sec. 1603.352. RENEWAL OF EXPIRED CERTIFICATE, LICENSE, OR  
13 PERMIT BY OUT-OF-STATE PRACTITIONER. A person who held a  
14 certificate, license, or permit in this state, moved to another  
15 state, and is currently licensed and has been in practice in the  
16 other state for the two years preceding the date of application may  
17 obtain a new certificate, license, or permit without reexamination.  
18 The person must pay to the board a fee that is equal to two times the  
19 normally required renewal fee for the certificate, license, or  
20 permit.

21 Sec. 1603.353. NOTICE OF CERTIFICATE, LICENSE, OR PERMIT  
22 EXPIRATION. Not later than the 30th day before the date a person's  
23 certificate, license, or permit is scheduled to expire, the board  
24 shall send written notice of the impending expiration to the person  
25 at the person's last known address according to the records of the  
26 board.

27 Sec. 1603.354. DENIAL OF RENEWAL DUE TO ADMINISTRATIVE

1 PENALTY. The board may deny a person's request to renew a  
2 certificate, license, or permit issued under this chapter, Chapter  
3 1601, or Chapter 1602 if the person has not paid an administrative  
4 penalty imposed under Subchapter K. This section does not apply if:

5 (1) the person's time to pay or request a hearing has  
6 not expired under Section 1603.504;

7 (2) the person has requested a hearing under Section  
8 1603.504, but the person's time to pay has not expired under Section  
9 1603.507; or

10 (3) the penalty is stayed.

11 [Sections 1603.355-1603.400 reserved for expansion]

12 SUBCHAPTER I. PRACTICE PROVISIONS APPLICABLE TO  
13 CHAPTERS 1601 AND 1602

14 Sec. 1603.401. MINIMUM CURRICULUM FOR SCHOOLS. The board  
15 shall prescribe the minimum curriculum, including the subjects and  
16 the number of hours in each subject, taught by a school licensed  
17 under this chapter, Chapter 1601, or Chapter 1602, including a  
18 private beauty culture school or a vocational cosmetology program  
19 in a public school.

20 [Sections 1603.402-1603.450 reserved for expansion]

21 SUBCHAPTER J. DENIAL AND DISCIPLINARY PROCEDURES

22 Sec. 1603.451. DENIAL, SUSPENSION, OR REVOCATION. The  
23 board shall deny an application for issuance or renewal of, or shall  
24 suspend or revoke, a certificate, license, or permit if the  
25 applicant or person holding the certificate, license, or permit:

26 (1) engages in gross malpractice;

27 (2) knowingly continues to practice while having an

1 infectious or contagious disease;

2 (3) knowingly makes a false or deceptive statement in  
3 advertising;

4 (4) advertises, practices, or attempts to practice  
5 under another person's name or trade name;

6 (5) engages in fraud or deceit in obtaining a  
7 certificate, license, or permit; or

8 (6) engages in an act that violates this chapter,  
9 Chapter 1601, or Chapter 1602 or a board rule or order.

10 Sec. 1603.452. PROBATION. (a) The board may place on  
11 probation a person whose certificate, license, or permit is  
12 suspended. If a suspension is probated, the board may require the  
13 person to:

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

16 (2) limit practice to the areas prescribed by the  
17 board; or

18 (3) continue or review professional education until  
19 the person attains a degree of skill satisfactory to the board in  
20 those areas that are the basis of the probation.

21 (b) The board by rule shall adopt clear probation standards  
22 and procedures, including procedures for:

23 (1) imposing appropriate probation requirements;

24 (2) notifying persons on probation of probation  
25 requirements and the actions necessary to meet the requirements;  
26 and

27 (3) tracking the progress of persons on probation.

1       Sec. 1603.453. ADMINISTRATIVE PROCEDURE. A hearing or an  
2 appeal from a hearing under this subchapter is subject to Chapter  
3 2001, Government Code.

4       [Sections 1603.454-1603.500 reserved for expansion]

5               SUBCHAPTER K. ADMINISTRATIVE PENALTIES

6       Sec. 1603.501. IMPOSITION OF PENALTY. The board may impose  
7 an administrative penalty on a person regulated under this chapter,  
8 Chapter 1601, or Chapter 1602 who violates one of those chapters or  
9 a board rule or order.

10       Sec. 1603.502. AMOUNT OF PENALTY. (a) The amount of the  
11 administrative penalty may not exceed \$1,000 for each violation.  
12 Each day a violation continues or occurs is a separate violation for  
13 purposes of imposing a penalty.

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

15               (1) the seriousness of the violation, including:

16                       (A) the nature, circumstance, extent, and  
17 gravity of any prohibited act; and

18                       (B) the hazard or potential hazard created to the  
19 health, safety, or economic welfare of the public;

20               (2) the economic harm to property or the environment  
21 caused by the violation;

22               (3) the history of previous violations;

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

24               (5) efforts made to correct the violation; and

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

26       Sec. 1603.503. REPORT AND NOTICE OF VIOLATION AND PENALTY.

27       (a) If the executive director determines that a violation has

1 occurred, the executive director may issue to the board a report  
2 stating:

- 3 (1) the facts on which the determination is based; and  
4 (2) the executive director's recommendation on the  
5 imposition of an administrative penalty, including a  
6 recommendation on the amount of the penalty.

7 (b) Not later than the 14th day after the date the report is  
8 issued, the executive director shall give written notice of the  
9 report to the person on whom the penalty may be imposed. The notice  
10 may be given by certified mail. The notice must:

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

16 Sec. 1603.504. PENALTY TO BE PAID OR HEARING REQUESTED. (a)  
17 Not later than the 20th day after the date the person receives the  
18 notice, the person in writing may:

- 19 (1) accept the executive director's determination and  
20 recommended administrative penalty; or  
21 (2) make a request for a hearing on the occurrence of  
22 the violation, the amount of the penalty, or both.

23 (b) If the person accepts the executive director's  
24 determination and recommended penalty, the board by order shall  
25 approve the determination and impose the recommended penalty.

26 Sec. 1603.505. HEARING. (a) An administrative law judge of  
27 the State Office of Administrative Hearings shall hold a hearing



1 requested under Section 1603.504.

2 (b) The administrative law judge shall make findings of fact  
3 and conclusions of law and promptly issue to the board a proposal  
4 for decision as to the occurrence of the violation and the amount of  
5 any proposed administrative penalty.

6 Sec. 1603.506. DECISION BY BOARD. (a) Based on the  
7 findings of fact, conclusions of law, and proposal for a decision,  
8 the board by order may determine that:

9 (1) a violation occurred and impose an administrative  
10 penalty; or

11 (2) a violation did not occur.

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

15 Sec. 1603.507. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

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

18 (1) pay the administrative penalty;

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

22 (3) without paying the penalty, file a petition for  
23 judicial review contesting the occurrence of the violation, the  
24 amount of the penalty, or both.

25 (b) Within the 30-day period, a person who acts under  
26 Subsection (a)(3) may:

27 (1) stay enforcement of the penalty by:

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

3                   (B) giving to the court a supersedeas bond  
4 approved by the court for the amount of the penalty that is  
5 effective until all judicial review of the board's order is final;  
6 or

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

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

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

14                   (c) If the executive director receives a copy of an  
15 affidavit under Subsection (b)(2), the executive director may file  
16 with the court a contest to the affidavit not later than the fifth  
17 day after the date the copy is received.

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

24                   Sec. 1603.508. COLLECTION OF PENALTY. If the person on whom  
25 the administrative penalty is imposed does not pay the penalty and  
26 the enforcement of the penalty is not stayed, the executive  
27 director may refer the matter to the attorney general for

1 collection of the penalty.

2 Sec. 1603.509. DECISION BY COURT. (a) If the court  
3 sustains the finding that a violation occurred, the court may  
4 uphold or reduce the amount of the administrative penalty and order  
5 the person to pay the full or reduced amount of the penalty.

6 (b) If the court does not sustain the finding that a  
7 violation occurred, the court shall order that a penalty is not  
8 owed.

9 Sec. 1603.510. REMITTANCE OF PENALTY AND INTEREST. (a) If,  
10 after judicial review, the administrative penalty is reduced or not  
11 imposed by the court, the court shall, after the judgment becomes  
12 final:

13 (1) order that the appropriate amount, plus accrued  
14 interest, be remitted to the person if the person paid the penalty;  
15 or

16 (2) order the release of the bond if the penalty is not  
17 imposed or order the release of the bond after the person pays the  
18 penalty if the person posted a supersedeas bond.

19 (b) The interest paid under Subsection (a)(1) is the rate  
20 charged on loans to depository institutions by the New York Federal  
21 Reserve Bank. The interest shall be paid for the period beginning  
22 on the date the penalty is paid and ending on the date the penalty is  
23 remitted.

24 Sec. 1603.511. ADMINISTRATIVE PROCEDURE. A proceeding  
25 under this subchapter to impose an administrative penalty is a  
26 contested case under Chapter 2001, Government Code.

27 [Sections 1603.512-1603.550 reserved for expansion]

1           SUBCHAPTER L. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

2           Sec. 1603.551. INJUNCTIVE RELIEF. (a) The board may bring  
3 an action in a district court in Travis County to enjoin a person  
4 from violating this chapter, Chapter 1601, Chapter 1602, or a board  
5 rule.

6           (b) If a certificate, license, or permit holder commits a  
7 violation of one of those chapters or a board rule and the violation  
8 poses a serious threat to the public health, the board shall  
9 initiate a suit for injunction and proceedings for suspension or  
10 revocation of the certificate, license, or permit.

11           (c) In seeking an injunction under this section, the board  
12 is not required to allege or prove:

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

14                   (2) that substantial or irreparable damage would  
15 result from the continued violation.

16           Sec. 1603.552. CIVIL PENALTY. (a) A barber, barber school,  
17 or private beauty culture school that violates this chapter,  
18 Chapter 1601, Chapter 1602, or a board rule is liable for a civil  
19 penalty in addition to any injunctive relief or other remedy  
20 provided by law.

21           (b) The amount of the civil penalty for a barber may not  
22 exceed \$25 a day for each violation.

23           (c) The amount of the civil penalty for a barber school or  
24 private beauty culture school may not exceed \$1,000 a day for each  
25 violation.

26           (d) The attorney general may sue to collect the civil  
27 penalty.

1       Sec. 1603.553. APPEAL BOND NOT REQUIRED. The board is not  
2 required to give an appeal bond in a cause arising under this  
3 chapter, Chapter 1601, or Chapter 1602.

4       Sec. 1603.554. ENFORCEMENT BY ATTORNEY GENERAL. The  
5 attorney general shall represent the board in an action to enforce  
6 this chapter, Chapter 1601, or Chapter 1602.

7       [Sections 1603.555-1603.600 reserved for expansion]

8               SUBCHAPTER M. BUSINESS IMPROVEMENT PLAN

9       Sec. 1603.601. BUSINESS IMPROVEMENT PLAN. (a) The board  
10 shall adopt and implement a business improvement plan.

11       (b) The plan must demonstrate a commitment to and result in  
12 significant improvement in:

13               (1) the elimination of any backlogs in inspection and  
14 enforcement, including resolution of complaints and pending  
15 enforcement cases; and

16               (2) the implementation of:

17                       (A) legislation passed affecting the board;

18                       (B) management recommendations by the Sunset  
19 Advisory Commission; and

20                       (C) recommendations of the State Auditor's  
21 Office.

22       Sec. 1603.602. QUARTERLY REPORTS. (a) Not later than  
23 December 1, 2005, the board shall provide to the Sunset Advisory  
24 Commission and state auditor an initial assessment report regarding  
25 the implementation of the business improvement plan. Additional  
26 reports are due each quarter, beginning March 1, 2006.

27       (b) The board shall prepare the reports in a format

1 specified by the Sunset Advisory Commission and shall include in  
2 the reports specific information demonstrating the progress made by  
3 the board in implementing the goals and objectives of the business  
4 improvement plan.

5 Sec. 1603.603. MANAGEMENT AUDIT. Not later than September  
6 1, 2006, the state auditor shall conduct a management audit of the  
7 board and deliver the audit report to the governor, the lieutenant  
8 governor, the speaker of the house of representatives, and the  
9 Sunset Advisory Commission. The audit report may include any  
10 matter related to the management audit, but must include an  
11 evaluation of:

12 (1) the board's business improvement plan, including  
13 implementation of the plan; and

14 (2) compliance with the recommendations of the state  
15 auditor and Sunset Advisory Commission.

16 Sec. 1603.604. EXPIRATION. This subchapter expires June 1,  
17 2009.

18 ARTICLE 2. REGULATION OF BARBERING

19 SECTION 2.01. Section 1601.001(a)(3), Occupations Code, is  
20 amended to read as follows:

21 (3) "Board" means the Texas [State] Board of Barbering  
22 and Cosmetology [Barber Examiners].

23 SECTION 2.02. Section 1601.003, Occupations Code, is  
24 amended to read as follows:

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

27 (1) does not represent or advertise to the public

1 directly or indirectly that the person is authorized by the board to  
2 practice barbering; and

3 (2) is:

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

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

8 (C) a person regulated under Chapter 1602, if the  
9 person practices within the scope of a permit, license, or  
10 certificate issued by the board under that chapter [~~Texas~~  
11 ~~Cosmetology Commission~~]; or

12 (D) an inmate in the institutional division of  
13 the Texas Department of Criminal Justice who performs barbering  
14 during the person's incarceration.

15 SECTION 2.03. Section 1601.253(b), Occupations Code, is  
16 amended to read as follows:

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

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

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

23 (3) pays the required [a] fee [~~not to exceed \$100~~]; and

24 (4) possesses the other qualifications required by  
25 this chapter.

26 SECTION 2.04. Sections 1601.254(a) and (c), Occupations  
27 Code, are amended to read as follows:

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

2 (1) be a Class A barber;

3 (2) have at least five years' experience as a  
4 practicing barber in a barbershop, two years of which occurred in  
5 the two years preceding the application date; and

6 (3) submit the required [~~an~~] examination fee [~~not to~~  
7 ~~exceed \$100~~] with the application.

8 (c) The board shall issue a teacher's certificate to an  
9 applicant who:

10 (1) passes the appropriate examination; and

11 (2) pays the required [~~a~~] certificate fee [~~not to~~  
12 ~~exceed~~].

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

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

21 SECTION 2.05. Sections 1601.256(b) and (d), Occupations  
22 Code, are amended to read as follows:

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

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

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

27 (3) have completed a course of instruction in a



1 board-approved training program consisting of not less than 300  
2 hours in a period of not less than eight weeks; and

3 (4) submit the required [~~a \$10 administration~~] fee  
4 with the application.

5 (d) The board shall issue a barber technician license to an  
6 applicant who:

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

9 (2) passes the appropriate examination;

10 (3) pays the required [~~a~~] license fee [~~not to exceed~~  
11 ~~\$100~~]; and

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

14 SECTION 2.06. Sections 1601.257(b) and (c), Occupations  
15 Code, are amended to read as follows:

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

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

18 (2) have completed the seventh grade or the equivalent  
19 of the seventh grade;

20 (3) have completed a board-approved training program  
21 consisting of 600 hours of instruction in manicuring; and

22 (4) submit the required [~~a \$10 administration~~] fee  
23 with the application.

24 (c) The board shall issue a manicurist license to an  
25 applicant who:

26 (1) possesses the qualifications described by  
27 Subsection (b);

- 1 (2) passes the appropriate examination;
- 2 (3) pays the required [~~a~~] license fee [~~not to exceed~~
- 3 ~~\$30~~]; and
- 4 (4) has not committed an act that is a ground for
- 5 denial of a license.

6 SECTION 2.07. Section 1601.260(a), Occupations Code, is

7 amended to read as follows:

8 (a) An applicant for a permit to be a student in a barber

9 school must:

- 10 (1) submit an enrollment application to the board in
- 11 the form prescribed by the board;
- 12 (2) have completed the seventh grade;
- 13 (3) satisfy other requirements specified by the board;
- 14 and
- 15 (4) submit with the application the required [~~a~~]
- 16 nonrefundable application fee [~~in an amount not to exceed \$25~~].

17 SECTION 2.08. Section 1601.302(a), Occupations Code, is

18 amended to read as follows:

19 (a) A person who opens a new barbershop shall submit, not

20 later than the third day after the date the shop opens, an

21 application to the board for a temporary barbershop permit

22 accompanied by the required [~~an~~] inspection fee [~~not to exceed~~

23 ~~\$70~~].

24 SECTION 2.09. Section 1601.304(b), Occupations Code, is

25 amended to read as follows:

26 (b) An applicant for a manicurist specialty shop permit must

27 submit:

- 1           (1) an application that includes:
- 2                 (A) the shop's address;
- 3                 (B) the legal description of the premises for
- 4 which the permit is sought; and
- 5                 (C) any other information required by the board;
- 6 and
- 7           (2) the required ~~[an]~~ inspection fee ~~[in an amount not~~
- 8 ~~to exceed \$50]~~.

9           SECTION 2.10. Section 1601.305, Occupations Code, is

10 amended to read as follows:

11           Sec. 1601.305. ISSUANCE OF MANICURIST SPECIALTY SHOP

12 PERMIT. The board shall issue a permanent manicurist specialty

13 shop permit to an applicant if:

- 14                 (1) the applicant holds a manicurist license; and
- 15                 (2) the shop meets the minimum health standards for
- 16 manicurist specialty shops set by the board, as determined by a
- 17 board inspection under Section 1603.155, and any other requirements
- 18 imposed by board rule.

19           SECTION 2.11. Section 1601.309, Occupations Code, is

20 amended to read as follows:

21           Sec. 1601.309. PRACTICE BY COSMETOLOGIST AT SPECIALTY SHOP

22 PROHIBITED. A person who holds a license, permit, or certificate

23 issued by the board under Chapter 1602 ~~[Texas Cosmetology~~

24 ~~Commission]~~ may not practice under that authority at a specialty

25 shop regulated under this chapter.

26           SECTION 2.12. Section 1601.353(b), Occupations Code, is

27 amended to read as follows:

1 (b) An applicant for a barber school permit must submit to  
2 the board:

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

6 (2) photographs of the proposed site for the school,  
7 including the interior and exterior of the building, rooms, and  
8 departments;

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

10 (4) a copy of the catalogue and promotional literature  
11 of the school;

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

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

16 (7) the required [a] permit fee [~~not to exceed~~  
17 ~~\$1,000~~].

18 SECTION 2.13. Section 1601.402(c), Occupations Code, is  
19 amended to read as follows:

20 (c) The board shall issue a renewal certificate or license  
21 on receipt of a renewal application in the form prescribed by the  
22 board, accompanied by a renewal fee in an amount equal to the  
23 original certificate or license fee [~~but not to exceed \$100~~].

24 SECTION 2.14. The heading to Section 1601.404, Occupations  
25 Code, is amended to read as follows:

26 Sec. 1601.404. [~~RENEWAL OR~~] REINSTATEMENT OF EXPIRED  
27 CERTIFICATE OR LICENSE BY RETIREE.

1 SECTION 2.15. Section 1601.404(c), Occupations Code, is  
2 amended to read as follows:

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

7 (1) making a proper showing to the board, supported by  
8 a personal affidavit;

9 (2) paying the required ~~[an]~~ examination fee ~~[not to~~  
10 ~~exceed \$100]~~;

11 (3) passing a satisfactory examination conducted by  
12 the board; and

13 (4) paying the fee for an original certificate or  
14 license.

15 SECTION 2.16. Section 1601.405(b), Occupations Code, is  
16 amended to read as follows:

17 (b) The board shall issue a renewal certificate or license  
18 on application and payment of the required ~~[a]~~ renewal fee not later  
19 than the 90th day after the date the person is released or  
20 discharged from active duty in the armed forces. ~~[The renewal fee~~  
21 ~~is:~~

22 ~~[(1) \$10 if the application and payment are made~~  
23 ~~during the period beginning November 1 of an odd-numbered year and~~  
24 ~~ending October 31 of the following year; or~~

25 ~~[(2) \$5 if the application and payment are made during~~  
26 ~~the period beginning November 1 of an even-numbered year and ending~~  
27 ~~October 31 of the following year.]~~

1 SECTION 2.17. Section 1601.406, Occupations Code, is  
2 amended to read as follows:

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

7 (b) A barbershop permit holder may renew the permit by  
8 paying the required [a] renewal fee [~~not to exceed \$70~~].

9 (c) A specialty shop permit holder may renew the permit by  
10 submitting to the board a renewal application accompanied by the  
11 required [a] renewal fee [~~not to exceed \$50~~].

12 SECTION 2.18. Section 1601.407, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1601.407. RENEWAL OF BARBER SCHOOL PERMIT. (a) A  
15 barber school permit expires on the first anniversary [~~September 1~~]  
16 of the date of issuance [~~each year~~].

17 (b) A barber school may renew its permit by paying the  
18 required [a] renewal fee [~~not to exceed \$300~~].

19 SECTION 2.19. Section 1601.454, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1601.454. PRACTICE AT FACILITY LICENSED OR PERMITTED  
22 AS BARBER AND COSMETOLOGIST FACILITY [~~BY BOARD AND TEXAS~~  
23 ~~COSMETOLOGY COMMISSION~~]. (a) The board may not adopt rules to

24 restrict or prohibit practice by a Class A barber or manicurist in a  
25 facility solely because the facility is licensed or permitted by

26 [~~both~~] the board under both this chapter and Chapter 1602 [~~and the~~  
27 ~~Texas Cosmetology Commission~~].

1 (b) If a facility has a license or permit under both this  
2 chapter and Chapter 1602 [~~the board and the Texas Cosmetology~~  
3 ~~Commission license or permit the same facility~~], the board may not  
4 adopt rules requiring separate treatment of the barbers and  
5 cosmetologists practicing in the facility or of their customers,  
6 including separate:

7 (1) work areas for barbers and cosmetologists;

8 (2) waiting areas for customers of the barbers and  
9 cosmetologists; or

10 (3) restrooms for the barbers and cosmetologists  
11 practicing in the facility or for their customers.

12 SECTION 2.20. Section 1601.502, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1601.502. SUPERVISION OF BARBERSHOP. A person may not  
15 operate a barbershop unless:

16 (1) the shop is at all times under the exclusive  
17 supervision and management of a Class A barber; and

18 (2) no person is practicing on the premises by  
19 authority of a license, permit, or certificate issued by the board  
20 under Chapter 1602 [~~Texas Cosmetology Commission~~], except as  
21 allowed by other law.

22 SECTION 2.21. Sections 1601.561(a) and (b), Occupations  
23 Code, are amended to read as follows:

24 (a) A barber school shall maintain [~~submit~~] a monthly  
25 progress report [~~to the board~~] regarding each student attending the  
26 school. The report must certify the daily attendance record of each  
27 student and the number of credit hours earned by each student during

1 the previous month.

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

6 ARTICLE 3. REGULATION OF COSMETOLOGY

7 SECTION 3.01. Section 1602.001(1), Occupations Code, is  
8 amended to read as follows:

9 (1) "Board" [~~"Commission"~~] means the Texas Board of  
10 Barbering and Cosmetology [~~Commission~~].

11 SECTION 3.02. The heading to Subchapter D, Chapter 1602,  
12 Occupations Code, is amended to read as follows:

13 SUBCHAPTER D. ADDITIONAL POWERS AND DUTIES RELATED TO COSMETOLOGY

14 SECTION 3.03. Sections 1602.153(a) and (b), Occupations  
15 Code, are amended to read as follows:

16 (a) The board [~~commission~~] may request and, if necessary,  
17 compel by subpoena:

18 (1) the attendance of a witness for examination under  
19 oath; and

20 (2) the production for inspection and copying of  
21 records and other evidence relevant to the investigation of an  
22 alleged violation of this chapter.

23 (b) If a person fails to comply with a subpoena issued under  
24 this section, the board [~~commission~~], acting through the attorney  
25 general, may file suit to enforce the subpoena in a district court  
26 in Travis County or in the county in which a hearing conducted by  
27 the board [~~commission~~] may be held.



1 SECTION 3.04. Section 1602.251(c), Occupations Code, is  
2 amended to read as follows:

3 (c) A person licensed by the board [~~commission~~] may practice  
4 cosmetology only at a facility operated by a person holding a beauty  
5 shop license, private beauty culture school license, or other  
6 license issued by the board [~~commission~~].

7 SECTION 3.05. Section 1602.254(b), Occupations Code, is  
8 amended to read as follows:

9 (b) To be eligible for an operator license, an applicant  
10 must:

11 (1) be at least 17 years of age;

12 (2) have obtained a high school diploma or the  
13 equivalent of a high school diploma or have passed a valid  
14 examination administered by a certified testing agency that  
15 measures the person's ability to benefit from training; and

16 (3) have completed:

17 (A) 1,500 hours of instruction in a licensed  
18 beauty culture school; or

19 (B) 1,000 hours of instruction in beauty culture  
20 courses and 500 hours of related high school courses prescribed by  
21 the board [~~commission~~] in a vocational cosmetology program in a  
22 public school.

23 SECTION 3.06. Sections 1602.255(b) and (c), Occupations  
24 Code, are amended to read as follows:

25 (b) To be eligible for an instructor license, an applicant  
26 must:

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

1 (2) have completed the 12th grade or its equivalent;

2 (3) hold an operator license; and

3 (4) have completed:

4 (A) a course consisting of 750 hours of  
5 instruction in cosmetology courses and methods of teaching in:

6 (i) a licensed private beauty culture  
7 school; or

8 (ii) a vocational training program of a  
9 publicly financed postsecondary institution; or

10 (B) at least:

11 (i) two years of verifiable experience as a  
12 licensed operator; and

13 (ii) 250 hours of instruction in  
14 cosmetology in a board-approved [~~commission-approved~~] training  
15 program.

16 (c) The board [~~commission~~] shall adopt rules for the  
17 licensing of specialty instructors to teach specialty courses in  
18 the practice of cosmetology defined in Sections 1602.002(7), (9),  
19 and (10).

20 SECTION 3.07. Section 1602.256(b), Occupations Code, is  
21 amended to read as follows:

22 (b) To be eligible for a manicurist license, an applicant  
23 must:

24 (1) be at least 17 years of age;

25 (2) have obtained a high school diploma or the  
26 equivalent of a high school diploma or have passed a valid  
27 examination administered by a certified testing agency that

1 measures the person's ability to benefit from training; and

2 (3) have completed 600 hours of instruction in  
3 manicuring through a board-approved [~~commission-approved~~] training  
4 program.

5 SECTION 3.08. Section 1602.257(b), Occupations Code, is  
6 amended to read as follows:

7 (b) To be eligible for a facialist specialty license, an  
8 applicant must:

9 (1) be at least 17 years of age;

10 (2) have obtained a high school diploma or the  
11 equivalent of a high school diploma or have passed a valid  
12 examination administered by a certified testing agency that  
13 measures the person's ability to benefit from training; and

14 (3) have completed 750 hours of instruction in  
15 facialist specialty through a board-approved [~~commission-approved~~]  
16 training program.

17 SECTION 3.09. Section 1602.258(b), Occupations Code, is  
18 amended to read as follows:

19 (b) To be eligible for a specialty certificate, an applicant  
20 must:

21 (1) be at least 17 years of age;

22 (2) have obtained a high school diploma or the  
23 equivalent of a high school diploma or have passed a valid  
24 examination administered by a certified testing agency that  
25 measures the person's ability to benefit from training; and

26 (3) have the necessary requisites as determined by the  
27 board [~~commission~~] in the particular specialty for which

1 certification is sought, including training through a  
2 board-approved [~~commission-approved~~] training program.

3 SECTION 3.10. Section 1602.263(b), Occupations Code, is  
4 amended to read as follows:

5 (b) The person shall:

6 (1) submit an application for the license or  
7 certificate to the board [~~commission~~];

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

10 (3) pay the applicable license or certificate fee.

11 SECTION 3.11. Section 1602.264(a), Occupations Code, is  
12 amended to read as follows:

13 (a) The board [~~commission~~] shall issue a temporary license  
14 to a person who:

15 (1) holds a license in another state or country;

16 (2) submits an application for a temporary license to  
17 the board [~~commission~~]; and

18 (3) pays the required fee.

19 SECTION 3.12. Sections 1602.266(a) and (b), Occupations  
20 Code, are amended to read as follows:

21 (a) The board [~~commission~~] shall require a student enrolled  
22 in a school of cosmetology in this state to hold a permit stating  
23 the student's name and the name of the school. The permit shall be  
24 displayed in a reasonable manner at the school.

25 (b) The board [~~commission~~] shall issue a student permit to  
26 an applicant who submits an application to the board [~~commission~~]  
27 for a student permit accompanied by the required fee.

1 SECTION 3.13. Sections 1602.267(b) and (d), Occupations  
2 Code, are amended to read as follows:

3 (b) The board [~~commission~~] shall issue a shampoo apprentice  
4 permit to an applicant who[+]

5 [~~(1)~~] is at least 16 years of age [~~, and~~

6 [~~(2)~~ ~~submits a certificate of health as required by~~  
7 ~~Section 1602.253~~].

8 (d) The board [~~commission~~] shall adopt rules as necessary to  
9 administer this section. The board [~~commission~~] may not require an  
10 applicant to:

11 (1) complete any hours of instruction at a cosmetology  
12 training program as a prerequisite for the issuance of a shampoo  
13 apprentice permit; or

14 (2) pay a fee for a shampoo apprentice permit.

15 SECTION 3.14. Sections 1602.302(b) and (c), Occupations  
16 Code, are amended to read as follows:

17 (b) An application for a beauty shop license must be  
18 accompanied by the required inspection fee and:

19 (1) be on a form prescribed by the board [~~commission~~];

20 (2) contain proof of the particular requisites for a  
21 beauty shop established by the board [~~commission~~]; and

22 (3) be verified by the applicant.

23 (c) The applicant is entitled to a beauty shop license if:

24 (1) the application complies with board [~~commission~~]  
25 rules;

26 (2) the applicant pays the required license fee; and

27 (3) the applicant has not committed an act that

1 constitutes a ground for denial of a license.

2 SECTION 3.15. Sections 1602.303(b) and (c), Occupations  
3 Code, are amended to read as follows:

4 (b) An application for a private beauty culture school  
5 license must be accompanied by the required license fee and  
6 inspection fee and:

7 (1) be on a form prescribed by the board [~~commission~~];

8 (2) be verified by the applicant;

9 (3) contain a detailed floor plan of the school  
10 building divided into two separate areas, one area for instruction  
11 in theory and one area for clinic work; and

12 (4) contain a statement that the building:

13 (A) is fireproof;

14 (B) is of permanent construction;

15 (C) contains a minimum of 3,500 square feet of  
16 floor space;

17 (D) has separate restrooms for male and female  
18 students; and

19 (E) contains, or will contain before classes  
20 begin, the equipment established by board [~~commission~~] rule as  
21 sufficient to properly instruct a minimum of 50 students.

22 (c) The applicant is entitled to a private beauty culture  
23 school license if:

24 (1) the board [~~commission~~] determines that the  
25 applicant is financially sound and capable of fulfilling the  
26 school's commitments for training;

27 (2) the applicant's facilities pass an inspection

1 conducted by the board under Section 1603.155 [~~commission~~]; and

2 (3) the applicant has not committed an act that  
3 constitutes a ground for denial of a license.

4 SECTION 3.16. Sections 1602.305(b) and (c), Occupations  
5 Code, are amended to read as follows:

6 (b) An application for a specialty shop license must be  
7 accompanied by the required inspection fee and:

8 (1) be on a form prescribed by the board [~~commission~~];

9 (2) contain proof of the particular requisites for a  
10 specialty shop as established by the board [~~commission~~]; and

11 (3) be verified by the applicant.

12 (c) The applicant is entitled to a specialty shop license  
13 if:

14 (1) the application complies with board [~~commission~~]  
15 rules;

16 (2) the applicant pays the required license fee; and

17 (3) the applicant has not committed an act that  
18 constitutes a ground for denial of a license.

19 SECTION 3.17. Sections 1602.306(b), (c), and (d),  
20 Occupations Code, are amended to read as follows:

21 (b) An application for a booth rental license must:

22 (1) be on a form prescribed by the board [~~commission~~];

23 (2) contain information as required by board  
24 [~~commission~~] rule; and

25 (3) be verified by the applicant.

26 (c) The applicant is entitled to a booth rental license if  
27 the applicant:

1 (1) pays the application fee set by the board  
2 [~~commission~~] in an amount reasonable and necessary to cover the  
3 costs of administering the booth rental licensing program;

4 (2) complies with board [~~commission~~] rules; and

5 (3) has not committed an act that constitutes a ground  
6 for denial of a license or certificate.

7 (d) The board [~~commission~~] shall adopt rules relating to the  
8 information submitted for a booth rental license, including  
9 information regarding the applicant's compliance with state and  
10 federal tax laws.

11 SECTION 3.18. Section 1602.351(d), Occupations Code, is  
12 amended to read as follows:

13 (d) The board [~~commission~~] may prorate a license or  
14 certificate for the number of months the license or certificate is  
15 valid.

16 SECTION 3.19. The heading to Section 1602.352, Occupations  
17 Code, is amended to read as follows:

18 Sec. 1602.352. REQUIREMENT FOR FIRST [~~PROCEDURE FOR~~] RENEWAL  
19 OF LICENSE [~~OR REINSTATEMENT~~].

20 SECTION 3.20. Section 1602.354, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1602.354. CONTINUING EDUCATION. The board  
23 [~~commission will~~] by rule shall recognize, prepare, or administer  
24 continuing education programs for the practice of cosmetology.  
25 Participation in the programs is mandatory for all license  
26 renewals.

27 SECTION 3.21. Section 1602.405, Occupations Code, is



1 amended to read as follows:

2           Sec. 1602.405. PRACTICE AT FACILITY LICENSED OR PERMITTED  
3 AS BARBER AND COSMETOLOGIST FACILITY [~~BY COMMISSION AND STATE BOARD~~  
4 ~~OF BARBER EXAMINERS~~]. (a) The board [~~commission~~] may not adopt  
5 rules to restrict or prohibit practice by a cosmetologist in a  
6 facility solely because the facility is licensed or permitted by  
7 [~~both~~] the board under both this chapter and Chapter 1601  
8 [~~commission and the State Board of Barber Examiners~~].

9           (b) If a facility has a license or permit under both this  
10 chapter and Chapter 1601 [~~the commission and the State Board of~~  
11 ~~Barber Examiners license the same facility~~], the board [~~commission~~]  
12 may not adopt rules requiring separate treatment of the barbers and  
13 cosmetologists practicing in the facility or of their customers,  
14 including separate:

- 15                   (1) work areas for barbers and cosmetologists;  
16                   (2) waiting areas for customers of the barbers and  
17 cosmetologists; or  
18                   (3) restrooms for the barbers and cosmetologists  
19 practicing in the facility or for their customers.

20           SECTION 3.22. Subchapter I, Chapter 1602, Occupations Code,  
21 is amended by adding Section 1602.408 to read as follows:

22           Sec. 1602.408. SANITIZATION OF INSTRUMENTS. (a) This  
23 section applies only to an establishment in which the practice of  
24 cosmetology as defined by Section 1602.002(10) is performed.

25           (b) Instruments used in an establishment to which this  
26 section applies must be sanitized by use of an autoclave.

27           SECTION 3.23. Section 1602.451(a), Occupations Code, is

1 amended to read as follows:

2 (a) The holder of a private beauty culture school license  
3 shall:

4 (1) maintain a sanitary establishment;

5 (2) maintain on its staff and on duty during business  
6 hours one full-time licensed instructor for each 25 students in  
7 attendance;

8 (3) maintain a daily record of students' attendance;

9 (4) establish regular class and instruction hours and  
10 grades;

11 (5) require a school term of not less than nine months  
12 and not less than 1,500 hours instruction for a complete course in  
13 cosmetology;

14 (6) require a school term of not less than 600 hours  
15 instruction for a complete course in manicuring;

16 (7) hold examinations before issuing diplomas;

17 (8) maintain a copy of the school's curriculum in a  
18 conspicuous place and verify that the curriculum is being followed;

19 (9) publish in the school's catalogue and enrollment  
20 contract a description of the refund policy required under Section  
21 1602.458; and

22 (10) [~~submit to the executive director the name of~~  
23 ~~each student within 10 days after the date the student enrolls in~~  
24 ~~the school and notify the executive director of the withdrawal or~~  
25 ~~graduation of a student not later than the 10th day after the date~~  
26 ~~the student withdraws or graduates, and~~

27 [~~11~~] provide the board [~~commission~~] with

1 information on:

2 (A) the current course completion rates of  
3 students who attend a course of instruction offered by the school;  
4 and

5 (B) job placement rates and employment rates of  
6 students who complete the course of instruction.

7 SECTION 3.24. Section 1602.452, Occupations Code, is  
8 amended to read as follows:

9 Sec. 1602.452. INFORMATION PROVIDED TO PROSPECTIVE  
10 STUDENT. The holder of a private beauty culture school license  
11 shall furnish each prospective student with:

- 12 (1) a course outline;
- 13 (2) a schedule of the tuition and other fees assessed;
- 14 (3) the refund policy required under Section 1602.458;
- 15 (4) the school grading policy and rules relating to  
16 incomplete grades;
- 17 (5) the school rules of operation and conduct,  
18 including rules relating to absences;
- 19 (6) the name, mailing address, and telephone number of  
20 the board [~~commission~~] for the purpose of directing complaints to  
21 the board [~~commission~~]; and
- 22 (7) the current rates of job placement and employment  
23 of students who complete a course of training.

24 SECTION 3.25. Sections 1602.453(b), (c), and (d),  
25 Occupations Code, are amended to read as follows:

26 (b) A school must submit to the board [~~commission~~] for  
27 approval the course length and curriculum content for each course

1 offered by the school. The school may implement a course length and  
2 curriculum content only after approval by the board [~~commission~~].

3 (c) Before issuing or renewing a license under this chapter,  
4 the board [~~commission~~] shall require a school to account for each  
5 course length and curriculum content.

6 (d) If a school manipulates a course length below or above  
7 industry standards, the board [~~commission~~] shall place the school  
8 on probation until:

9 (1) justification for the deviation is proven; or

10 (2) the course length is adjusted to meet industry  
11 standards.

12 SECTION 3.26. Section 1602.454, Occupations Code, is  
13 amended to read as follows:

14 Sec. 1602.454. STUDENT RECORD. A private beauty culture  
15 school shall notify [~~send to~~] the board [~~commission a certified~~  
16 ~~copy of a student's record, indicating all course hours completed~~  
17 ~~by the student and whether the agreed tuition has been paid,~~] when a  
18 [~~the~~] student[+]

19 [(1)] graduates from a course of training offered by  
20 the school and is eligible to take the appropriate examination[~~, or~~

21 [(2) ~~withdraws or transfers from a course of training~~  
22 ~~without completion of the training~~].

23 SECTION 3.27. Section 1602.460(d), Occupations Code, is  
24 amended to read as follows:

25 (d) The board [~~commission~~] may exempt a school from the  
26 payment of interest if the school makes a good faith effort to  
27 refund the tuition but is unable to locate the student. The school

1 shall provide to the board [~~commission~~] on request documentation of  
2 the effort to locate the student.

3 SECTION 3.28. Section 1602.463(a), Occupations Code, is  
4 amended to read as follows:

5 (a) If a private beauty culture school closes, the board  
6 [~~commission~~] shall attempt to arrange for students enrolled in the  
7 closed school to attend another private beauty culture school.

8 SECTION 3.29. Sections 1602.464(a) and (b), Occupations  
9 Code, are amended to read as follows:

10 (a) If on January 1 of any year the amount in the private  
11 beauty culture school tuition protection account is less than  
12 \$200,000, the board [~~commission~~] shall collect a fee from each  
13 private beauty culture school during that year by applying a  
14 percentage to the school's renewal fee at a rate that will bring the  
15 balance of the account to \$200,000.

16 (b) The comptroller shall invest the account in the same  
17 manner as other state funds. Sufficient money from the account  
18 shall be appropriated to the board [~~commission~~] for the purpose  
19 described by Section 1602.463. The board [~~commission~~] shall  
20 administer claims made against the account.

21 SECTION 3.30. Sections 1602.465(a), (b), and (c),  
22 Occupations Code, are amended to read as follows:

23 (a) If the board [~~commission~~] has reasonable cause to  
24 believe that a private beauty culture school has violated this  
25 chapter or a rule adopted under this chapter, the board  
26 [~~commission~~] may:

27 (1) order a peer review of the school; or

1 (2) suspend the admission of students to the school.

2 (b) The peer review shall be conducted by a peer review team  
3 consisting of knowledgeable persons selected by the board  
4 [~~commission~~]. The board [~~commission~~] shall attempt to provide a  
5 balance on each team between members assigned to the team who are  
6 from this state and those who are from other states.

7 (c) The team shall provide the board [~~commission~~] with an  
8 objective assessment of the content of the school's curriculum and  
9 its application.

10 ARTICLE 4. CONFORMING AMENDMENTS

11 SECTION 4.01. Section 232.002, Family Code, is amended to  
12 read as follows:

13 Sec. 232.002. LICENSING AUTHORITIES SUBJECT TO CHAPTER.  
14 The following are licensing authorities subject to this chapter:

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

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

- 1           (27) [~~(29)~~] Texas State Board of Plumbing Examiners;  
2           (28) [~~(30)~~] Texas State Board of Podiatric Medical  
3 Examiners;  
4           (29) [~~(31)~~] Polygraph Examiners Board;  
5           (30) [~~(32)~~] Texas [~~Commission on~~] Private Security  
6 Board;  
7           (31) [~~(33)~~] Texas State Board of Examiners of  
8 Professional Counselors;  
9           (32) [~~(34)~~] Texas Board of Professional Engineers;  
10          (33) [~~(35)~~] Department of Family and Protective [~~and~~  
11 ~~Regulatory~~] Services;  
12          (34) [~~(36)~~] Texas State Board of Examiners of  
13 Psychologists;  
14          (35) [~~(37)~~] Texas State Board of Public Accountancy;  
15          (36) [~~(38)~~] Department of Public Safety of the State  
16 of Texas;  
17          (37) [~~(39)~~] Public Utility Commission of Texas;  
18          (38) [~~(40)~~] Railroad Commission of Texas;  
19          (39) [~~(41)~~] Texas Real Estate Commission;  
20          (40) [~~(42)~~] State Bar of Texas;  
21          (41) [~~(43)~~] Texas State Board of Social Worker  
22 Examiners;  
23          (42) [~~(44)~~] State Board of Examiners for  
24 Speech-Language Pathology and Audiology;  
25          (43) [~~(45)~~] Texas Structural Pest Control Board;  
26          (44) [~~(46)~~] Board of Tax Professional Examiners;  
27          (45) [~~(47)~~] Secretary of State;



- 1           (46) [~~(48)~~] Supreme Court of Texas;
- 2           (47) [~~(49)~~] Texas Transportation Commission;
- 3           (48) [~~(50)~~] State Board of Veterinary Medical
- 4 Examiners;
- 5           (49) [~~(51)~~] Texas Ethics Commission;
- 6           (50) [~~(52)~~] Advisory Board of Athletic Trainers;
- 7           (51) [~~(53)~~] State Committee of Examiners in the
- 8 Fitting and Dispensing of Hearing Instruments;
- 9           (52) [~~(54)~~] Texas Board of Licensure for Professional
- 10 Medical Physicists;
- 11           (53) [~~(55)~~] Texas Department of Insurance;
- 12           (54) [~~(56)~~] Texas Board of Orthotics and Prosthetics;
- 13           (55) [~~(57)~~] savings and loan commissioner;
- 14           (56) [~~(58)~~] Texas Juvenile Probation Commission; and
- 15           (57) [~~(59)~~] Texas Lottery Commission under Chapter
- 16 466, Government Code.

17           SECTION 4.02. Section 411.122(d), Government Code, is

18 amended to read as follows:

19           (d) The following state agencies are subject to this

20 section:

- 21           (1) Texas Appraiser Licensing and Certification
- 22 Board;
- 23           (2) Texas Board of Architectural Examiners;
- 24           (3) Texas [~~State~~] Board of Barbering and Cosmetology
- 25 [~~Barber Examiners~~];
- 26           (4) Texas Board of Chiropractic Examiners;
- 27           (5) [~~Texas Cosmetology Commission~~;

- 1           ~~[(6)]~~ State Board of Dental Examiners;
- 2           (6) ~~[(7)]~~ Texas Board of Professional Engineers;
- 3           (7) ~~[(8)]~~ Texas Funeral Service Commission;
- 4           (8) ~~[(9)]~~ Texas Board of Professional Geoscientists;
- 5           (9) ~~[(10) — Texas]~~ Department of State Health Services,
- 6 except as provided by Section 411.110, and agencies attached to the
- 7 department, including:
- 8                   (A) Texas State Board of Examiners of Dietitians;
- 9                   (B) Texas State Board of Examiners of Marriage
- 10 and Family Therapists;
- 11                   (C) Midwifery Board;
- 12                   (D) Texas State Board of Examiners of
- 13 Perfusionists;
- 14                   (E) Texas State Board of Examiners of
- 15 Professional Counselors;
- 16                   (F) Texas State Board of Social Worker Examiners;
- 17                   (G) State Board of Examiners for Speech-Language
- 18 Pathology and Audiology;
- 19                   (H) Advisory Board of Athletic Trainers;
- 20                   (I) State Committee of Examiners in the Fitting
- 21 and Dispensing of Hearing Instruments;
- 22                   (J) Texas Board of Licensure for Professional
- 23 Medical Physicists; and
- 24                   (K) Texas Board of Orthotics and Prosthetics;
- 25           (10) ~~[(11)]~~ Texas Board of Professional Land
- 26 Surveying;
- 27           (11) ~~[(12)]~~ Texas Department of Licensing and

- 1 Regulation, except as provided by Section 411.093;
- 2           (12) [~~(13)~~] Texas Commission on Environmental  
3 Quality;
- 4           (13) [~~(14)~~] Texas Board of Occupational Therapy  
5 Examiners;
- 6           (14) [~~(15)~~] Texas Optometry Board;
- 7           (15) [~~(16)~~] Texas State Board of Pharmacy;
- 8           (16) [~~(17)~~] Texas Board of Physical Therapy  
9 Examiners;
- 10           (17) [~~(18)~~] Texas State Board of Plumbing Examiners;
- 11           (18) [~~(19)~~] Texas State Board of Podiatric Medical  
12 Examiners;
- 13           (19) [~~(20)~~] Polygraph Examiners Board;
- 14           (20) [~~(21)~~] Texas State Board of Examiners of  
15 Psychologists;
- 16           (21) [~~(22)~~] Texas Real Estate Commission;
- 17           (22) [~~(23)~~] Board of Tax Professional Examiners;
- 18           (23) [~~(24)~~] Texas Department of Transportation;
- 19           (24) [~~(25)~~] State Board of Veterinary Medical  
20 Examiners;
- 21           ~~[(26) Board of Vocational Nurse Examiners,]~~
- 22           (25) [~~(27)~~] Texas Department of Housing and Community  
23 Affairs;
- 24           (26) [~~(28)~~] secretary of state;
- 25           (27) [~~(29)~~] state fire marshal;
- 26           (28) [~~(30)~~] Texas Education Agency; and
- 27           (29) [~~(31)~~] Department of Agriculture.

1 SECTION 4.03. Section 2054.352(a), Government Code, is  
2 amended to read as follows:

3 (a) The following licensing entities shall participate in  
4 the system established under Section 2054.353[~~, as added by Chapter~~  
5 ~~353, Acts of the 77th Legislature, Regular Session, 2001~~]:

6 (1) Texas [~~State~~] Board of Barbering and Cosmetology  
7 [~~Barber Examiners~~];

8 (2) Texas Board of Chiropractic Examiners;

9 (3) [~~Texas Cosmetology Commission~~;

10 [~~(4)~~] Court Reporters Certification Board;

11 (4) [~~(5)~~] State Board of Dental Examiners;

12 (5) [~~(6)~~] Texas Funeral Service Commission;

13 (6) [~~(7)~~] Texas Board of Professional Land Surveying;

14 (7) [~~(8)~~] Texas State Board of Medical Examiners;

15 (8) [~~(9)~~] Board of Nurse Examiners;

16 (9) [~~(10)~~] Texas Optometry Board;

17 (10) [~~(11)~~] Texas Structural Pest Control Board;

18 (11) [~~(12)~~] Texas State Board of Pharmacy;

19 (12) [~~(13)~~] Executive Council of Physical Therapy and  
20 Occupational Therapy Examiners;

21 (13) [~~(14)~~] Texas State Board of Plumbing Examiners;

22 (14) [~~(15)~~] Texas State Board of Podiatric Medical  
23 Examiners;

24 (15) [~~(16)~~] Board of Tax Professional Examiners;

25 (16) [~~(17)~~] Polygraph Examiners Board;

26 (17) [~~(18)~~] Texas State Board of Examiners of  
27 Psychologists;

- 1           (18) [~~(19)~~] State Board of Veterinary Medical  
2 Examiners;  
3           (19) [~~(20)~~] Texas Real Estate Commission;  
4           (20) [~~(21)~~] Texas Appraiser Licensing and  
5 Certification Board;  
6           (21) [~~(22)~~] Texas Department of Licensing and  
7 Regulation;  
8           (22) [~~(24)~~] Texas State Board of Public Accountancy;  
9           (23) [~~(25)~~] State Board for Educator Certification;  
10          (24) [~~(26)~~] Texas Board of Professional Engineers;  
11          (25) [~~(27)~~—Texas] Department of State Health  
12 Services;  
13          (26) [~~(28)~~] Texas Board of Architectural Examiners;  
14          (27) [~~(29)~~] Texas Racing Commission;  
15          (28) [~~(30)~~] Commission on Law Enforcement Officer  
16 Standards and Education; and  
17          (29) [~~(31)~~] Texas [~~Commission on~~] Private Security  
18 Board.

19                                   ARTICLE 5. REPEALER

20                   SECTION 5.01. The following laws are repealed:

- 21                   (1) Subchapters B, C, D, E, and O, Chapter 1601,  
22 Occupations Code;  
23                   (2) Subchapters B, C, E, and K, Chapter 1602,  
24 Occupations Code; and  
25                   (3) Sections 1601.004, 1601.252, 1601.261, 1601.262,  
26 1601.263, 1601.264, 1601.266, 1601.356, 1601.402(d), 1601.403,  
27 1601.404(a) and (b), 1601.408, 1601.601, 1601.651, 1601.654,

1 1602.004, 1602.151, 1602.152, 1602.154, 1602.155, 1602.252,  
2 1602.253, as amended by Chapter 1282, Acts of the 78th Legislature,  
3 Regular Session, 2003, 1602.259, 1602.260, 1602.261, 1602.264,  
4 1602.265, 1602.303(d), 1602.304(b), 1602.352(b)-(f), 1602.407,  
5 1602.551, 1602.552, 1602.553, and 1602.555, Occupations Code.

6 ARTICLE 6. TRANSITION AND EFFECTIVE DATE

7 SECTION 6.01. (a) The State Board of Barber Examiners and  
8 the Texas Cosmetology Commission are abolished but continue in  
9 existence until September 1, 2006, for the sole purpose of  
10 transferring obligations, property, employees, rights, powers, and  
11 duties to the Texas Board of Barbering and Cosmetology created  
12 under Chapter 1603, Occupations Code, as added by this Act. The  
13 Texas Board of Barbering and Cosmetology assumes all of the  
14 obligations, property, employees, rights, powers, and duties of the  
15 State Board of Barber Examiners and the Texas Cosmetology  
16 Commission, as they exist immediately before the effective date of  
17 this Act. All unexpended funds appropriated to the State Board of  
18 Barber Examiners and the Texas Cosmetology Commission are  
19 transferred to the Texas Board of Barbering and Cosmetology. The  
20 transfer of the obligations, property, employees, rights, powers,  
21 and duties of the State Board of Barber Examiners and the Texas  
22 Cosmetology Commission to the Texas Board of Barbering and  
23 Cosmetology must be completed not later than September 1, 2006.

24 (b) All rules of the State Board of Barber Examiners and the  
25 Texas Cosmetology Commission are continued in effect as rules of  
26 the Texas Board of Barbering and Cosmetology until superseded by a  
27 rule of the Texas Board of Barbering and Cosmetology. A

1 certificate, license, or permit issued by the State Board of Barber  
2 Examiners or the Texas Cosmetology Commission is continued in  
3 effect as provided by the law in effect immediately before the  
4 effective date of this Act. A complaint, investigation, contested  
5 case, or other proceeding pending on the effective date of this Act  
6 is continued without change in status after the effective date of  
7 this Act.

8 (c) A reference in another law or an administrative rule to  
9 the State Board of Barber Examiners or the Texas Cosmetology  
10 Commission means the Texas Board of Barbering and Cosmetology.

11 SECTION 6.02. (a) In making the initial appointments to  
12 the Texas Board of Barbering and Cosmetology, the governor shall  
13 appoint:

14 (1) one person described by Section 1603.051(a)(1),  
15 Occupations Code, as added by this Act, one person described by  
16 Section 1603.051(a)(2), Occupations Code, as added by this Act, and  
17 one public member to serve terms expiring February 1, 2007;

18 (2) one person described by Section 1603.051(a)(1),  
19 Occupations Code, as added by this Act, one person described by  
20 Section 1603.051(a)(2), Occupations Code, as added by this Act, and  
21 one public member to serve terms expiring February 1, 2009; and

22 (3) one person described by Section 1603.051(a)(1),  
23 Occupations Code, as added by this Act, one person described by  
24 Section 1603.051(a)(2), Occupations Code, as added by this Act, and  
25 one public member to serve terms expiring February 1, 2011.

26 (b) Not later than March 1, 2005, each initial board member  
27 appointed under this section must complete the training required by

1 Section 1603.059, Occupations Code, as added by this Act. Before  
2 March 1, 2005, Section 1603.059(a) does not apply to an initial  
3 board member.

4 SECTION 6.03. Not later than the 90th day after the date  
5 that a majority of the members of the Texas Board of Barbering and  
6 Cosmetology are appointed under Section 6.02 of this article and  
7 qualify for office, the board shall appoint an executive director  
8 under Section 1603.101, Occupations Code, as added by this Act. A  
9 person who is the executive director of the State Board of Barber  
10 Examiners or the Texas Cosmetology Commission on, or within one  
11 year preceding, the effective date of this Act, is not eligible to  
12 be employed as the initial executive director under this section.

13 SECTION 6.04. This Act takes effect September 1, 2005.