

AN ACT

relating to the regulation of barbering and cosmetology.

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

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a  
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,  
5 or appliance; and

6 (ii) with or without the use of any cosmetic  
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or  
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,  
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,  
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or  
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method  
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 [~~or~~]

22 (J) servicing in any manner listed in Paragraph  
23 (B) a person's wig, toupee, or artificial hairpiece on a person's  
24 head or on a block after the initial retail sale; or

25 (K) braiding a person's hair, trimming hair  
26 extensions only as applicable to the braiding process, and  
27 attaching commercial hair only by braiding and without the use of

1 chemicals or adhesives;

2 (2) advertising or representing to the public in any  
3 manner that a person is a barber or is authorized to practice  
4 barbering; or

5 (3) advertising or representing to the public in any  
6 manner that a location or place of business is a barbershop,  
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.253(b), Occupations Code, is  
9 amended to read as follows:

10 (b) The department shall issue a Class A barber certificate  
11 to an applicant who:

12 (1) complies with the application requirements of this  
13 chapter;

14 (2) passes the applicable examination [~~with an average~~  
15 ~~grade of at least 75 percent~~];

16 (3) pays the required fee; and

17 (4) possesses the other qualifications required by  
18 this chapter.

19 SECTION 3. Subchapter F, Chapter 1601, Occupations Code, is  
20 amended by adding Sections 1601.258 and 1601.259 to read as  
21 follows:

22 Sec. 1601.258. ELIGIBILITY FOR HAIR WEAVING SPECIALTY  
23 CERTIFICATE OF REGISTRATION. (a) A person holding a hair weaving  
24 specialty certificate of registration may perform only barbering as  
25 defined by Section 1601.002(1)(H).

26 (b) An applicant for a hair weaving specialty certificate of  
27 registration must:

1           (1) be at least 17 years of age; and  
2           (2) satisfy the requirements specified by the  
3 department, including training through a commission-approved  
4 training program.

5           (c) The department shall issue a hair weaving specialty  
6 certificate of registration to an applicant who:

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

9           (2) pays the required registration fee; and

10           (3) has not committed an act that constitutes a ground  
11 for denial of the certificate.

12           Sec. 1601.259. ELIGIBILITY FOR HAIR BRAIDING SPECIALTY  
13 CERTIFICATE OF REGISTRATION. (a) A person holding a hair braiding  
14 specialty certificate of registration may perform only barbering as  
15 defined by Section 1601.002(1)(K).

16           (b) An applicant for a hair braiding specialty certificate  
17 must:

18           (1) be at least 17 years of age; and

19           (2) satisfy the requirements specified by the  
20 department, including training through a commission-approved  
21 training program.

22           (c) The department shall issue a hair braiding specialty  
23 certificate of registration to an applicant who:

24           (1) possesses the qualifications described by  
25 Subsection (b);

26           (2) pays the required registration fee; and

27           (3) has not committed an act that constitutes a ground

1 for denial of the certificate.

2 SECTION 4. Section 1601.303, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. The  
5 department shall issue a barbershop permit to an applicant if:

- 6 (1) the applicant owns the barbershop; ~~[and]~~  
7 (2) the applicant verifies the application; and  
8 (3) the shop meets the minimum health standards for  
9 barbershops set by the commission and complies with all other  
10 commission rules.

11 SECTION 5. Sections 1601.304 and 1601.305, Occupations  
12 Code, are amended to read as follows:

13 Sec. 1601.304. ~~[MANICURIST]~~ SPECIALTY SHOP PERMIT. (a) A  
14 person who holds a ~~[manicurist]~~ specialty shop permit may maintain  
15 an establishment in which only barbering as defined by Section  
16 ~~[Sections]~~ 1601.002(1)(E), ~~[and]~~ (F), (H), or (K) is performed. ~~[A~~  
17 ~~manicurist specialty shop may be operated only under the direction~~  
18 ~~of a person who holds a manicurist license.]~~

19 (b) An applicant for a ~~[manicurist]~~ specialty shop permit  
20 must submit:

21 (1) an application on a department-approved form ~~[that~~  
22 ~~includes:~~

23 ~~[(A) the shop's address,~~  
24 ~~[(B) the legal description of the premises for~~  
25 ~~which the permit is sought, and~~

26 ~~[(C) any other information required by the~~  
27 ~~department]; and~~

1 (2) the required inspection fee.

2 [~~(c) As soon as practicable after receipt of the application~~  
3 ~~and fee, the department shall issue a temporary manicurist~~  
4 ~~specialty shop permit to the applicant. The applicant may operate~~  
5 ~~the applicant's shop under the temporary permit until a permanent~~  
6 ~~permit is issued.]~~

7 Sec. 1601.305. ISSUANCE OF [~~MANICURIST~~] SPECIALTY SHOP  
8 PERMIT. The department shall issue a [~~permanent manicurist~~]  
9 specialty shop permit to an applicant if:

10 (1) the applicant submits proof that the applicant  
11 satisfies the requirements established by the commission for a  
12 specialty shop [~~holds a manicurist license~~]; [~~and~~]

13 (2) the applicant pays the required inspection fee and  
14 permit fee;

15 (3) the applicant verifies the application and the  
16 application complies with commission rules; and

17 (4) the applicant has not committed an act that  
18 constitutes a ground for denial of a permit, certificate, or  
19 license under this chapter [~~the shop meets the minimum health~~  
20 ~~standards for manicurist specialty shops set by the commission, as~~  
21 ~~determined by a department inspection under Section 1603.103, and~~  
22 ~~any other requirements imposed by commission rule].~~

23 SECTION 6. Section 1601.353(a), Occupations Code, is  
24 amended to read as follows:

25 (a) The department may not approve an application for a  
26 permit for a barber school that provides training leading to  
27 issuance of a Class A barber certificate unless the school has:

1           (1) a [~~an adequate school site housed in a~~  
2 ~~substantial~~] building of permanent construction containing at  
3 least 2,800 square feet of floor space, divided into at least:

4                   (A) a senior department;

5                   (B) a junior department;

6                   (C) a class theory room;

7                   (D) a supply room;

8                   (E) an office space; and

9                   (F) [~~a dressing and cloak room; and~~

10                   [~~(G) two sanitary, modern,~~] separate restrooms  
11 for male and female students[~~, each equipped with one commode and~~  
12 ~~one of which is also equipped with a urinal~~];

13           (2) a hard-surface floor-covering of tile or other  
14 suitable material;

15           (3) at least 20 modern barber chairs, including a  
16 cabinet and mirror for each chair;

17                   (4) a sink [~~lavatory~~] behind every two barber chairs;

18                   (5) a liquid sterilizer for each barber chair;

19                   (6) an adequate number of latherers, vibrators, and  
20 hair dryers for student use;

21                   (7) adequate lighting for each room;

22                   (8) at least 20 classroom chairs, a blackboard,  
23 anatomical charts of the head, neck, and face, and one barber chair  
24 in the class theory room;

25                   (9) [~~a library with library facilities available to~~  
26 ~~students containing~~] at least one medical dictionary and a standard  
27 work on human anatomy;

1           (10) adequate drinking fountain facilities, with at  
2 least one for each floor; and

3           (11) at least one fire extinguisher [~~adequate~~  
4 ~~toilet facilities for the students; and~~

5           [~~(12) adequate fire-fighting equipment~~].

6           SECTION 7. Section 1601.453, Occupations Code, is amended  
7 to read as follows:

8           Sec. 1601.453. LOCATION OF PRACTICE. A person licensed by  
9 the department may practice barbering only at a location for which  
10 the department has issued a barbershop permit, specialty shop  
11 permit, or barber school permit under this chapter or a permit  
12 issued under Chapter 1603.

13           SECTION 8. Section 1602.256, Occupations Code, is amended  
14 to read as follows:

15           Sec. 1602.256. ELIGIBILITY FOR A MANICURIST SPECIALTY  
16 LICENSE. (a) A person holding a manicurist specialty license may  
17 perform only the practice of cosmetology defined in Section  
18 1602.002(a)(10) or (11) [~~1602.002(9) or (10)~~].

19           (b) To be eligible for a manicurist specialty license, an  
20 applicant 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 completed 600 hours of instruction in  
27 manicuring through a commission-approved training program.



1 SECTION 9. Section 1602.257(a), Occupations Code, is  
2 amended to read as follows:

3 (a) A person holding a facialist specialty license may  
4 perform only the practice of cosmetology defined in Sections  
5 1602.002(a)(6) through (9) [~~Section 1602.002(7)~~].

6 SECTION 10. Section 1602.258, Occupations Code, is amended  
7 to read as follows:

8 Sec. 1602.258. ELIGIBILITY FOR A SPECIALTY  
9 CERTIFICATE. (a) A person holding a specialty certificate may  
10 perform only the practice of cosmetology defined in Sections  
11 1602.002(a)(2) through (4) [~~Section 1602.002(2), (3), (4), or (7)~~].

12 (b) To be eligible for a specialty certificate, an applicant  
13 must:

14 (1) be at least 17 years of age; and

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

19 [~~(3)~~] have the necessary requisites as determined by  
20 the department in the particular specialty for which certification  
21 is sought, including training through a commission-approved  
22 training program.

23 SECTION 11. Section 1602.262(a), Occupations Code, is  
24 amended to read as follows:

25 (a) An applicant for an operator license, instructor  
26 license, manicurist specialty license, or facialist specialty  
27 license is entitled to the license if the applicant:

- 1 (1) meets the applicable eligibility requirements;
- 2 (2) passes the applicable examination;
- 3 (3) pays the required fee; and
- 4 (4) has not committed an act that constitutes a ground
- 5 for denial of the license.

6 SECTION 12. Section 1602.303(b), Occupations Code, is  
7 amended to read as follows:

8 (b) An application for a private beauty culture school  
9 license must be accompanied by the required license fee and  
10 inspection fee and:

- 11 (1) be on a form prescribed by the department;
- 12 (2) be verified by the applicant; and
- 13 (3) ~~[contain a detailed floor plan of the school~~  
14 ~~building divided into two separate areas, one area for instruction~~  
15 ~~in theory and one area for clinic work; and~~

16 [~~4~~] contain a statement that the building:

17 (A) ~~[is fireproof,~~

18 [~~B~~] is of permanent construction and is divided  
19 into at least two separate areas:

20 (i) one area for instruction in theory; and

21 (ii) one area for clinic work;

22 (B) [~~C~~] contains a minimum of 3,500 square feet  
23 of floor space;

24 (C) [~~D~~] has separate restrooms for male and  
25 female students; and

26 (D) [~~E~~] contains, or will contain before  
27 classes begin, the equipment established by commission rule as

1 sufficient to properly instruct a minimum of 50 students.

2 SECTION 13. Section 1602.354, Occupations Code, is amended  
3 to read as follows:

4 Sec. 1602.354. CONTINUING EDUCATION. (a) The commission  
5 will by rule recognize, prepare, or administer continuing education  
6 programs for the practice of cosmetology. Participation in the  
7 programs is mandatory for all license renewals.

8 (b) The commission may only require a license holder to  
9 complete continuing education of not more than four hours in health  
10 and safety courses if the license holder:

11 (1) is at least 65 years of age; and

12 (2) has held a cosmetology license for at least 15  
13 years.

14 SECTION 14. Section 1602.403(a), Occupations Code, is  
15 amended to read as follows:

16 (a) A private beauty culture school may not employ:

17 (1) a person holding an operator license, manicurist  
18 specialty license, or specialty certificate solely to perform the  
19 practices of cosmetology for which the person is licensed or  
20 certified; or

21 (2) a person holding an instructor license to perform  
22 any act or practice of cosmetology.

23 SECTION 15. Section 1603.103, Occupations Code, is amended  
24 to read as follows:

25 Sec. 1603.103. INSPECTION OF SCHOOLS [~~SHOPS, AND~~  
26 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department  
27 determines, by inspection, that the person has established the

1 school[, ~~shop, or facility~~] in compliance with this chapter,  
2 Chapter 1601, or Chapter 1602, a person may not operate a school[,  
3 ~~shop, or other facility~~] licensed or permitted under this chapter,  
4 Chapter 1601, or Chapter 1602.

5 (b) A school[, ~~shop, or other facility~~] that is not approved  
6 by the department on initial inspection may be reinspected.

7 (c) The department may charge the school[, ~~shop, or other~~  
8 facility shall pay] a fee for each inspection. The commission shall  
9 by rule set the amount of the fee.

10 SECTION 16. Sections 1603.104(b) and (e), Occupations Code,  
11 are amended to read as follows:

12 (b) At least once every two years, the department shall  
13 inspect each [~~school,~~] shop[,~~]~~ or other facility that holds a  
14 license, certificate, or permit in which the practice of barbering  
15 or cosmetology is performed under this chapter, Chapter 1601, or  
16 Chapter 1602, and at least twice per year, the department shall  
17 inspect each school in which barbering or cosmetology is taught  
18 under this chapter, Chapter 1601, or Chapter 1602.

19 (e) The department may charge the school, shop, or other  
20 facility [shall pay] a fee for each inspection performed under  
21 Subsection (c). The commission shall by rule set the amount of the  
22 fee.

23 SECTION 17. Subchapter C, Chapter 1603, Occupations Code,  
24 is amended by adding Section 1603.1045 to read as follows:

25 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The  
26 department may contract with a person to perform for the department  
27 inspections of a school, shop, or other facility under this

1 chapter, Chapter 1601, or Chapter 1602.

2 SECTION 18. Subchapter E, Chapter 1603, Occupations Code,  
3 is amended by adding Sections 1603.205 and 1603.206 to read as  
4 follows:

5 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A  
6 person holding a dual barber and beauty shop license may own,  
7 operate, or manage a shop in which any practice of barbering defined  
8 by Section 1601.002(1) or cosmetology defined by Section  
9 1602.002(a) is performed.

10 (b) An applicant for a dual barber and beauty shop license  
11 must submit:

12 (1) an application on a department-approved form that  
13 is verified by the applicant;

14 (2) proof that the applicant meets the applicable  
15 requirements under Chapters 1601 and 1602 for obtaining a  
16 barbershop permit and a beauty shop license; and

17 (3) the required license fee.

18 (c) The department shall issue a dual barber and beauty shop  
19 license to an applicant that:

20 (1) meets the requirements under this chapter and  
21 Chapters 1601 and 1602;

22 (2) complies with commission rules; and

23 (3) pays the required fees.

24 (d) The holder of a dual barber and beauty shop license must  
25 comply with this chapter, Chapters 1601 and 1602, and commission  
26 rules related to barbering and cosmetology.

27 Sec. 1603.206. MOBILE SHOPS. (a) In this section, "mobile

1 shop" means a facility that is readily movable and where barbering,  
2 cosmetology, or both are practiced other than at a fixed location.

3 (b) A barbershop, beauty shop, or specialty shop licensed or  
4 permitted under this chapter, Chapter 1601, or Chapter 1602 may be a  
5 mobile shop.

6 (c) The commission may adopt rules to administer this  
7 section, including rules providing for:

8 (1) the licensing or permitting of a mobile shop;

9 (2) the fees for a mobile shop;

10 (3) the operation of a mobile shop;

11 (4) reporting requirements for a mobile shop; and

12 (5) the inspection of a mobile shop.

13 SECTION 19. Section 1603.352, Occupations Code, is amended  
14 to read as follows:

15 Sec. 1603.352. STERILIZATION [~~SANITATION~~] REQUIREMENTS FOR  
16 CERTAIN SERVICES. (a) A person who holds a license, certificate,  
17 or permit issued under this chapter, Chapter 1601, or Chapter 1602  
18 and who performs a barbering service described by Section  
19 1601.002(1)(E) or (F) or a cosmetology service described by Section  
20 1602.002(a)(10) or (11) [~~1602.002(10) or (11)~~]:

21 [~~(1)~~] shall, before performing the service, clean,  
22 disinfect, and sterilize with an autoclave or a dry heat,  
23 ultraviolet, or other department-approved sterilizer, in  
24 accordance with the sterilizer manufacturer's instructions, each  
25 metal [~~nondisposable~~] instrument, including metal nail clippers,  
26 cuticle pushers, cuticle nippers, and other metal instruments, used  
27 to perform the service [~~, and~~

1           ~~[(2) may use a disposable supply or instrument only if~~  
2 ~~that supply or instrument is purchased at the location where the~~  
3 ~~service is performed or provided by the person on whom the service~~  
4 ~~is performed].~~

5           (b) The owner or manager of a barber shop, barber school,  
6 beauty shop, specialty shop, ~~[or]~~ beauty culture school, or other  
7 facility licensed under this chapter, Chapter 1601, or Chapter  
8 1602, is responsible for providing an autoclave or a dry heat,  
9 ultraviolet, or other department-approved sterilizer for use in the  
10 shop or school as required by Subsection (a). An autoclave or a dry  
11 heat, ultraviolet, or other department-approved sterilizer used as  
12 required by Subsection (a) must be~~[+~~

13           ~~[(1) registered and]~~ listed with the United States  
14 ~~[federal]~~ Food and Drug Administration~~[, and~~

15           ~~[(2) used in accordance with the manufacturer's~~  
16 ~~instructions].~~

17           (c) Each sterilized instrument must be stored in accordance  
18 with the manufacturer's instructions.

19           (d) This section does not apply to:

20                   (1) single-use instruments; or

21                   (2) nonmetal nail files, buffer blocks, pumice stones,  
22 nail brushes, or other similar instruments.

23           (e) The commission may adopt rules to administer this  
24 section.

25           SECTION 20. Subchapter J, Chapter 1603, Occupations Code,  
26 is amended by adding Sections 1603.455 and 1603.456 to read as  
27 follows:

1       Sec. 1603.455. EMERGENCY ORDERS. (a) The executive  
2 director may issue an emergency order to suspend or revoke a license  
3 or permit issued, or to cease the operation of an unsafe facility  
4 regulated, by the department under this title if the executive  
5 director determines that an emergency exists requiring immediate  
6 action to protect the public health and safety.

7       (b) The executive director may issue the emergency order  
8 with or without notice and hearing as the executive director  
9 considers practicable under the circumstances.

10       (c) If an emergency order is issued under this section  
11 without a hearing, the executive director, not later than the 10th  
12 day after the date the emergency order was issued, shall set the  
13 time and place for a hearing conducted by the State Office of  
14 Administrative Hearings to affirm, modify, or set aside the  
15 emergency order. The executive director shall set the hearing for a  
16 date not later than the 30th day after the date the time and place  
17 for the hearing are set. The hearing examiner shall affirm the  
18 order to the extent that reasonable cause existed to issue the  
19 order.

20       (d) The commission by rule may prescribe procedures for the  
21 issuance and appeal of an emergency order under this section,  
22 including a rule to allow the commission to affirm, modify, or set  
23 aside a decision by the State Office of Administrative Hearings  
24 under Subsection (c).

25       (e) A proceeding under this section is a contested case  
26 under Chapter 2001, Government Code.

27       Sec. 1603.456. CEASE AND DESIST ORDERS. The executive



1 director may issue a cease and desist order, after notice and  
2 opportunity for hearing, if the executive director determines that  
3 the order is necessary to prevent a violation of:

- 4 (1) this chapter, Chapter 1601, or Chapter 1602; or  
5 (2) a rule adopted by the commission.

6 SECTION 21. Sections 1601.506, 1602.266(c), and 1602.408,  
7 Occupations Code, are repealed.

8 SECTION 22. (a) The Texas Department of Licensing and  
9 Regulation shall issue a hair braiding specialty certificate of  
10 registration under Section 1601.259, Occupations Code, as added by  
11 this Act, to an applicant qualified under this section who:

- 12 (1) applies for a certificate of registration under  
13 this section not later than October 1, 2007;  
14 (2) has the experience required by this section; and  
15 (3) pays the application fee.

16 (b) An applicant for a hair braiding specialty certificate  
17 of registration under this section is required to have practiced  
18 hair braiding in this state for at least 10 years before the  
19 regulation of hair braiding by Chapter 267, Acts of the 75th  
20 Legislature, Regular Session, 1997.

21 (c) This section expires on October 31, 2007.

22 SECTION 23. Not later than January 1, 2008, the Texas  
23 Commission of Licensing and Regulation shall adopt rules necessary  
24 to implement the changes in law made by this Act, including rules to  
25 administer:

26 (1) Sections 1601.258 and 1601.259, Occupations Code,  
27 as added by this Act, related to eligibility for hair weaving and

1 hair braiding specialty certificates;

2 (2) Section 1602.354, Occupations Code, as amended by  
3 this Act, related to continuing education and renewal requirements;

4 (3) Section 1603.205, Occupations Code, as added by  
5 this Act, related to dual barber and beauty shop licenses.

6 SECTION 24. The changes in law made by this Act apply only  
7 to an application for the issuance or renewal of a license, permit,  
8 or certificate that is filed with the Texas Department of Licensing  
9 and Regulation on or after the effective date of this Act. An  
10 application for the issuance or renewal of a license, permit, or  
11 certificate that is filed before the effective date of this Act is  
12 governed by the law in effect on the date the application was filed,  
13 and the former law is continued in effect for that purpose.

14 SECTION 25. Notwithstanding Section 1603.205, Occupations  
15 Code, as added by this Act, the Texas Department of Licensing and  
16 Regulation may not issue a license under that section before May 1,  
17 2008.

18 SECTION 26. This Act takes effect immediately if it  
19 receives a vote of two-thirds of all the members elected to each  
20 house, as provided by Section 39, Article III, Texas Constitution.  
21 If this Act does not receive the vote necessary for immediate  
22 effect, this Act takes effect September 1, 2007.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2106 was passed by the House on May 4, 2007, by the following vote: Yeas 143, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2106 on May 25, 2007, by the following vote: Yeas 139, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2106 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor