

By: Thompson of Harris

H.B. No. 2095

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology;
authorizing fees.

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

SECTION 1. Section 1601.001(a), Occupations Code, is amended by adding Subdivision (5) to read as follows:

(5) "Dual shop" means a shop owned, operated, or managed by a person holding a dual barber and beauty shop license issued under Chapter 1603.

SECTION 2. Section 1601.260, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) A person holding a student permit may shampoo or condition a person's hair in a facility licensed under this chapter or Chapter 1603. The barber school in which the permit holder is enrolled may not receive compensation for services performed under this subsection.

SECTION 3. Section 1601.261, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f) This section applies only to a person who holds a permit under this section issued to the person before September 1, 2013.

SECTION 4. Section 1601.301, Occupations Code, is amended to read as follows:

Sec. 1601.301. PERMIT REQUIRED. (a) A person may not own, operate, or manage a barbershop, dual shop, or specialty shop

1 unless the person holds the appropriate permit.

2 (b) Not later than the third day after the date the shop
3 opens, a person who owns, operates, or manages a barbershop, dual
4 shop, or specialty shop must submit an application to the
5 department for an appropriate permit for each shop, accompanied by
6 a fee set by commission rule.

7 (c) A person who owns, operates, or manages a barbershop,
8 dual shop, or specialty shop may employ a person holding a student
9 permit under Section 1601.260 to shampoo or condition a person's
10 hair.

11 SECTION 5. Section 1601.353, Occupations Code, is amended
12 to read as follows:

13 Sec. 1601.353. REQUIRED FACILITIES AND EQUIPMENT. The
14 department may approve an application for a permit for a barber
15 school if the school:

16 (1) is located in:

17 (A) a municipality with a population of more than
18 50,000 that has a building of permanent construction containing at
19 least 2,000 square feet of floor space, including classroom and
20 practical areas, covered in a hard-surface floor-covering of tile
21 or other suitable material; or

22 (B) a municipality with a population of 50,000 or
23 less or an unincorporated area of a county that has a building of
24 permanent construction containing at least 1,000 square feet of
25 floor space, including classroom and practical areas, covered in a
26 hard-surface floor-covering of tile or other suitable material;

27 (2) has the following equipment:

1 (A) at least 10 student workstations that include
2 a chair that reclines, a back bar, and a wall mirror;

3 (B) a sink behind every two workstations;

4 (C) [~~a liquid sterilizer for each workstation,~~

5 [~~(D)~~] adequate lighting for each room;

6 (D) [~~(E)~~] at least 10 classroom chairs and other
7 materials necessary to teach the required subjects; and

8 (E) [~~(F)~~] access to permanent restrooms and
9 adequate drinking fountain facilities; and

10 (3) meets any other requirement set by the commission.

11 SECTION 6. Subchapter J, Chapter 1601, Occupations Code, is
12 amended by adding Section 1601.455 to read as follows:

13 Sec. 1601.455. SERVICE AT UNLICENSED LOCATION. (a) In this
14 section, "licensed facility" means the premises of a place of
15 business that holds a license, certificate, or permit under this
16 chapter or Chapter 1603.

17 (b) A person holding a license, certificate, or permit under
18 this chapter may perform a service within the scope of the license,
19 certificate, or permit at a location other than a licensed facility
20 for a client who, because of illness or physical or mental
21 incapacitation, is unable to receive the services at a licensed
22 facility.

23 (c) An appointment for a service performed under this
24 section must be made through a licensed facility.

25 SECTION 7. Section 1602.001, Occupations Code, is amended
26 by adding Subdivision (3-a) to read as follows:

27 (3-a) "Dual shop" means a shop owned, operated, or

1 managed by a person holding a dual barber and beauty shop license
2 issued under Chapter 1603.

3 SECTION 8. Section 1602.002(a), Occupations Code, is
4 amended to read as follows:

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

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

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

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

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

20 (2) ~~[weaving or]~~ braiding a person's hair;

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

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

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

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

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

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

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

10 (8) administering facial treatments;

11 (9) removing superfluous hair from a person's body
12 using depilatories, preparations, or tweezing techniques;

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

14 (A) cutting, trimming, polishing, tinting,
15 coloring, cleansing, or manicuring; or

16 (B) attaching false nails;

17 (11) massaging, cleansing, treating, or beautifying a
18 person's hands or feet; ~~or~~

19 (12) applying semipermanent, thread-like extensions
20 composed of single fibers to a person's eyelashes; or

21 (13) weaving a person's hair.

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

24 Sec. 1602.051. BOARD; MEMBERSHIP. (a) The Advisory Board
25 on Cosmetology consists of nine ~~seven~~ members appointed by the
26 presiding officer of the commission, with the commission's
27 approval, as follows:

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

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

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

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

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

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

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

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

18 SECTION 10. Section 1602.251(c), Occupations Code, is
19 amended to read as follows:

20 (c) A person licensed by the department may practice
21 cosmetology only at a facility operated by a person holding a beauty
22 shop license, specialty shop license, private beauty culture school
23 license, or other license issued by the department.

24 SECTION 11. Section 1602.258, Occupations Code, is amended
25 to read as follows:

26 Sec. 1602.258. ELIGIBILITY FOR A HAIR BRAIDING SPECIALTY
27 CERTIFICATE. (a) A person holding a hair braiding specialty

1 certificate may perform only the practice of cosmetology defined in
2 Section 1602.002(a)(2) [~~Sections 1602.002(a)(2) through (4)~~].

3 (b) To be eligible for a hair braiding specialty
4 certificate, an applicant must:

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

6 (2) have the necessary requisites as determined by the
7 department in the particular specialty for which certification is
8 sought, including training through a commission-approved training
9 program.

10 SECTION 12. Subchapter F, Chapter 1602, Occupations Code,
11 is amended by adding Sections 1602.259 and 1602.260 to read as
12 follows:

13 Sec. 1602.259. ELIGIBILITY FOR A HAIR WEAVING SPECIALTY
14 CERTIFICATE. (a) A person holding a hair weaving specialty
15 certificate may perform only the practice of cosmetology defined in
16 Sections 1602.002(a)(2), (3), and (13).

17 (b) To be eligible for a hair weaving specialty certificate,
18 an applicant must:

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

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

24 Sec. 1602.260. ELIGIBILITY FOR A WIG SPECIALTY CERTIFICATE.

25 (a) A person holding a wig specialty certificate may perform only
26 the practice of cosmetology defined in Section 1602.002(a)(4).

27 (b) To be eligible for a wig specialty certificate, an

1 applicant must:

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

3 (2) have the necessary requisites as determined by the
4 department in the particular specialty for which certification is
5 sought, including training through a commission-approved training
6 program.

7 SECTION 13. Section 1602.266, Occupations Code, is amended
8 by adding Subsection (c) to read as follows:

9 (c) A person holding a student permit may shampoo or
10 condition a person's hair in a facility licensed under this chapter
11 or Chapter 1603.

12 SECTION 14. Section 1602.267, Occupations Code, is amended
13 by adding Subsection (f) to read as follows:

14 (f) This section applies only to a person who holds a permit
15 under this section issued to the person before September 1, 2013.

16 SECTION 15. Section 1602.301, Occupations Code, is amended
17 by amending Subsection (b) and adding Subsection (c) to read as
18 follows:

19 (b) A person may not operate a vocational cosmetology
20 program in a public school or lease space on the premises of a
21 beauty shop, specialty shop, or dual shop to engage in the practice
22 of cosmetology as an independent contractor unless the person holds
23 a license issued under this chapter.

24 (c) A person who owns, operates, or manages a beauty shop,
25 specialty shop, or dual shop may employ a person holding a student
26 permit under Section 1602.266 to shampoo or condition a person's
27 hair.

1 SECTION 16. Section 1602.354(a), Occupations Code, is
2 amended to read as follows:

3 (a) The commission will by rule recognize, prepare, or
4 administer continuing education programs for the practice of
5 cosmetology. Participation in the programs is mandatory for all
6 license renewals other than renewal of a shampoo specialty
7 certificate.

8 SECTION 17. Section 1602.403(c), Occupations Code, is
9 amended to read as follows:

10 (c) A person holding a beauty shop license or specialty shop
11 license may not employ:

12 (1) a person as an operator or specialist or lease to a
13 person who acts as an operator or specialist unless the person holds
14 a license or certificate under this chapter or under Chapter 1601;
15 or

16 (2) a person to shampoo or condition a person's hair
17 unless the person holds a shampoo apprentice permit or student
18 permit.

19 SECTION 18. Subchapter I, Chapter 1602, Occupations Code,
20 is amended by adding Section 1602.407 to read as follows:

21 Sec. 1602.407. SERVICE AT UNLICENSED LOCATION. (a) In this
22 section, "licensed facility" means the premises of a place of
23 business that holds a license, certificate, or permit under this
24 chapter or Chapter 1603.

25 (b) A person holding a license, certificate, or permit under
26 this chapter may perform a service within the scope of the license,
27 certificate, or permit at a location other than a licensed facility

1 for a client who, because of illness or physical or mental
2 incapacitation, is unable to receive the services at a licensed
3 facility.

4 (c) An appointment for a service performed under this
5 section must be made through a licensed facility.

6 SECTION 19. Section 1602.451(a), Occupations Code, is
7 amended to read as follows:

8 (a) The holder of a private beauty culture school license
9 shall:

- 10 (1) maintain a sanitary establishment;
- 11 (2) maintain on duty one [~~full-time~~] licensed
12 instructor for each 25 students in attendance;
- 13 (3) maintain a daily record of students' attendance;
- 14 (4) establish regular class and instruction hours and
15 grades;
- 16 (5) require a school term of not less than nine months
17 and not less than 1,500 hours instruction for a complete course in
18 cosmetology;
- 19 (6) require a school term of not less than 600 hours
20 instruction for a complete course in manicuring;
- 21 (7) hold examinations before issuing diplomas;
- 22 (8) maintain a copy of the school's curriculum in a
23 conspicuous place and verify that the curriculum is being followed;
- 24 (9) publish in the school's catalogue and enrollment
25 contract a description of the refund policy required under Section
26 1602.458; and
- 27 (10) provide the department with information on:

1 (A) the current course completion rates of
2 students who attend a course of instruction offered by the school;
3 and

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

6 SECTION 20. Section 1602.456, Occupations Code, is amended
7 by adding Subsection (b-1) to read as follows:

8 (b-1) A private beauty culture school or public school in
9 which a student permit holder is enrolled may not receive
10 compensation for services performed under Section 1602.266(c).

11 SECTION 21. Subchapter E, Chapter 1603, Occupations Code,
12 is amended by adding Section 1603.207 to read as follows:

13 Sec. 1603.207. MINI-SALONS AND MINI-BARBERSHOPS. (a) In
14 this section, "mini-salon or mini-barbershop" includes a room or
15 suite of rooms that is one of a number of connected establishments
16 in a single premises that open onto a common hallway or another
17 configuration of operations as determined by commission rule in
18 which a person practices barbering or cosmetology under a license,
19 certificate, or permit issued under this chapter, Chapter 1601, or
20 Chapter 1602.

21 (b) The commission may adopt rules for the:

22 (1) licensing, permitting, operation, inspection, and
23 reporting requirements of a mini-salon or mini-barbershop;

24 (2) fees required to issue or renew a license or permit
25 for or to inspect a mini-salon or mini-barbershop; and

26 (3) sanitation standards required for a mini-salon or
27 mini-barbershop.

1 (c) A mini-salon or mini-barbershop licensed, certified, or
2 permitted under this section must meet the requirements of a
3 barbershop, beauty shop, dual shop, or specialty shop licensed,
4 certified, or permitted under this chapter, Chapter 1601, or
5 Chapter 1602.

6 SECTION 22. Section 1603.256(c), Occupations Code, is
7 amended to read as follows:

8 (c) The following persons may administer a practical
9 examination required under this subchapter:

10 (1) the department; or

11 (2) a person with whom the department contracts under
12 Section 1603.252 [~~, or~~

13 [~~(3) an examination proctor]~~].

14 SECTION 23. Section 1603.351, Occupations Code, is amended
15 to read as follows:

16 Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE
17 EDUCATION. (a) The commission shall prescribe the minimum
18 curriculum, including the subjects and the number of hours in each
19 subject, taught by a school licensed under this chapter, Chapter
20 1601, or Chapter 1602 [~~, including a private beauty culture school~~
21 ~~or a vocational cosmetology program in a public school]~~].

22 (b) The commission may adopt rules allowing distance
23 education only for the theory portion of the curriculum taught by a
24 school licensed under this chapter, Chapter 1601, or Chapter 1602.

25 (c) Distance education does not satisfy the requirements of
26 the practical portion of the curriculum taught by a school licensed
27 under this chapter, Chapter 1601, or Chapter 1602.

1 SECTION 24. The following sections of the Occupations Code
2 are repealed:

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

8 SECTION 25. (a) A person holding a shampoo specialty
9 certificate under Section 1602.258, Occupations Code, on the
10 effective date of this Act may continue to provide services under
11 and renew the certificate as provided by Chapter 1602, Occupations
12 Code.

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

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

21 (d) The Texas Department of Licensing and Regulation may not
22 issue an original shampoo apprentice permit on or after September
23 1, 2013.

24 SECTION 26. Not later than May 1, 2014, the Texas Commission
25 of Licensing and Regulation shall adopt rules to implement Section
26 1603.207, Occupations Code, as added by this Act, and Section
27 1603.351, Occupations Code, as amended by this Act.

1 SECTION 27. This Act takes effect September 1, 2013.