

## **BILL ANALYSIS**

C.S.H.B. 1893  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties point out that Texas could soon be facing a shortage in skilled professional funeral directors as our population ages. The parties note that it takes many months for a person who wishes to become a funeral director to fully develop the skills needed to safely and adequately perform the procedures needed for embalming and preparing the deceased. The parties assert that revising provisions relating to provisional funeral director's licenses could help develop the professionals needed to address industry shortages. The parties also point out that the shortage of knowledgeable industry representatives has affected the Texas Funeral Service Commission by the steady loss of experienced board members. In order to address these issues, C.S.H.B. 1893 seeks to increase the number of skilled professional funeral directors.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1893 amends the Occupations Code to remove a provision prohibiting the appointment of a member to the Texas Funeral Service Commission for more than one full term, except under certain circumstances.

C.S.H.B. 1893, in statutory provisions establishing eligibility criteria for the issuance of a provisional license to practice funeral directing or embalming, requires the applicant, rather than meeting both requirements, either to have completed specified educational requirements or be currently enrolled in an accredited school or college of mortuary science, or to be employed by a funeral director or embalmer to learn funeral directing or embalming, as applicable, under that employer's instruction and supervision. The bill authorizes the commission to extend the term of the provisional license program for a maximum of 12 additional months for a provisional license holder who requests and receives an extension of the license renewal period based on hardship.

C.S.H.B. 1893 removes provisions authorizing a provisional license holder whose license is canceled due to non-payment of a renewal fee and penalty before a specified deadline to apply for reinstatement not later than 18 months after the date of cancellation and removes provisions authorizing the commission to reinstate the canceled license if certain contingencies are met.

C.S.H.B. 1893 requires a provisional license holder to practice only under the personal supervision of a funeral director or embalmer. The bill authorizes the funeral director or embalmer under whom a provisional license holder is training to submit to the commission an affidavit of proficiency for the provisional license holder after the provisional license holder has practiced under the personal supervision of the funeral director or embalmer for at least six months and has attained a score of at least 75 percent on the Texas laws examination given by the commission. The bill authorizes the provisional license holder to practice under the general supervision of a funeral director or embalmer if the commission approves the affidavit and

specifies that, for the purposes of provisions governing cemetery and crematory services, funeral directing, and embalming, general supervision requires a funeral director or embalmer to be present on the premises where a funeral service is provided.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1893 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 651.001(14), Occupations Code, is amended to read as follows:

(14) "Provisional license holder" means a person who:

(A) is engaged in learning the practice of funeral directing or embalming under the instruction, direction, and [~~personal~~] supervision of a funeral director or embalmer; and

(B) holds a provisional license issued by the commission under this chapter.

SECTION 2. Section 651.054(a), Occupations Code, is amended.

SECTION 3. Section 651.253(a), Occupations Code, is amended to read as follows:

(a) To be eligible for a funeral director's license or an embalmer's license, an applicant must:

- (1) be at least 18 years of age;
- (2) have graduated from an accredited high school or passed an examination prescribed by the Texas Education Agency;
- (3) have graduated from an accredited school or college of mortuary science;
- (4) unless the applicant holds a reciprocal embalmer's license, have served as a provisional license holder for not less than one year under the [~~personal~~] supervision and instruction of a funeral director or embalmer, as applicable; and

(5) have successfully completed the

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 651.001(14), Occupations Code, is amended to read as follows:

(14) "Provisional license holder" means a person who:

(A) is engaged in learning the practice of funeral directing or embalming under the instruction, direction, and [~~personal~~] supervision of a funeral director or embalmer as provided by Section 651.306; and

(B) holds a provisional license issued by the commission under this chapter.

SECTION 2. Same as introduced version.

SECTION 3. Section 651.253(a), Occupations Code, is amended to read as follows:

(a) To be eligible for a funeral director's license or an embalmer's license, an applicant must:

- (1) be at least 18 years of age;
- (2) have graduated from an accredited high school or passed an examination prescribed by the Texas Education Agency;
- (3) have graduated from an accredited school or college of mortuary science;
- (4) unless the applicant holds a reciprocal embalmer's license, have served as a provisional license holder for not less than one year under the [~~personal~~] supervision and instruction of a funeral director or embalmer, as applicable, as provided by Section 651.306; and

(5) have successfully completed the

applicable written examination described by Section 651.255 or 651.256.

SECTION 4. Section 651.301, Occupations Code, is amended to read as follows:

Sec. 651.301. PROVISIONAL LICENSE REQUIRED. A person must obtain a provisional license before the person may engage in learning the practice of funeral directing or embalming under the instruction, direction, and ~~[personal]~~ supervision in this state of a licensed funeral director or embalmer.

SECTION 5. Section 651.302, Occupations Code, is amended to read as follows:

Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL LICENSE. (a) The commission shall issue a provisional license to practice funeral directing to an applicant who:

- (1) is at least 18 years of age;
- (2) either:
  - (A) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science; or
  - (B) ~~[(3)]~~ is employed by a funeral director to learn funeral directing or embalming under the instruction and supervision of the funeral director;

(3) ~~[(4)]~~ files an application for a provisional license on a form provided by the commission and verified under oath by the applicant; and

(4) ~~[(5)]~~ pays any required application or license fee.

(b) The commission shall issue a provisional license to practice embalming to an applicant who:

- (1) is at least 18 years of age;
- (2) either:
  - (A) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science; or
  - (B) is employed by an embalmer to learn embalming under the instruction and supervision of the embalmer;

(3) files an application for a provisional

applicable written examination described by Section 651.255 or 651.256.

SECTION 4. Section 651.301, Occupations Code, is amended to read as follows:

Sec. 651.301. PROVISIONAL LICENSE REQUIRED. A person must obtain a provisional license before the person may engage in learning the practice of funeral directing or embalming under the instruction, direction, and ~~[personal]~~ supervision in this state of a licensed funeral director or embalmer as provided by Section 651.306.

SECTION 5. Section 651.302, Occupations Code, is amended to read as follows:

Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL LICENSE. (a) The commission shall issue a provisional license to practice funeral directing to an applicant who:

- (1) is at least 18 years of age;
- (2) either:
  - (A) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science; or
  - (B) ~~[(3)]~~ is employed by a funeral director to learn funeral directing ~~[or embalming]~~ under the instruction and supervision of the funeral director as provided by Section 651.306;

(3) ~~[(4)]~~ files an application for a provisional license on a form provided by the commission and verified under oath by the applicant; and

(4) ~~[(5)]~~ pays any required application or license fee.

(b) The commission shall issue a provisional license to practice embalming to an applicant who:

- (1) is at least 18 years of age;
- (2) either:
  - (A) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science; or
  - (B) is employed by an embalmer to learn embalming under the instruction and supervision of the embalmer as provided by Section 651.306;

(3) files an application for a provisional

license;  
(4) pays any required application or license fee; and  
(5) complies with the requirements of this chapter and of the commission.

SECTION 6. Sections 651.303(b) and (c), Occupations Code, are amended to read as follows:

(b) The commission by rule shall define the terms of employment of a provisional license holder. The terms of employment must include service by the provisional license holder under actual working conditions and under the [personal] supervision of a funeral director or embalmer.

(c) The term of the provisional license program must be at least 12 consecutive months but not more than ~~36~~ [24] consecutive months.

SECTION 7. Sections 651.305(d) and (e), Occupations Code, are amended to read as follows:

(d) If the renewal fee and penalty are not paid before the 91st day after the date of the notice of suspension, the commission shall cancel the license. ~~[If the license is canceled under this subsection, the provisional license holder may apply for reinstatement not later than 18 months after the date of cancellation. The commission may reinstate the canceled license if:~~

~~[(1) all other commission requirements are satisfied; and~~

~~[(2) the license fee and a late payment penalty equal to the amount of the license fee for the period of the cancellation are paid.]~~

(e) A provisional license may be renewed after the ~~third~~ [second] anniversary of the date of its issuance only if the person requests and receives from the commission an extension based on hardship.

license;  
(4) pays any required application or license fee; and  
(5) complies with the requirements of this chapter and of the commission.

SECTION 6. Sections 651.303(b) and (c), Occupations Code, are amended to read as follows:

(b) The commission by rule shall define the terms of employment of a provisional license holder. The terms of employment must include service by the provisional license holder under actual working conditions and under the [personal] supervision of a funeral director or embalmer as provided by Section 651.306.

(c) The term of the provisional license program must be at least 12 consecutive months but not more than 24 consecutive months. The commission may extend the term of the provisional license program for not more than 12 additional months for a provisional license holder who requests and receives an extension based on hardship under Section 651.305(e).

SECTION 7. Section 651.305(d), Occupations Code, is amended to read as follows:

(d) If the renewal fee and penalty are not paid before the 91st day after the date of the notice of suspension, the commission shall cancel the license. ~~[If the license is canceled under this subsection, the provisional license holder may apply for reinstatement not later than 18 months after the date of cancellation. The commission may reinstate the canceled license if:~~

~~[(1) all other commission requirements are satisfied; and~~

~~[(2) the license fee and a late payment penalty equal to the amount of the license fee for the period of the cancellation are paid.]~~

SECTION 8. Section 651.306, Occupations Code, is amended to read as follows:

Sec. 651.306. [PERSONAL]  
SUPERVISION OF PROVISIONAL  
LICENSE HOLDER. (a) Except as

provided by Subsection (b), a provisional license holder may practice only under the personal supervision of a funeral director or embalmer. For the purposes of this chapter, personal supervision requires the physical presence of a funeral director or embalmer at the specified place and time a funeral service is provided.

(b) After a provisional license holder has practiced under the personal supervision of a funeral director or embalmer for at least six months, the funeral director or embalmer under whom the provisional license holder is training may submit to the commission an affidavit of proficiency for the provisional license holder. If the commission approves the affidavit of proficiency, the provisional license holder may practice under the general supervision of a funeral director or embalmer.

The funeral director or embalmer supervising the provisional license holder shall determine the appropriate manner of providing general supervision of the provisional license holder.

SECTION 9. Section 651.060(b), Occupations Code, is repealed.

SECTION 10. Section 651.302, Occupations Code, as amended by this Act, applies only to a person who files an application for a provisional license on or after the effective date of this Act. A person who files an application before the effective date of this Act is governed by the law in effect on the date the application is filed, and the former law is continued in effect for that purpose.

SECTION 11. This Act takes effect September 1, 2013.

SECTION 8. Section 651.306, Occupations Code, is amended to read as follows:

Sec. 651.306. [PERSONAL]  
SUPERVISION OF PROVISIONAL  
LICENSE HOLDER. (a) Except as

provided by Subsection (b), a provisional license holder may practice only under the personal supervision of a funeral director or embalmer. For the purposes of this chapter, personal supervision requires the physical presence of a funeral director or embalmer at the specified place and time a funeral service is provided.

(b) After a provisional license holder has practiced under the personal supervision of a funeral director or embalmer for at least six months and has attained a score of at least 75 percent on the Texas laws examination given by the commission, the funeral director or embalmer under whom the provisional license holder is training may submit to the commission an affidavit of proficiency for the provisional license holder. If the commission approves the affidavit of proficiency, the provisional license holder may practice under the general supervision of a funeral director or embalmer.

For purposes of this chapter, general supervision requires a funeral director or embalmer to be present on the premises where a funeral service is provided.

No equivalent provision.

SECTION 9. Substantially the same as introduced version.

SECTION 10. Same as introduced version.