

By: Chisum

H.B. No. 2106

A BILL TO BE ENTITLED

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 for [~~lavatory behind~~] every two barber
18 chairs;

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

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

22 (7) adequate lighting for each room;

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

26 (9) [~~a library with library facilities available to~~
27 ~~students containing~~] at least one medical dictionary and a standard

1 work on human anatomy;

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

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

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

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

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

14 SECTION 8. Section 1602.303(b), Occupations Code, is
15 amended to read as follows:

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

19 (1) be on a form prescribed by the department;

20 (2) be verified by the applicant; and

21 (3) [~~contain a detailed floor plan of the school~~
22 ~~building divided into two separate areas, one area for instruction~~
23 ~~in theory and one area for clinic work; and~~

24 [~~(4)~~] contain a statement that the building:

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

26 [~~(B)~~] is of permanent construction and is divided
27 into at least two separate areas:

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

2 (ii) one area for clinic work;

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

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

7 (D) [~~(E)~~] contains, or will contain before
8 classes begin, the equipment established by commission rule as
9 sufficient to properly instruct a minimum of 50 students.

10 SECTION 9. Section 1603.103, Occupations Code, is amended
11 to read as follows:

12 Sec. 1603.103. INSPECTION OF SCHOOLS [~~, SHOPS, AND~~
13 ~~FACILITIES~~] BEFORE OPERATION. (a) Until the department
14 determines, by inspection, that the person has established the
15 school [~~, shop, or facility~~] in compliance with this chapter,
16 Chapter 1601, or Chapter 1602, a person may not operate a school [~~,~~
17 ~~shop, or other facility~~] licensed or permitted under this chapter,
18 Chapter 1601, or Chapter 1602.

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

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

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

26 (b) At least once every two years, the department shall
27 inspect each [~~school,~~] shop [~~,~~] or other facility that holds a

1 license, certificate, or permit in which the practice of barbering
2 or cosmetology is performed under this chapter, Chapter 1601, or
3 Chapter 1602, and at least twice per year, the department shall
4 inspect each school in which barbering or cosmetology is taught
5 under this chapter, Chapter 1601, or Chapter 1602.

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

10 SECTION 11. Subchapter C, Chapter 1603, Occupations Code,
11 is amended by adding Section 1603.1045 to read as follows:

12 Sec. 1603.1045. CONTRACT TO PERFORM INSPECTIONS. The
13 department may contract with a person to perform for the department
14 inspections of a school, shop, or other facility under this
15 chapter, Chapter 1601, or Chapter 1602.

16 SECTION 12. Subchapter E, Chapter 1603, Occupations Code,
17 is amended by adding Section 1603.205 to read as follows:

18 Sec. 1603.205. DUAL BARBER AND BEAUTY SHOP LICENSE. (a) A
19 person holding a dual barber and beauty shop license may own,
20 operate, or manage a shop in which any practice of barbering defined
21 by Section 1601.002(1) or cosmetology defined by Section
22 1602.002(a) is performed.

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

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

27 (2) proof that the applicant meets the applicable

1 requirements under Chapters 1601 and 1602 for obtaining a
2 barbershop permit and a beauty shop license; and

3 (3) the required license fee.

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

6 (1) meets the requirements under this chapter and
7 Chapters 1601 and 1602;

8 (2) complies with commission rules; and

9 (3) pays the required fees.

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

13 SECTION 13. As soon as practicable after the effective date
14 of this Act, the Texas Commission of Licensing and Regulation shall
15 adopt the rules necessary to implement Sections 1601.258, 1601.259,
16 and 1603.205, Occupations Code, as added by this Act.

17 SECTION 14. The changes in law made by this Act apply only
18 to an application for the issuance or renewal of a license, permit,
19 or certificate that is filed with the Texas Department of Licensing
20 and Regulation on or after the effective date of this Act. An
21 application for the issuance or renewal of a license, permit, or
22 certificate that is filed before the effective date of this Act is
23 governed by the law in effect on the date the application was filed,
24 and the former law is continued in effect for that purpose.

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

1 2008.

2 SECTION 16. (a) Except as provided by Subsection (b) of
3 this section, this Act takes effect immediately if it receives a
4 vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2007.

8 (b) Section 1603.205, Occupations Code, as added by this
9 Act, takes effect May 1, 2008.