

## **BILL ANALYSIS**

C.S.H.B. 2095  
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Licensing & Administrative Procedures  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Texas Department of Licensing and Regulation (TDLR) is the state's umbrella occupational regulatory agency, and interested parties, including TDLR, recently reviewed the barber and cosmetology regulatory programs and identified several changes that may better facilitate regulation of these occupations. C.S.H.B. 2095 seeks to amend the applicable law to ensure that TDLR is able to efficiently enforce standards that reflect current business practices within these two industries.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 4, 21, 23, and 26 of this bill.

### **ANALYSIS**

C.S.H.B. 2095 amends the Occupations Code to define a "dual shop" as a shop owned, operated, or managed by a person holding a dual barber and beauty shop license issued under statutory provisions governing the Texas Department of Licensing and Regulation's (TDLR) regulation of barbering and cosmetology. The bill prohibits a person from owning, operating, or managing a dual shop unless the person holds the appropriate permit and specifies that a dual shop permit is subject to the application and fee requirements of a barbershop or specialty shop. The bill authorizes a person who owns, operates, or manages a barbershop, dual shop, or specialty shop to employ a person holding a barber school student permit to shampoo or condition a person's hair. The bill authorizes a barber school student permit holder to shampoo or condition a person's hair in a facility licensed under statutory provisions governing barbers and the regulation of barbering and cosmetology and prohibits the barber school in which the barber school student permit holder is enrolled from receiving compensation for those services.

C.S.H.B. 2095 prohibits TDLR from issuing an original shampoo apprentice permit on or after September 1, 2013, and repeals related statutory provisions. The bill limits the applicability of the remaining statutory provisions regulating a shampoo apprentice permit to a person holding a permit issued before September 1, 2013, and authorizes a person holding a permit on the bill's effective date to continue to provide authorized services.

C.S.H.B. 2095 prohibits TDLR from issuing an original shampoo specialty certificate on or after September 1, 2013, and authorizes a person holding a certificate on the bill's effective date to continue to provide authorized services and renew the certificate. The bill exempts a shampoo specialty certificate renewal from the license renewals for which participation in a continuing education program is mandatory.

C.S.H.B. 2095 removes a liquid sterilizer for each workstation from the list of equipment a barber school must have before its application for a barber school permit is approved by TDLR.

C.S.H.B. 2095 authorizes a person holding a license, certificate, or permit under the statutory

provisions governing barbers and under the statutory provisions governing cosmetologists to perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client who, because of illness or physical or mental incapacitation, is unable to receive the services at a licensed facility. The bill requires an appointment for such a service to be made through the licensed facility.

C.S.H.B. 2095 adds a facility operated by a person holding a specialty shop license to the facilities at which a person licensed by TDLR is authorized to practice cosmetology.

C.S.H.B. 2095 creates a hair braiding specialty certificate, a hair weaving specialty certificate, and a wig specialty certificate in place of a general specialty certificate for those specialties. The bill sets out eligibility requirements for such certificate holders and establishes the authorized scope of practice for each certificate holder.

C.S.H.B. 2095 authorizes a person holding a cosmetology school student permit to shampoo or condition a person's hair in a facility licensed under provisions governing cosmetologists and the regulation of barbering and cosmetology. The bill authorizes a person who owns, operates, or manages a beauty shop, specialty shop, or dual shop to employ a person holding a cosmetology school student permit to shampoo or condition a person's hair. The bill prohibits a person holding a beauty shop license or specialty shop license from employing a person to shampoo or condition a person's hair unless the person holds a shampoo apprentice permit or a cosmetology school student permit. The bill prohibits a private beauty culture school or public school in which a student permit holder is enrolled from receiving compensation for certain services performed.

C.S.H.B. 2095 prohibits a person from leasing space on the premises of a specialty shop or dual shop to engage in the practice of cosmetology as an independent contractor unless the person holds a license under statutory provisions governing cosmetologists.

C.S.H.B. 2095, in a provision requiring the holder of a private beauty culture school license to maintain on duty one full-time licensed instructor for each 25 students in attendance, removes the specification that the licensed instructor be full-time.

C.S.H.B. 2095 defines "mini-salon or mini-barbershop" to include a room or suite of rooms that is one of a number of connected establishments in a single premises that open onto a common hallway or another configuration of operations as determined by rule by the Texas Commission of Licensing and Regulation in which a person practices barbering or cosmetology under a license, certificate, or permit issued under statutory provisions governing barbers or cosmetologists or statutory provisions relating to the regulation of barbering and cosmetology. The bill authorizes the commission, not later than May 1, 2014, to adopt rules for the licensing, permitting, operation, inspection, and reporting requirements of a mini-salon or mini-barbershop; fees required to issue or renew a license or permit for or to inspect a mini-salon or mini-barbershop; and sanitation standards required for a mini-salon or mini-barbershop. The bill requires a licensed, certified, or permitted mini-salon or mini-barbershop to meet the requirements of a licensed, certified, or permitted barbershop, beauty shop, dual shop, or specialty shop.

C.S.H.B. 2095 removes an examination proctor from the persons authorized to administer a required practical examination and repeals provisions related to the registration of such a proctor.

C.S.H.B. 2095 authorizes the commission, not later than May 1, 2014, to adopt rules allowing distance education only for the theory portion of the curriculum taught by a school licensed under statutory provisions governing barbers or relating to the regulation of barbering and cosmetology. The bill establishes that distance education does not satisfy the requirements of the practical portion of the curriculum taught by a school licensed under statutory provisions governing barbers or cosmetologists or statutory provisions relating to the regulation of barbering and cosmetology.

C.S.H.B. 2095 expands from seven members to nine members the composition of the Advisory Board on Cosmetology by adding one member who represents a licensed public secondary beauty culture school and by adding an additional public member. The bill clarifies that the associate commissioner of the Texas Education Agency responsible for career and technical education, rather than the associate commissioner for occupational education and technology, or the associate commissioner's authorized representative is to serve as an ex officio member of the commission without voting privileges.

C.S.H.B. 2095 repeals provisions relating to a barbering shampoo apprentice permit and a cosmetology shampoo apprentice permit issued to a permit applicant who is at least 16 years of age and relating to the requirement to pay such a permit holder at least the federal minimum wage. The bill repeals provisions requiring TDLR to develop and maintain a system to analyze barbering and cosmetology complaints and violations.

C.S.H.B. 2095 repeals the following provisions of the Occupations Code:

- Sections 1601.261(b) and (e)
- Sections 1602.267(b) and (e)
- Section 1603.153
- Section 1603.251
- Section 1603.257

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2095 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		HOUSE COMMITTEE SUBSTITUTE
SECTION 1.	Section 1601.001(a), Occupations Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2.	Section 1601.260, Occupations Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3.	Section 1601.261, Occupations Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4.	Section 1601.301, Occupations Code, is amended.	SECTION 4. Same as introduced version.
SECTION 5.	Section 1601.353, Occupations Code, is amended.	SECTION 5. Same as introduced version.

SECTION 6. Subchapter J, Chapter 1601, Occupations Code, is amended.

SECTION 6. Same as introduced version.

SECTION 7. Section 1602.001, Occupations Code, is amended.

SECTION 7. Same as introduced version.

SECTION 8. Section 1602.002(a), Occupations Code, is amended.

SECTION 8. Same as introduced version.

No equivalent provision.

SECTION 9. Section 1602.051, Occupations Code, is amended to read as follows:

Sec. 1602.051. BOARD; MEMBERSHIP.

(a) The Advisory Board on Cosmetology consists of nine ~~[seven]~~ members appointed by the presiding officer of the commission, with the commission's approval, as follows:

(1) one member who holds a license for a beauty shop that is part of a chain of beauty shops;

(2) one member who holds a license for a beauty shop that is not part of a chain of beauty shops;

(3) one member who holds a private beauty culture school license;

(4) two members who each hold an operator license;

(5) one member who represents a licensed public secondary or postsecondary beauty culture school; ~~[and]~~

(6) one member who represents a licensed public secondary beauty culture school; and

(7) two ~~[one]~~ public members ~~[member]~~.

(b) The associate commissioner ~~[for occupational education and technology]~~ of the Texas Education Agency responsible for career and technical education or the associate commissioner's authorized representative shall serve as an ex officio member of the commission without voting privileges.

SECTION 9. Section 1602.251(c), Occupations Code, is amended.

SECTION 10. Same as introduced version.

SECTION 10. Section 1602.258, Occupations Code, is amended.

SECTION 11. Same as introduced version.

SECTION 11. Subchapter F, Chapter 1602, Occupations Code, is amended.	SECTION 12. Same as introduced version.
SECTION 12. Section 1602.266, Occupations Code, is amended.	SECTION 13. Same as introduced version.
SECTION 13. Section 1602.267, Occupations Code, is amended.	SECTION 14. Same as introduced version.
SECTION 14. Section 1602.301, Occupations Code, is amended.	SECTION 15. Same as introduced version.
SECTION 15. Section 1602.354(a), Occupations Code, is amended to read as follows: (a) The commission will by rule recognize, prepare, or administer continuing education programs for the practice of cosmetology. Participation in the programs is mandatory for all license renewals <u>other than renewal of a shampoo apprentice permit under Section 1602.267.</u>	SECTION 16. Section 1602.354(a), Occupations Code, is amended to read as follows: (a) The commission will by rule recognize, prepare, or administer continuing education programs for the practice of cosmetology. Participation in the programs is mandatory for all license renewals <u>other than renewal of a shampoo specialty certificate.</u>
SECTION 16. Section 1602.403(c), Occupations Code, is amended.	SECTION 17. Same as introduced version.
SECTION 17. Subchapter I, Chapter 1602, Occupations Code, is amended.	SECTION 18. Same as introduced version.
SECTION 18. Section 1602.451(a), Occupations Code, is amended.	SECTION 19. Same as introduced version.
SECTION 19. Section 1602.456, Occupations Code, is amended.	SECTION 20. Same as introduced version.
SECTION 20. Subchapter E, Chapter 1603, Occupations Code, is amended.	SECTION 21. Same as introduced version.
SECTION 21. Section 1603.256(c), Occupations Code, is amended.	SECTION 22. Same as introduced version.
SECTION 22. Section 1603.351,	SECTION 23. Same as introduced version.

Occupations Code, is amended.

SECTION 23. The following sections of the Occupations Code are repealed:

- (1) Sections 1601.261(b) and (e);
- (2) Sections 1602.267(b) and (e);
- (3) Section 1603.153;
- (4) Section 1603.251; and
- (5) Section 1603.257.

SECTION 24.

No equivalent provision.

No equivalent provision.

(a) A person holding a shampoo apprentice permit under Section 1601.261 or 1602.267, Occupations Code, on the effective date of this Act may continue to provide services under the permit as provided by Chapter 1601 or 1602, Occupations Code, as appropriate.

(b) The Texas Department of Licensing and Regulation may not issue an original shampoo apprentice permit on or after September 1, 2013.

SECTION 25. Not later than May 1, 2014, the Texas Commission of Licensing and Regulation shall adopt rules to implement Section 1603.207, Occupations Code, as added by this Act, and Section 1603.351, Occupations Code, as amended by this Act.

SECTION 26. This Act takes effect September 1, 2013.

SECTION 24. Same as introduced version.

SECTION 25.

(a) A person holding a shampoo specialty certificate under Section 1602.258, Occupations Code, on the effective date of this Act may continue to provide services under and renew the certificate as provided by Chapter 1602, Occupations Code.

(b) The Texas Department of Licensing and Regulation may not issue an original shampoo specialty certificate on or after September 1, 2013.

(c) Same as introduced version..

(d) Same as introduced version.

SECTION 26. Same as introduced version.

SECTION 27. Same as introduced version.