

By: Hamilton

H.B. No. 3512

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbers and cosmetologists.

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

SECTION 1. Section 1601.001(a), Occupations Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Barber school" means a place that holds a permit issued under Subchapter H to teach the practice of barbering and may be privately or publicly funded. The term includes a barber college.

SECTION 2. Section 1601.253, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The commission shall adopt rules for the issuance of a Class A barber certificate to a person who holds an operator license under Chapter 1602. The department shall issue the certificate to an applicant who:

(1) holds an active operator license under Chapter 1602;

(2) completes at least 300 hours of instruction in barbering that includes barber history and shaving through a commission-approved training program in a barber school;

(3) passes the examination required under Subsection (a); and

(4) submits to the department:

(A) an application on a form prescribed by the

1 department; and

2 (B) the required fee.

3 SECTION 3. Section 1601.254, Occupations Code, is amended  
4 to read as follows:

5 Sec. 1601.254. ELIGIBILITY FOR BARBER INSTRUCTOR LICENSE  
6 ~~[TEACHER'S CERTIFICATE]~~. (a) A person holding a barber instructor  
7 license may perform any act of barbering and may instruct a person  
8 in any act of barbering.

9 (b) To be eligible for a barber instructor license, an [An]  
10 applicant [for a teacher's certificate] must:

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

12 (2) have a high school diploma or a high school  
13 equivalency certificate;

14 (3) hold a current [be a] Class A barber certificate;

15 (4) [(-2-)] have completed:

16 (A) a course consisting of 750 hours of  
17 instruction in barber courses and methods of teaching in a barber  
18 school; or

19 (B) at least one year of work experience as a  
20 licensed Class A barber and:

21 (i) have completed 500 hours of instruction  
22 in barber courses and methods of teaching in a commission-approved  
23 training program;

24 (ii) have completed 15 semester hours in  
25 education courses from an accredited college or university within  
26 the 10 years preceding the date of the application; or

27 (iii) have obtained a degree in education

1 from an accredited college or university; and

2 (5) pass the required examination ~~[five years'~~  
3 ~~experience as a practicing barber in a barbershop, two years of~~  
4 ~~which occurred in the two years preceding the application date; and~~

5 ~~[(3) submit the required examination fee with the~~  
6 ~~application].~~

7 ~~[(b) An applicant must submit a new application and fee for~~  
8 ~~each examination taken by the applicant. Fees paid are not~~  
9 ~~refundable.~~

10 ~~[(c) The department shall issue a teacher's certificate to~~  
11 ~~an applicant who:~~

12 ~~[(1) passes the appropriate examination; and~~

13 ~~[(2) pays the required certificate fee.]~~

14 SECTION 4. Subchapter F, Chapter 1601, Occupations Code, is  
15 amended by adding Sections 1601.261, 1601.262, and 1601.263 to read  
16 as follows:

17 Sec. 1601.261. ELIGIBILITY FOR SHAMPOO APPRENTICE PERMIT.

18 (a) A person holding a shampoo apprentice permit may perform only  
19 barbering as defined by Section 1601.002(1)(I).

20 (b) The department shall issue a shampoo apprentice permit  
21 to an applicant who is at least 16 years of age.

22 (c) A shampoo apprentice permit expires on the first  
23 anniversary of the date of issuance and may not be renewed.

24 (d) The commission shall adopt rules as necessary to  
25 administer this section. The commission may not require an  
26 applicant to:

27 (1) complete any hours of instruction at a barber

training program as a prerequisite for the issuance of a shampoo  
apprentice permit; or

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

(e) A facility licensed under this chapter may employ a  
person who holds a shampoo apprentice permit to perform shampooing  
or conditioning services and shall pay the person at least the  
federal minimum wage as provided by Section 6, Fair Labor Standards  
Act of 1938 (29 U.S.C. Section 206).

Sec. 1601.262. ELIGIBILITY FOR BARBER  
TECHNICIAN/MANICURIST SPECIALTY LICENSE. (a) A person holding a  
barber technician/manicurist specialty license may perform only  
barbering as defined by Sections 1601.002(1)(C) through (G).

(b) To be eligible for a barber technician/manicurist  
specialty license, an applicant must:

(1) submit an application on a form prescribed by the  
department;

(2) pay the required fee; and

(3) either:

(A) hold both an active barber technician license  
and an active manicurist license; or

(B) meet the requirements of Subsection (c).

(c) An applicant who qualifies under Subsection (b)(3)(B)  
must:

(1) be at least 17 years of age and have completed the  
seventh grade or its equivalent; and

(2) have completed:

(A) 900 hours of instruction in a barber

technician/manicurist curriculum in a commission-approved training program; or

(B) 600 hours of instruction in a manicure curriculum and 300 hours of instruction in a barber technician curriculum in a commission-approved training program.

Sec. 1601.263. ELIGIBILITY FOR BARBER TECHNICIAN/HAIR WEAVING SPECIALTY LICENSE. (a) A person holding a barber technician/hair weaving specialty license may perform only barbering as defined by Sections 1601.002(1)(C), (D), (G), and (H).

(b) To be eligible for a barber technician/hair weaving specialty license, an applicant must:

(1) submit an application on a form prescribed by the department;

(2) pay the required fee; and

(3) either:

(A) hold both an active barber technician license and an active hair weaving specialty certificate of registration; or

(B) meet the requirements of Subsection (c).

(c) An applicant who qualifies under Subsection (b)(3)(B) must:

(1) be at least 17 years of age and have completed the seventh grade or its equivalent; and

(2) have completed:

(A) 600 hours of instruction in a barber technician/hair weaving curriculum in a commission-approved training program; or

1                    (B) 300 hours of instruction in a hair weaving  
2 curriculum and 300 hours of instruction in a barber technician  
3 curriculum in a commission-approved training program.

4            SECTION 5. Section 1601.352, Occupations Code, is amended  
5 to read as follows:

6            Sec. 1601.352. APPLICATION FOR BARBER SCHOOL PERMIT. ~~[(a)]~~  
7 An applicant for a barber school permit must:

8                    (1) provide to the department adequate proof of  
9 financial responsibility;

10                   (2) submit an application on a form prescribed by the  
11 department;

12                   (3) satisfy the facility and equipment requirements of  
13 Section 1601.353; and

14                   (4) pay the required fee ~~[demonstrate to the~~  
15 ~~department that the school meets the requirements of this~~  
16 ~~subchapter for issuance of a permit].~~

17            ~~[(b) Before issuing a barber school permit, the department~~  
18 ~~must determine that the applicant is financially sound and capable~~  
19 ~~of fulfilling the applicant's commitments for training.]~~

20            SECTION 6. Section 1601.353, Occupations Code, is amended  
21 to read as follows:

22            Sec. 1601.353. REQUIRED FACILITIES AND EQUIPMENT. ~~[(a)]~~  
23 The department may ~~[not]~~ approve an application for a permit for a  
24 barber school if ~~[that provides training leading to issuance of a~~  
25 ~~Class A barber certificate unless]~~ the school ~~[has]~~:

26                    (1) has a building of permanent construction  
27 containing at least 1,000 ~~[2,800]~~ square feet of floor space,

1 including classroom and practical areas, covered in ~~[divided into~~  
2 ~~at least:~~

3 ~~[(A) a senior department,~~

4 ~~[(B) a junior department,~~

5 ~~[(C) a class theory room,~~

6 ~~[(D) a supply room,~~

7 ~~[(E) an office space, and~~

8 ~~[(F) separate restrooms for male and female~~  
9 ~~students;~~

10 ~~[(2)]~~ a hard-surface floor-covering of tile or other  
11 suitable material;

12 (2) has the following equipment:

13 (A) [(3)] at least 10 student workstations that  
14 include a chair that reclines, a back bar, and a wall mirror ~~[20~~  
15 ~~modern barber chairs, including a cabinet and mirror for each~~  
16 ~~chair];~~

17 (B) [(4)] a sink behind every two workstations  
18 ~~[barber chairs];~~

19 (C) [(5)] a liquid sterilizer for each  
20 workstation ~~[barber chair];~~

21 (D) [(6)] an adequate number of latherers,  
22 ~~vibrators, and hair dryers for student use,~~

23 ~~[(7)]~~ adequate lighting for each room;

24 (E) [(8)] at least 10 [20] classroom chairs and  
25 other materials necessary to teach the required subjects; and

26 (F) access to permanent restrooms and ~~[, a~~  
27 ~~blackboard, anatomical charts of the head, neck, and face, and one~~

~~barber chair in the class theory room;~~

~~[(9) at least one medical dictionary and a standard work on human anatomy;~~

~~[(10)] adequate drinking fountain facilities[, with at least one for each floor]; and~~

(3) meets any other requirement set by the commission

~~[(11) at least one fire extinguisher].~~

~~[(b) An applicant for a barber school permit must submit to the department:~~

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

~~[(2) photographs of the proposed site for the school, including the interior and exterior of the building, rooms, and departments;~~

~~[(3) a detailed copy of the training program;~~

~~[(4) a copy of the catalogue and promotional literature of the school;~~

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

~~[(6) a sworn statement showing the ownership of the school; and~~

~~[(7) the required permit fee.]~~

SECTION 7. Section 1601.402(b), Occupations Code, is amended to read as follows:

(b) A Class A barber, barber technician, instructor ~~teacher~~, manicurist, or other licensed specialist must renew the



1 person's certificate or license on or before the expiration date.

2 SECTION 8. Section 1601.405(a), Occupations Code, is  
3 amended to read as follows:

4 (a) The department may not require a Class A barber, barber  
5 technician, instructor [~~teacher~~], or manicurist who is serving on  
6 active duty in the United States armed forces to renew the person's  
7 certificate or license.

8 SECTION 9. Section 1601.560, Occupations Code, is amended  
9 to read as follows:

10 Sec. 1601.560. INSTRUCTOR-TO-STUDENT RATIO [~~QUALIFIED~~  
11 ~~INSTRUCTOR~~]. (a) A [~~In addition to the teacher required by Section~~  
12 ~~1601.355(b), a~~] barber school must [~~that provides training leading~~  
13 ~~to issuance of a Class A barber certificate shall~~] have at least one  
14 [~~qualified~~] instructor[, ~~holding a Class A certificate,~~] for every  
15 25 students on the school's premises. [~~A teacher may serve as an~~  
16 ~~instructor in practical work in addition to holding a position as a~~  
17 ~~theory teacher.~~]

18 (b) A barber school must have at least one instructor for  
19 every three student instructors on the school's premises [~~may not~~  
20 ~~enroll more than one student teacher for each certified teacher who~~  
21 ~~teaches at the school~~]. A student instructor [~~teacher~~] shall  
22 concentrate on developing teaching skills and may not be booked  
23 with customers.

24 SECTION 10. Section 1601.602, Occupations Code, is amended  
25 to read as follows:

26 Sec. 1601.602. REVOCATION OF STUDENT INSTRUCTOR'S  
27 [~~TEACHER'S~~] BARBER CERTIFICATE. A violation of Section 1601.560(b)

1 by a student instructor [~~teacher~~] is a ground for the revocation of  
2 the [~~person's~~] student instructor's [~~teacher~~] barber certificate  
3 [~~license~~].

4 SECTION 11. Section 1602.002(a), Occupations Code, is  
5 amended to read as follows:

6 (a) In this chapter, "cosmetology" means the practice of  
7 performing or offering to perform for compensation any of the  
8 following services:

9 (1) treating a person's hair by:

10 (A) providing any method of treatment as a  
11 primary service, including arranging, beautifying, bleaching,  
12 cleansing, coloring, cutting, dressing, dyeing, processing,  
13 shampooing, shaping, singeing, straightening, styling, tinting, or  
14 waving;

15 (B) providing a necessary service that is  
16 preparatory or ancillary to a service under Paragraph (A),  
17 including bobbing, clipping, cutting, or trimming; or

18 (C) cutting the person's hair as a separate and  
19 independent service for which a charge is directly or indirectly  
20 made separately from charges for any other service;

21 (2) weaving or braiding a person's hair;

22 (3) shampooing and conditioning a person's hair;

23 (4) servicing a person's wig or artificial hairpiece  
24 on a person's head or on a block after the initial retail sale and  
25 servicing in any manner listed in Subdivision (1);

26 (5) treating a person's mustache or beard by  
27 arranging, beautifying, coloring, processing, styling, or

1 trimming;

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

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

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

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

11 (8) administering facial treatments;

12 (9) removing superfluous hair from a person's body  
13 using depilatories, preparations, or tweezing techniques  
14 ~~[mechanical tweezers]~~;

15 (10) treating a person's nails by:

16 (A) cutting, trimming, polishing, tinting,  
17 coloring, cleansing, or manicuring; or

18 (B) attaching false nails; or

19 (11) massaging, cleansing, treating, or beautifying a  
20 person's hands or feet.

21 SECTION 12. Section 1602.254, Occupations Code, is amended  
22 by amending Subsection (b) and adding Subsection (c) to read as  
23 follows:

24 (b) To be eligible for an operator license, an applicant  
25 must meet the requirements of Subsection (c) or:

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

27 (2) have obtained a high school diploma or the

equivalent of a high school diploma or have passed a valid examination administered by a certified testing agency that measures the person's ability to benefit from training; and

(3) have completed:

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

(B) 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses prescribed by the commission in a vocational cosmetology program in a public school.

(c) The commission shall adopt rules for the issuance of an operator license under this section to a person who holds a Class A barber certificate. The department shall issue the license to an applicant who:

(1) holds an active Class A barber certificate;

(2) completes 300 hours of instruction in cosmetology through a commission-approved training program in a cosmetology school;

(3) passes the examination required under Section 1602.262; and

(4) submits to the department:

(A) an application on a form prescribed by the department; and

(B) the required fee.

SECTION 13. Section 1602.255(b), Occupations Code, is amended to read as follows:

(b) To be eligible for an instructor license, an applicant

must:

(1) be at least 18 years of age;

(2) have a high school diploma ~~[completed the 12th grade]~~ or a high school equivalency certificate ~~[its equivalent]~~;

(3) hold an operator license under this chapter; ~~and~~

(4) have completed:

(A) ~~[a course consisting of]~~ 750 hours of instruction in ~~[cosmetology courses and]~~ methods of teaching in:

(i) a licensed private beauty culture school; or

(ii) a vocational training program of a publicly financed postsecondary institution; ~~[or]~~

(B) at least:

(i) one year ~~[two years]~~ of verifiable experience as a licensed cosmetology operator; and

(ii) 500 ~~[250]~~ hours of instruction in cosmetology in a commission-approved training program; or

(C) 15 semester hours in education courses through an accredited college or university; and

(5) pass the examination required under Section 1602.262.

SECTION 14. Section 1602.257, Occupations Code, is amended to read as follows:

Sec. 1602.257. ELIGIBILITY FOR AESTHETICIAN ~~[A FACIALIST]~~ SPECIALTY LICENSE. (a) A person holding an aesthetician ~~[a facialist]~~ specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (9).

(b) To be eligible for an aesthetician [~~a facialist~~] specialty license, an applicant must:

(1) be at least 17 years of age;

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

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

SECTION 15. Subchapter F, Chapter 1602, Occupations Code, is amended by adding Section 1602.261 to read as follows:

Sec. 1602.261. ELIGIBILITY FOR MANICURIST/AESTHETICIAN SPECIALTY LICENSE. (a) A person holding a manicurist/aesthetician specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (11).

(b) To be eligible for a manicurist/aesthetician specialty license, an applicant must:

(1) submit an application on a form prescribed by the department;

(2) pay the required fee; and

(3) either:

(A) hold both an active manicurist specialty license and an active aesthetician specialty license; or

(B) meet the educational requirements of Subsection (c).

(c) An applicant who qualifies under Subsection (b)(3)(B)

1 must:

2 (1) either:

3 (A) have obtained a high school diploma or a high  
4 school equivalency certificate; or

5 (B) have passed a valid examination administered  
6 by a certified testing agency that measures the person's ability to  
7 benefit from training; and

8 (2) have completed:

9 (A) 1,000 hours of instruction in a  
10 manicure/aesthetics specialty curriculum in a commission-approved  
11 training program; or

12 (B) 600 hours of instruction in a manicure  
13 curriculum and 750 hours of instruction in an aesthetics curriculum  
14 in commission-approved training programs.

15 SECTION 16. Section 1602.262, Occupations Code, is amended  
16 to read as follows:

17 Sec. 1602.262. ISSUANCE OF LICENSE OR CERTIFICATE. (a) An  
18 applicant for a ~~[an operator]~~ license under this chapter ~~[7~~  
19 ~~instructor license, manicurist specialty license, or facialist~~  
20 ~~specialty license]~~ is entitled to the license if the applicant:

21 (1) meets the applicable eligibility requirements;

22 (2) passes the applicable examination;

23 (3) pays the required fee; ~~[and]~~

24 (4) has not committed an act that constitutes a ground  
25 for denial of the license; and

26 (5) submits an application on a form prescribed by the  
27 department.

(b) An applicant for a specialty certificate is entitled to the certificate if the applicant:

- (1) meets the eligibility requirements;
- (2) pays the required fee; ~~and~~
- (3) has not committed an act that constitutes a ground for denial of the certificate; and
- (4) submits an application on a form prescribed by the department.

SECTION 17. Section 1602.303(b), Occupations Code, is amended to read as follows:

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

- (1) be on a form prescribed by the department;
- (2) be verified by the applicant; and
- (3) contain a statement that the building:
  - (A) is of permanent construction and is divided into at least two separate areas:
    - (i) one area for instruction in theory; and
    - (ii) one area for clinic work;
  - (B) contains a minimum of 1,000 ~~[3,500]~~ square feet of floor space;
  - (C) has access to permanent restrooms and adequate drinking fountain facilities ~~[separate restrooms for male and female students]~~; and
  - (D) contains, or will contain before classes begin, the equipment established by commission rule as sufficient



1 to properly instruct a minimum of 10 ~~[50]~~ students.

2 SECTION 18. Section 1602.451(a), Occupations Code, is  
3 amended to read as follows:

4 (a) The holder of a private beauty culture school license  
5 shall:

6 (1) maintain a sanitary establishment;

7 (2) maintain ~~[on its staff and]~~ on duty ~~[during~~  
8 ~~business hours]~~ one full-time licensed instructor for each 25  
9 students in attendance;

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

11 (4) establish regular class and instruction hours and  
12 grades;

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

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

18 (7) hold examinations before issuing diplomas;

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

21 (9) publish in the school's catalogue and enrollment  
22 contract a description of the refund policy required under Section  
23 1602.458; and

24 (10) provide the department with information on:

25 (A) the current course completion rates of  
26 students who attend a course of instruction offered by the school;  
27 and

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

SECTION 19. Section 1603.255, Occupations Code, is amended to read as follows:

Sec. 1603.255. EARLY EXAMINATION. The department~~[, on written request by a student,]~~ may allow ~~[provide]~~ for the early written examination of a student who has completed the following number of ~~[an applicant for a Class A barber certificate, a teacher's certificate, or an operator license who has completed at least 1,000]~~ hours of instruction in a department-approved training program:

(1) 1,000 hours for a student seeking a Class A barber certificate or operator license;

(2) 400 hours for a student seeking a manicurist license or speciality license;

(3) 500 hours for a student seeking a barber technician license or aesthetician specialty license;

(4) 600 hours for a student seeking a barber technician/manicurist specialty license;

(5) 400 hours for a student seeking a barber technician/hair weaving specialty license;

(6) 750 hours for a student seeking a manicurist/aesthetician specialty license; or

(7) 500 hours for a student seeking a barber or cosmetology instructor license.

SECTION 20. Sections 1603.352(a), (b), and (c), Occupations Code, are amended to read as follows:

1           (a) A person who holds a license, certificate, or permit  
 2 issued under this chapter, Chapter 1601, or Chapter 1602 and who  
 3 performs a barbering service described by Section 1601.002(1)(E) or  
 4 (F) or a cosmetology service described by Section 1602.002(a)(10)  
 5 or (11) shall, before performing the service, clean, disinfect, and  
 6 sterilize with an autoclave or ~~[a]~~ dry heat sterilizer or sanitize  
 7 with an ~~[7]~~ ultraviolet sanitizer, ~~[or other department-approved~~  
 8 ~~sterilizer,~~] in accordance with the sterilizer or sanitizer  
 9 manufacturer's instructions, each metal instrument, including  
 10 metal nail clippers, cuticle pushers, cuticle nippers, and other  
 11 metal instruments, used to perform the service.

12           (b) The owner or manager of a barber shop, barber school,  
 13 beauty shop, specialty shop, beauty culture school, or other  
 14 facility licensed under this chapter, Chapter 1601, or Chapter  
 15 1602, is responsible for providing an autoclave, ~~[or]~~ a dry heat  
 16 sterilizer, or an ultraviolet sanitizer ~~[, or other~~  
 17 ~~department-approved sterilizer]~~ for use in the shop or school as  
 18 required by Subsection (a). ~~[An autoclave or a dry heat,~~  
 19 ~~ultraviolet, or other department-approved sterilizer used as~~  
 20 ~~required by Subsection (a) must be listed with the United States~~  
 21 ~~Food and Drug Administration.]~~

22           (c) Each sterilized or sanitized instrument must be stored  
 23 in accordance with the manufacturer's instructions.

24           SECTION 21. Sections 1601.001(a)(5), 1601.354, and  
 25 1601.355, Occupations Code, are repealed.

26           SECTION 22. The changes in law made by this Act apply only  
 27 to an application for the issuance or renewal of a license or

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1 certificate that is filed with the Texas Department of Licensing  
2 and Regulation on or after the effective date of this Act. An  
3 application for the issuance or renewal of a license or certificate  
4 that is filed before the effective date of this Act is governed by  
5 the law in effect on the date the application was filed, and the  
6 former law is continued in effect for that purpose.

7 SECTION 23. This Act takes effect September 1, 2011.