

BILL ANALYSIS

C.S.H.B. 2106
By: Chisum
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Barbers and cosmetologists are used by the public every day for haircuts, manicures, pedicures, and other beauty needs. The licensing and regulation of Texas' more than 13,000 barbers and more than 150,000 cosmetologists is performed by the Texas Department of Licensing and Regulation (TDLR). The Board of Barber Examiners and the Texas Cosmetology Commission were both dissolved by the 79th Legislature, when the functions performed by those agencies were transferred to TDLR. As the state's umbrella licensing agency, TDLR's practices and those of the former agencies differ in certain areas.

CSHB 2106 makes changes to Chapters 1601, 1602 and 1603 of the Occupations Code in an effort to make statutory clean up changes, streamline the processes for practicing and learning barbering and cosmetology, owning and operating barbershops and salons, and help ensure that the public is protected when visiting barbershops and cosmetology salons throughout the state.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 21, 22, and 25 of this bill.

ANALYSIS

CSHB 2106 amends the definition of "barbering," "practicing barbering," or "practice of barbering" by adding clarifying language to the description of weaving and adding a description of braiding; removes the specified passing score for the barber examination; adds a hair weaving specialty certificate and a hair braiding specialty certificate as part of the licensing of barbering; and requires that barbershop license applications are verified. Language is amended to allow weaving and braiding establishments to obtain a specialty shop permit and to simplify the application and licensing procedure for specialty shops. Archaic language in the barber school application requirements is removed. CSHB 2106 clarifies that a barber may practice in a dual shop licensed under Chapter 1603, Occupations Code.

CSHB 2106 corrects legal citations for manicurist and facialist services and for specialty certificate services; amends the eligibility requirements for a specialty certificate by removing the requirement that an applicant have obtained a high school diploma or the equivalent or passed an examination that measures the person's ability to benefit from training; and clarifies terminology for a manicurist specialty license. Archaic language is removed from the cosmetology school application requirements. CSHB 2106 limits continuing education for licensees who are at least 65 years of age and have held a license for at least 15 years. The licensee would need no more than four hours of health and safety to renew the license. CSHB 2106 requires a cosmetology school to notify TDLR not later than the 5th day after final payment of a student's tuition to the school.

CSHB 2106 removes a requirement for TDLR to inspect barber and cosmetology shops prior to opening for business; increases the frequency of inspections of barber and cosmetology schools from once to twice per year; and authorizes TDLR to charge a fee for inspections. CSHB 2106 authorizes TDLR to contract with a person to perform inspections; creates a dual shop license for shops offering both barbering and cosmetology services; prevents a cosmetology student from taking an examination unless TDLR has received notice that the student has paid all tuition owed to cosmetology schools; adds dry heat and ultraviolet as options for sterilizing metal instruments used in manicuring and pedicuring and lists instruments not required to be stored accordance

with the manufacturer's instructions' and authorizes the executive director to issue an emergency order to suspend or revoke a license or to cease operation of an unsafe facility if an emergency requires immediate action. A hearing is required to be held after the order is issued. CSHB 2106 authorizes the executive director to issue a cease and desist order, after notice and an opportunity for hearing.

CSHB 2106 repeals an archaic student permit fee provision and duplicative provisions related to sterilization of manicure and pedicure instruments. CSHB 2106 provides for issuance of a barber hair braider certificate to a person who applies no later than October 1, 2007 and has at least ten years of experience and expires this section on October 31, 2007. CSHB 2106 requires TDLR to adopt rules by January 1, 2008 to implement certain sections of the bill. The provisions of the bill apply to a license or renewal application filed on or after the effective date of this Act. TDLR may not issue a dual shop license before May 1, 2008.

EFFECTIVE DATE

Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007, except for Sections 1602.466 and 1603.258, Occupations Code, which take effect April 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute consolidates provisions of House Bills 1030, 1050, 1118, 1280, 1566, and 2903, related to barbering and cosmetology, into H.B. 2106.

The committee substitute adds a number of provisions that were not in the introduced version. These new provisions are derived primarily from the other bills that are being consolidated. In Chapter 1602, Occupations Code, the substitute corrects legal citations for manicurist and facialist services and for specialty certificate services. The substitute amends the eligibility requirements for a specialty certificate by removing the requirement that an applicant have obtained a high school diploma or the equivalent or passed an examination that measures the person's ability to benefit from training. The substitute clarifies terminology for a manicurist specialty license. The substitute limits continuing education for licensees who are at least 65 years of age and have held a cosmetology license for at least 15 years. The licensee would need no more than four hours of health and safety to renew the license. The substitute requires a cosmetology school to notify TDLR not later than the 5th day after final payment of a student's tuition to the school.

CSHB 2106 adds provisions to Chapter 1603, Occupations Code, to prevent a cosmetology applicant from taking an examination unless TDLR has received notice that the applicant has paid all tuition owed to cosmetology schools attended. The substitute adds dry heat and ultraviolet sterilizer as options for sterilizing metal instruments used in manicuring and pedicuring. The substitute authorizes the executive director to issue an emergency order to suspend or revoke a license or to cease operation of an unsafe facility if an emergency requires immediate action. A hearing is required to be held after the order is issued. The substitute authorizes the executive director to issue a cease and desist order, after notice and an opportunity for hearing.

The committee substitute adds repealers and additional transition language. The substitute repeals an archaic student permit fee provision and duplicative provisions related to sterilization of manicure and pedicure instruments. The substitute provides for issuance of a barber hair braider certificate to a person who applies no later than October 1, 2007 and has at least ten years of practice.

The committee substitute replaces language that would have required the Texas Commission on Licensing and Regulation rulemaking for certain sections of the substitute to take place as soon as practicable. The new language is in Section 25, which requires the Texas Commission on Licensing and Regulation to adopt rules by January 1, 2008 to implement certain sections of the substitute. The committee substitute amends the effective date provisions to specify that Sections 1602.466 and 1603.258, Occupations Code, as added by the substitute, take effect April 1, 2008.

Finally, the committee substitute removes the effective date of May 1, 2008 for Section 1603.205, Occupations Code.