

1-1 By: Carona S.B. No. 973
 1-2 (In the Senate - Filed February 28, 2013; March 12, 2013,
 1-3 read first time and referred to Committee on Business and Commerce;
 1-4 April 2, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 2, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 973 By: Carona

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of barbering and cosmetology;
 1-22 authorizing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subsection (a), Section 1601.001, Occupations
 1-25 Code, is amended by adding Subdivision (5) to read as follows:

1-26 (5) "Dual shop" means a shop owned, operated, or
 1-27 managed by a person holding a dual barber and beauty shop license
 1-28 issued under Chapter 1603.

1-29 SECTION 2. Section 1601.260, Occupations Code, is amended
 1-30 by adding Subsection (c) to read as follows:

1-31 (c) A person holding a student permit may shampoo or
 1-32 condition a person's hair in a facility licensed under this chapter
 1-33 or Chapter 1603. The barber school in which the permit holder is
 1-34 enrolled may not receive compensation for services performed under
 1-35 this subsection.

1-36 SECTION 3. Section 1601.261, Occupations Code, is amended
 1-37 by adding Subsection (f) to read as follows:

1-38 (f) This section applies only to a person who holds a permit
 1-39 under this section issued to the person before September 1, 2013.

1-40 SECTION 4. Section 1601.301, Occupations Code, is amended
 1-41 to read as follows:

1-42 Sec. 1601.301. PERMIT REQUIRED. (a) A person may not own,
 1-43 operate, or manage a barbershop, dual shop, or specialty shop
 1-44 unless the person holds the appropriate permit.

1-45 (b) Not later than the third day after the date the shop
 1-46 opens, a person who owns, operates, or manages a barbershop, dual
 1-47 shop, or specialty shop must submit an application to the
 1-48 department for an appropriate permit for each shop, accompanied by
 1-49 a fee set by commission rule.

1-50 (c) A person who owns, operates, or manages a barbershop,
 1-51 dual shop, or specialty shop may employ a person holding a student
 1-52 permit under Section 1601.260 to shampoo or condition a person's
 1-53 hair.

1-54 SECTION 5. Section 1601.353, Occupations Code, is amended
 1-55 to read as follows:

1-56 Sec. 1601.353. REQUIRED FACILITIES AND EQUIPMENT. The
 1-57 department may approve an application for a permit for a barber
 1-58 school if the school:

1-59 (1) is located in:

1-60 (A) a municipality with a population of more than

2-1 50,000 that has a building of permanent construction containing at
 2-2 least 2,000 square feet of floor space, including classroom and
 2-3 practical areas, covered in a hard-surface floor-covering of tile
 2-4 or other suitable material; or

2-5 (B) a municipality with a population of 50,000 or
 2-6 less or an unincorporated area of a county that has a building of
 2-7 permanent construction containing at least 1,000 square feet of
 2-8 floor space, including classroom and practical areas, covered in a
 2-9 hard-surface floor-covering of tile or other suitable material;

2-10 (2) has the following equipment:

2-11 (A) at least 10 student workstations that include
 2-12 a chair that reclines, a back bar, and a wall mirror;

2-13 (B) a sink behind every two workstations;

2-14 (C) ~~[a liquid sterilizer for each workstation];~~

2-15 ~~[(D)]~~ adequate lighting for each room;

2-16 (D) ~~[(E)]~~ at least 10 classroom chairs and other
 2-17 materials necessary to teach the required subjects; and

2-18 (E) ~~[(F)]~~ access to permanent restrooms and
 2-19 adequate drinking fountain facilities; and

2-20 (3) meets any other requirement set by the commission.

2-21 SECTION 6. Subchapter J, Chapter 1601, Occupations Code, is
 2-22 amended by adding Section 1601.455 to read as follows:

2-23 Sec. 1601.455. SERVICE AT UNLICENSED LOCATION. (a) In
 2-24 this section, "licensed facility" means the premises of a place of
 2-25 business that holds a license, certificate, or permit under this
 2-26 chapter or Chapter 1603.

2-27 (b) A person holding a license, certificate, or permit under
 2-28 this chapter may perform a service within the scope of the license,
 2-29 certificate, or permit at a location other than a licensed facility
 2-30 for a client who, because of illness or physical or mental
 2-31 incapacitation, is unable to receive the services at a licensed
 2-32 facility.

2-33 (c) An appointment for a service performed under this
 2-34 section must be made through a licensed facility.

2-35 SECTION 7. Section 1602.001, Occupations Code, is amended
 2-36 by adding Subdivision (3-a) to read as follows:

2-37 (3-a) "Dual shop" means a shop owned, operated, or
 2-38 managed by a person holding a dual barber and beauty shop license
 2-39 issued under Chapter 1603.

2-40 SECTION 8. Subsection (a), Section 1602.002, Occupations
 2-41 Code, is amended to read as follows:

2-42 (a) In this chapter, "cosmetology" means the practice of
 2-43 performing or offering to perform for compensation any of the
 2-44 following services:

2-45 (1) treating a person's hair by:

2-46 (A) providing any method of treatment as a
 2-47 primary service, including arranging, beautifying, bleaching,
 2-48 cleansing, coloring, cutting, dressing, dyeing, processing,
 2-49 shampooing, shaping, singeing, straightening, styling, tinting, or
 2-50 waving;

2-51 (B) providing a necessary service that is
 2-52 preparatory or ancillary to a service under Paragraph (A),
 2-53 including bobbing, clipping, cutting, or trimming; or

2-54 (C) cutting the person's hair as a separate and
 2-55 independent service for which a charge is directly or indirectly
 2-56 made separately from charges for any other service;

2-57 (2) ~~[weaving or]~~ braiding a person's hair;

2-58 (3) shampooing and conditioning a person's hair;

2-59 (4) servicing a person's wig or artificial hairpiece
 2-60 on a person's head or on a block after the initial retail sale and
 2-61 servicing in any manner listed in Subdivision (1);

2-62 (5) treating a person's mustache or beard by
 2-63 arranging, beautifying, coloring, processing, styling, or
 2-64 trimming;

2-65 (6) cleansing, stimulating, or massaging a person's
 2-66 scalp, face, neck, or arms:

2-67 (A) by hand or by using a device, apparatus, or
 2-68 appliance; and

2-69 (B) with or without the use of any cosmetic

- 3-1 preparation, antiseptic, tonic, lotion, or cream;
- 3-2 (7) beautifying a person's face, neck, or arms using a
- 3-3 cosmetic preparation, antiseptic, tonic, lotion, powder, oil,
- 3-4 clay, cream, or appliance;
- 3-5 (8) administering facial treatments;
- 3-6 (9) removing superfluous hair from a person's body
- 3-7 using depilatories, preparations, or tweezing techniques;
- 3-8 (10) treating a person's nails by:
- 3-9 (A) cutting, trimming, polishing, tinting,
- 3-10 coloring, cleansing, or manicuring; or
- 3-11 (B) attaching false nails;
- 3-12 (11) massaging, cleansing, treating, or beautifying a
- 3-13 person's hands or feet; ~~[or]~~
- 3-14 (12) applying semipermanent, thread-like extensions
- 3-15 composed of single fibers to a person's eyelashes; or
- 3-16 (13) weaving a person's hair.

3-17 SECTION 9. Section 1602.051, Occupations Code, is amended
3-18 to read as follows:

3-19 Sec. 1602.051. BOARD; MEMBERSHIP. (a) The Advisory Board
3-20 on Cosmetology consists of nine ~~[seven]~~ members appointed by the
3-21 presiding officer of the commission, with the commission's
3-22 approval, as follows:

- 3-23 (1) one member who holds a license for a beauty shop
- 3-24 that is part of a chain of beauty shops;
- 3-25 (2) one member who holds a license for a beauty shop
- 3-26 that is not part of a chain of beauty shops;
- 3-27 (3) one member who holds a private beauty culture
- 3-28 school license;
- 3-29 (4) two members who each hold an operator license;
- 3-30 (5) one member who represents a licensed public
- 3-31 secondary or postsecondary beauty culture school; ~~[and]~~
- 3-32 (6) one member who represents a licensed public
- 3-33 secondary beauty culture school; and
- 3-34 (7) two ~~[one]~~ public members ~~[member]~~.

3-35 (b) ~~The associate commissioner [for occupational education~~
3-36 ~~and technology] of the Texas Education Agency responsible for~~
3-37 career and technical education or the associate commissioner's
3-38 authorized representative shall serve as an ex officio member of
3-39 the commission without voting privileges.

3-40 SECTION 10. Subsection (c), Section 1602.251, Occupations
3-41 Code, is amended to read as follows:

3-42 (c) A person licensed by the department may practice
3-43 cosmetology only at a facility operated by a person holding a beauty
3-44 shop license, specialty shop license, private beauty culture school
3-45 license, or other license issued by the department.

3-46 SECTION 11. Section 1602.258, Occupations Code, is amended
3-47 to read as follows:

3-48 Sec. 1602.258. ELIGIBILITY FOR A HAIR BRAIDING SPECIALTY
3-49 CERTIFICATE. (a) A person holding a hair braiding specialty
3-50 certificate may perform only the practice of cosmetology defined in
3-51 Section 1602.002(a)(2) ~~[Sections 1602.002(a)(2) through (4)]~~.

3-52 (b) To be eligible for a hair braiding specialty
3-53 certificate, an applicant must:

- 3-54 (1) be at least 17 years of age; and
- 3-55 (2) have the necessary requisites as determined by the
- 3-56 department in the particular specialty for which certification is
- 3-57 sought, including training through a commission-approved training
- 3-58 program.

3-59 SECTION 12. Subchapter F, Chapter 1602, Occupations Code,
3-60 is amended by adding Sections 1602.259 and 1602.260 to read as
3-61 follows:

3-62 Sec. 1602.259. ELIGIBILITY FOR A HAIR WEAVING SPECIALTY
3-63 CERTIFICATE. (a) A person holding a hair weaving specialty
3-64 certificate may perform only the practice of cosmetology defined in
3-65 Sections 1602.002(a)(2), (3), and (13).

3-66 (b) To be eligible for a hair weaving specialty certificate,
3-67 an applicant must:

- 3-68 (1) be at least 17 years of age; and
- 3-69 (2) have the necessary requisites as determined by the

4-1 department in the particular specialty for which certification is
4-2 sought, including training through a commission-approved training
4-3 program.

4-4 Sec. 1602.260. ELIGIBILITY FOR A WIG SPECIALTY CERTIFICATE.

4-5 (a) A person holding a wig specialty certificate may perform only
4-6 the practice of cosmetology defined in Section 1602.002(a)(4).

4-7 (b) To be eligible for a wig specialty certificate, an
4-8 applicant must:

4-9 (1) be at least 17 years of age; and

4-10 (2) have the necessary requisites as determined by the
4-11 department in the particular specialty for which certification is
4-12 sought, including training through a commission-approved training
4-13 program.

4-14 SECTION 13. Section 1602.266, Occupations Code, is amended
4-15 by adding Subsection (c) to read as follows:

4-16 (c) A person holding a student permit may shampoo or
4-17 condition a person's hair in a facility licensed under this chapter
4-18 or Chapter 1603.

4-19 SECTION 14. Section 1602.267, Occupations Code, is amended
4-20 by adding Subsection (f) to read as follows:

4-21 (f) This section applies only to a person who holds a permit
4-22 under this section issued to the person before September 1, 2013.

4-23 SECTION 15. Section 1602.301, Occupations Code, is amended
4-24 by amending Subsection (b) and adding Subsection (c) to read as
4-25 follows:

4-26 (b) A person may not operate a vocational cosmetology
4-27 program in a public school or lease space on the premises of a
4-28 beauty shop, specialty shop, or dual shop to engage in the practice
4-29 of cosmetology as an independent contractor unless the person holds
4-30 a license issued under this chapter.

4-31 (c) A person who owns, operates, or manages a beauty shop,
4-32 specialty shop, or dual shop may employ a person holding a student
4-33 permit under Section 1602.266 to shampoo or condition a person's
4-34 hair.

4-35 SECTION 16. Subsection (a), Section 1602.354, Occupations
4-36 Code, is amended to read as follows:

4-37 (a) The commission will by rule recognize, prepare, or
4-38 administer continuing education programs for the practice of
4-39 cosmetology. Participation in the programs is mandatory for all
4-40 license renewals other than renewal of a shampoo specialty
4-41 certificate.

4-42 SECTION 17. Subsection (c), Section 1602.403, Occupations
4-43 Code, is amended to read as follows:

4-44 (c) A person holding a beauty shop license or specialty shop
4-45 license may not employ:

4-46 (1) a person as an operator or specialist or lease to a
4-47 person who acts as an operator or specialist unless the person holds
4-48 a license or certificate under this chapter or under Chapter 1601;
4-49 or

4-50 (2) a person to shampoo or condition a person's hair
4-51 unless the person holds a shampoo apprentice permit or student
4-52 permit.

4-53 SECTION 18. Subchapter I, Chapter 1602, Occupations Code,
4-54 is amended by adding Section 1602.407 to read as follows:

4-55 Sec. 1602.407. SERVICE AT UNLICENSED LOCATION. (a) In
4-56 this section, "licensed facility" means the premises of a place of
4-57 business that holds a license, certificate, or permit under this
4-58 chapter or Chapter 1603.

4-59 (b) A person holding a license, certificate, or permit under
4-60 this chapter may perform a service within the scope of the license,
4-61 certificate, or permit at a location other than a licensed facility
4-62 for a client who, because of illness or physical or mental
4-63 incapacitation, is unable to receive the services at a licensed
4-64 facility.

4-65 (c) An appointment for a service performed under this
4-66 section must be made through a licensed facility.

4-67 SECTION 19. Subsection (a), Section 1602.451, Occupations
4-68 Code, is amended to read as follows:

4-69 (a) The holder of a private beauty culture school license

5-1 shall:

5-2 (1) maintain a sanitary establishment;

5-3 (2) maintain on duty one [~~full-time~~] licensed

5-4 instructor for each 25 students in attendance;

5-5 (3) maintain a daily record of students' attendance;

5-6 (4) establish regular class and instruction hours and

5-7 grades;

5-8 (5) require a school term of not less than nine months

5-9 and not less than 1,500 hours instruction for a complete course in

5-10 cosmetology;

5-11 (6) require a school term of not less than 600 hours

5-12 instruction for a complete course in manicuring;

5-13 (7) hold examinations before issuing diplomas;

5-14 (8) maintain a copy of the school's curriculum in a

5-15 conspicuous place and verify that the curriculum is being followed;

5-16 (9) publish in the school's catalogue and enrollment

5-17 contract a description of the refund policy required under Section

5-18 1602.458; and

5-19 (10) provide the department with information on:

5-20 (A) the current course completion rates of

5-21 students who attend a course of instruction offered by the school;

5-22 and

5-23 (B) job placement rates and employment rates of

5-24 students who complete the course of instruction.

5-25 SECTION 20. Section 1602.456, Occupations Code, is amended

5-26 by adding Subsection (b-1) to read as follows:

5-27 (b-1) A private beauty culture school or public school in

5-28 which a student permit holder is enrolled may not receive

5-29 compensation for services performed under Section 1602.266(c).

5-30 SECTION 21. Subchapter E, Chapter 1603, Occupations Code,

5-31 is amended by adding Section 1603.207 to read as follows:

5-32 Sec. 1603.207. MINI-SALONS AND MINI-BARBERSHOPS. (a) In

5-33 this section, "mini-salon or mini-barbershop" includes a room or

5-34 suite of rooms that is one of a number of connected establishments

5-35 in a single premises that open onto a common hallway or another

5-36 configuration of operations as determined by commission rule in

5-37 which a person practices barbering or cosmetology under a license,

5-38 certificate, or permit issued under this chapter, Chapter 1601, or

5-39 Chapter 1602.

5-40 (b) The commission may adopt rules for the:

5-41 (1) licensing, permitting, operation, inspection, and

5-42 reporting requirements of a mini-salon or mini-barbershop;

5-43 (2) fees required to issue or renew a license or permit

5-44 for or to inspect a mini-salon or mini-barbershop; and

5-45 (3) sanitation standards required for a mini-salon or

5-46 mini-barbershop.

5-47 (c) A mini-salon or mini-barbershop licensed, certified, or

5-48 permitted under this section must meet the requirements of a

5-49 barbershop, beauty shop, dual shop, or specialty shop licensed,

5-50 certified, or permitted under this chapter, Chapter 1601, or

5-51 Chapter 1602.

5-52 SECTION 22. Subsection (c), Section 1603.256, Occupations

5-53 Code, is amended to read as follows:

5-54 (c) The following persons may administer a practical

5-55 examination required under this subchapter:

5-56 (1) the department; or

5-57 (2) a person with whom the department contracts under

5-58 Section 1603.252 [~~, or~~

5-59 ~~(3) an examination proctor].~~

5-60 SECTION 23. Section 1603.351, Occupations Code, is amended

5-61 to read as follows:

5-62 Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE

5-63 EDUCATION. (a) The commission shall prescribe the minimum

5-64 curriculum, including the subjects and the number of hours in each

5-65 subject, taught by a school licensed under this chapter, Chapter

5-66 1601, or Chapter 1602 [~~, including a private beauty culture school~~

5-67 or a vocational cosmetology program in a public school].

5-68 (b) The commission may adopt rules allowing distance

5-69 education only for the theory portion of the curriculum taught by a

6-1 school licensed under this chapter, Chapter 1601, or Chapter 1602.
6-2 (c) Distance education does not satisfy the requirements of
6-3 the practical portion of the curriculum taught by a school licensed
6-4 under this chapter, Chapter 1601, or Chapter 1602.

6-5 SECTION 24. The following sections of the Occupations Code
6-6 are repealed:

- 6-7 (1) Subsections (b) and (e), Section 1601.261;
- 6-8 (2) Subsections (b) and (e), Section 1602.267;
- 6-9 (3) Section 1603.153;
- 6-10 (4) Section 1603.251; and
- 6-11 (5) Section 1603.257.

6-12 SECTION 25. (a) A person holding a shampoo specialty
6-13 certificate under Section 1602.258, Occupations Code, on the
6-14 effective date of this Act may continue to provide services under
6-15 and renew the certificate as provided by Chapter 1602, Occupations
6-16 Code.

6-17 (b) The Texas Department of Licensing and Regulation may not
6-18 issue an original shampoo specialty certificate on or after
6-19 September 1, 2013.

6-20 (c) A person holding a shampoo apprentice permit under
6-21 Section 1601.261 or 1602.267, Occupations Code, on the effective
6-22 date of this Act may continue to provide services under the permit
6-23 as provided by Chapter 1601 or 1602, Occupations Code, as
6-24 appropriate.

6-25 (d) The Texas Department of Licensing and Regulation may not
6-26 issue an original shampoo apprentice permit on or after September
6-27 1, 2013.

6-28 SECTION 26. Not later than May 1, 2014, the Texas Commission
6-29 of Licensing and Regulation shall adopt rules to implement Section
6-30 1603.207, Occupations Code, as added by this Act, and Section
6-31 1603.351, Occupations Code, as amended by this Act.

6-32 SECTION 27. This Act takes effect September 1, 2013.

6-33 * * * * *