

By: Huffines

S.B. No. 1608

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to abolishing certain occupational licensing requirements  
3 and associated regulations.

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

5 SECTION 1. Sections 106.115(a) and (b-1), Alcoholic  
6 Beverage Code, are amended to read as follows:

7 (a) On the placement of a minor on deferred disposition for  
8 an offense under Section 49.02, Penal Code, or under Section  
9 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court  
10 shall require the defendant to attend an alcohol awareness program  
11 ~~[approved by the Department of State Health Services under this~~  
12 ~~section]~~ or a drug and alcohol driving awareness program approved  
13 by the Texas Education Agency. On conviction of a minor of an  
14 offense under one or more of those sections, the court, in addition  
15 to assessing a fine as provided by those sections, shall require a  
16 defendant who has not been previously convicted of an offense under  
17 one of those sections to attend an alcohol awareness program or a  
18 drug and alcohol driving awareness program described by this  
19 subsection. If the defendant has been previously convicted once or  
20 more of an offense under one or more of those sections, the court  
21 may require the defendant to attend an alcohol awareness program or  
22 a drug and alcohol driving awareness program described by this  
23 subsection. If the defendant is younger than 18 years of age, the  
24 court may require the parent or guardian of the defendant to attend

1 the program with the defendant. [~~The Department of State Health~~  
2 ~~Services:~~

3 [~~(1) is responsible for the administration of the~~  
4 ~~certification of approved alcohol awareness programs;~~

5 [~~(2) may charge a nonrefundable application fee for:~~

6 [~~(A) initial certification of the approval; or~~

7 [~~(B) renewal of the certification;~~

8 [~~(3) shall adopt rules regarding alcohol awareness~~  
9 ~~programs approved under this section; and~~

10 [~~(4) shall monitor, coordinate, and provide training~~  
11 ~~to a person who provides an alcohol awareness program.]~~

12 (b-1) If the defendant resides in a county with a population  
13 of 75,000 or less and access to an alcohol awareness program is not  
14 readily available in the county, the court may allow the defendant  
15 to take an online alcohol awareness program [~~if the Department of~~  
16 ~~State Health Services approves online courses]~~ or require the  
17 defendant to perform not less than eight hours of community service  
18 related to alcohol abuse prevention or treatment and approved by  
19 the Department of State Health Services under Subsection (b-3)  
20 instead of attending the alcohol awareness program. Community  
21 service ordered under this subsection is in addition to community  
22 service ordered under Section 106.071(d).

23 SECTION 2. Sections 13(h) and (j), Article 42.12, Code of  
24 Criminal Procedure, are amended to read as follows:

25 (h) If a person convicted of an offense under Sections  
26 49.04-49.08, Penal Code, is placed on community supervision, the  
27 judge shall require, as a condition of the community supervision,

1 that the defendant attend and successfully complete before the  
2 181st day after the day community supervision is granted an  
3 educational program [~~jointly approved by the Texas Commission on~~  
4 ~~Alcohol and Drug Abuse, the Department of Public Safety, the~~  
5 ~~Traffic Safety Section of the Texas Department of Transportation,~~  
6 ~~and the community justice assistance division of the Texas~~  
7 ~~Department of Criminal Justice]~~ designed to rehabilitate persons  
8 who have driven while intoxicated. [~~The Texas Commission on~~  
9 ~~Alcohol and Drug Abuse shall publish the jointly approved rules and~~  
10 ~~shall monitor, coordinate, and provide training to persons~~  
11 ~~providing the educational programs. The Texas Commission on~~  
12 ~~Alcohol and Drug Abuse is responsible for the administration of the~~  
13 ~~certification of approved educational programs and may charge a~~  
14 ~~nonrefundable application fee for the initial certification of~~  
15 ~~approval and for renewal of a certificate.] The judge may waive the  
16 educational program requirement or may grant an extension of time  
17 to successfully complete the program that expires not later than  
18 one year after the beginning date of the person's community  
19 supervision, however, if the defendant by a motion in writing shows  
20 good cause. In determining good cause, the judge may consider but  
21 is not limited to: the defendant's school and work schedule, the  
22 defendant's health, the distance that the defendant must travel to  
23 attend an educational program, and the fact that the defendant  
24 resides out of state, has no valid driver's license, or does not  
25 have access to transportation. The judge shall set out the finding  
26 of good cause for waiver in the judgment. If a defendant is  
27 required, as a condition of community supervision, to attend an~~

1 educational program or if the court waives the educational program  
2 requirement, the court clerk shall immediately report that fact to  
3 the Department of Public Safety, on a form prescribed by the  
4 department, for inclusion in the person's driving record. If the  
5 court grants an extension of time in which the person may complete  
6 the program, the court clerk shall immediately report that fact to  
7 the Department of Public Safety on a form prescribed by the  
8 department. The report must include the beginning date of the  
9 person's community supervision. Upon the person's successful  
10 completion of the educational program, the person's instructor  
11 shall give notice to the Department of Public Safety for inclusion  
12 in the person's driving record and to the community supervision and  
13 corrections department. The community supervision and corrections  
14 department shall then forward the notice to the court clerk for  
15 filing. If the Department of Public Safety does not receive notice  
16 that a defendant required to complete an educational program has  
17 successfully completed the program within the period required by  
18 this section, as shown on department records, the department shall  
19 revoke the defendant's driver's license, permit, or privilege or  
20 prohibit the person from obtaining a license or permit, as provided  
21 by Sections [521.344\(e\)](#) and (f), Transportation Code. The  
22 Department of Public Safety may not reinstate a license suspended  
23 under this subsection unless the person whose license was suspended  
24 makes application to the department for reinstatement of the  
25 person's license and pays to the department a reinstatement fee of  
26 \$100. The Department of Public Safety shall remit all fees  
27 collected under this subsection to the comptroller for deposit in

1 the general revenue fund. This subsection does not apply to a  
2 defendant if a jury recommends community supervision for the  
3 defendant and also recommends that the defendant's driver's license  
4 not be suspended.

5 (j) The judge shall require a defendant who is punished  
6 under Section 49.09, Penal Code, as a condition of community  
7 supervision, to attend and successfully complete an educational  
8 program for repeat offenders [~~approved by the Texas Commission on~~  
9 ~~Alcohol and Drug Abuse. The Texas Commission on Alcohol and Drug~~  
10 ~~Abuse shall adopt rules and shall monitor, coordinate, and provide~~  
11 ~~training to persons providing the educational programs. The Texas~~  
12 ~~Commission on Alcohol and Drug Abuse is responsible for the~~  
13 ~~administration of the certification of approved educational~~  
14 ~~programs and may charge a nonrefundable application fee for initial~~  
15 ~~certification of approval or for renewal of the certification].~~

16 The judge may waive the educational program requirement only if the  
17 defendant by a motion in writing shows good cause. In determining  
18 good cause, the judge may consider the defendant's school and work  
19 schedule, the defendant's health, the distance that the defendant  
20 must travel to attend an educational program, and whether the  
21 defendant resides out of state or does not have access to  
22 transportation. The judge shall set out the finding of good cause  
23 in the judgment. If a defendant is required, as a condition of  
24 community supervision, to attend an educational program, the court  
25 clerk shall immediately report that fact to the Department of  
26 Public Safety, on a form prescribed by the department, for  
27 inclusion in the defendant's driving record. The report must

1 include the beginning date of the defendant's community  
2 supervision. On the defendant's successful completion of the  
3 educational program for repeat offenders, the defendant's  
4 instructor shall give notice to the Department of Public Safety for  
5 inclusion in the defendant's driving record and to the community  
6 supervision and corrections department. The community supervision  
7 and corrections department shall then forward the notice to the  
8 court clerk for filing. If the Department of Public Safety does not  
9 receive notice that a defendant required to complete an educational  
10 program has successfully completed the program for repeat offenders  
11 within the period required by the judge, as shown on department  
12 records, the department shall revoke the defendant's driver's  
13 license, permit, or privilege or prohibit the defendant from  
14 obtaining a license or permit, as provided by Sections [521.344](#)(e)  
15 and (f), Transportation Code.

16 SECTION 3. Section [437.0123](#)(a), Health and Safety Code, is  
17 amended to read as follows:

18 (a) A county that has a population of at least 2.8 million or  
19 a public health district at least part of which is in a county that  
20 has a population of at least 2.8 million may require the payment of  
21 a fee for issuing or renewing a permit or for performing an  
22 inspection to enforce this chapter or a rule adopted under this  
23 chapter. ~~[A county with a population of at least 2.8 million may  
24 require a trained food manager to be on duty during each day of  
25 operation of a food service establishment. The training required  
26 of food managers can be no more extensive than that specified under  
27 Subchapter D, Chapter 438. A food service establishment that~~

1 ~~handles only prepackaged food and does not prepare or package food~~  
2 ~~may not be required to have a certified food manager under this~~  
3 ~~section.]~~

4 SECTION 4. Section 437.019(a), Health and Safety Code, is  
5 amended to read as follows:

6 (a) Except as provided by Subsection (c), a bed and  
7 breakfast establishment with seven or fewer rooms for rent that  
8 serves only breakfast to its overnight guests is not a food service  
9 establishment for purposes of this chapter. [~~An owner or manager of~~  
10 ~~a bed and breakfast establishment covered by this subsection shall~~  
11 ~~successfully complete a food manager's certification course~~  
12 ~~accredited by the department.]~~

13 SECTION 5. Section 1001.071, Health and Safety Code, is  
14 amended to read as follows:

15 Sec. 1001.071. GENERAL POWERS AND DUTIES OF DEPARTMENT  
16 RELATED TO HEALTH CARE. The department is responsible for  
17 administering human services programs regarding the public health,  
18 including:

19 (1) implementing the state's public health care  
20 delivery programs under the authority of the department;

21 (2) administering state health facilities, hospitals,  
22 and health care systems;

23 (3) developing and providing health care services, as  
24 directed by law;

25 (4) providing for the prevention and control of  
26 communicable diseases;

27 (5) providing public education on health-related

1 matters, as directed by law;

2 (6) compiling and reporting health-related  
3 information, as directed by law;

4 (7) acting as the lead agency for implementation of  
5 state policies regarding the human immunodeficiency virus and  
6 acquired immunodeficiency syndrome and administering programs  
7 related to the human immunodeficiency virus and acquired  
8 immunodeficiency syndrome;

9 (8) investigating the causes of injuries and methods  
10 of prevention;

11 (9) administering a grant program to provide  
12 appropriated money to counties, municipalities, public health  
13 districts, and other political subdivisions for their use to  
14 provide or pay for essential public health services;

15 (10) administering the registration of vital  
16 statistics;

17 (11) licensing, inspecting, and enforcing regulations  
18 regarding health facilities, other than long-term care facilities  
19 regulated by the Department of Aging and Disability Services;

20 (12) implementing established standards and  
21 procedures for the management and control of sanitation and for  
22 health protection measures;

23 (13) enforcing regulations regarding radioactive  
24 materials;

25 (14) enforcing regulations regarding food, [~~bottled~~  
26 ~~and vended drinking water,~~] drugs, cosmetics, and health devices;

27 (15) enforcing regulations regarding food service



1 establishments, retail food stores, mobile food units, and roadside  
2 food vendors;

3 (16) enforcing regulations controlling hazardous  
4 substances in households and workplaces; and

5 (17) implementing a mental health program for  
6 veterans.

7 SECTION 6. Section 32.074(a), Human Resources Code, is  
8 amended to read as follows:

9 (a) In this section, "personal emergency response system"  
10 has the meaning assigned by Section 1702.331, Occupations [~~781.001,~~  
11 ~~Health and Safety~~] Code.

12 SECTION 7. Section 843.002(24), Insurance Code, is amended  
13 to read as follows:

14 (24) "Provider" means:

15 (A) a person, other than a physician, who is  
16 licensed or otherwise authorized to provide a health care service  
17 in this state, including:

18 (i) a chiropractor, registered nurse,  
19 pharmacist, optometrist, [~~registered optician,~~]  
20 or

21 (ii) a pharmacy, hospital, or other  
22 institution or organization;

23 (B) a person who is wholly owned or controlled by  
24 a provider or by a group of providers who are licensed or otherwise  
25 authorized to provide the same health care service; or

26 (C) a person who is wholly owned or controlled by  
27 one or more hospitals and physicians, including a

1 physician-hospital organization.

2 SECTION 8. Sections 351.005(a) and (d), Occupations Code,  
3 are amended to read as follows:

4 (a) This chapter does not:

5 (1) apply to an officer or agent of the United States  
6 or this state in performing official duties;

7 (2) prevent or interfere with the right of a physician  
8 licensed by the Texas [~~State Board of~~] Medical Board [~~Examiners~~]  
9 to:

10 (A) treat or prescribe for a patient; or

11 (B) direct or instruct a person under the  
12 physician's control, supervision, or direction to aid or attend to  
13 the needs of a patient according to the physician's specific  
14 direction, instruction, or prescription;

15 (3) prevent a person from selling ready-to-wear  
16 eyeglasses as merchandise at retail;

17 (4) prevent an unlicensed person from making simple  
18 repairs to eyeglasses;

19 ~~(5) [prevent or interfere with the right of a  
20 dispensing optician registered under Chapter 352 to engage in  
21 spectacle or contact lens dispensing under that chapter,~~

22 ~~[(6)]~~ prevent an ophthalmic dispenser who does not  
23 practice optometry or therapeutic optometry from measuring  
24 interpupillary distances or making facial measurements to dispense  
25 or adapt an ophthalmic prescription, lens, product, or accessory in  
26 accordance with the specific directions of a written prescription  
27 signed by an optometrist, therapeutic optometrist, or licensed



1 Safety Code are repealed:

- 2 (1) Section [437.0057](#);
- 3 (2) Section [437.0075](#);
- 4 (3) Section [437.0076](#);
- 5 (4) Section [437.0195](#);
- 6 (5) Subchapter D, Chapter 438;
- 7 (6) Subchapter G, Chapter 438;
- 8 (7) Chapter 441; and
- 9 (8) Chapter 781.

10 SECTION 12. The following provisions of the Occupations  
11 Code are repealed:

- 12 (1) Section [351.005\(c\)](#);
- 13 (2) Chapter 352;
- 14 (3) Chapter 353;
- 15 (4) Chapter 403;
- 16 (5) Chapter 601;
- 17 (6) Chapter 602;
- 18 (7) Chapter 603;
- 19 (8) Chapter 604;
- 20 (9) Chapter 701;
- 21 (10) Chapter 1952; and
- 22 (11) Chapter 1958.

23 SECTION 13. The following provisions of the Transportation  
24 Code are repealed:

- 25 (1) Section [521.375](#); and
- 26 (2) Section [521.376](#).

27 SECTION 14. On the effective date of this Act, a license,

1 permit, certification of registration, or other authorization  
2 issued under a law that is repealed by this Act expires.

3         SECTION 15. The changes in law made by this Act do not  
4 affect the validity of a disciplinary action or other proceeding  
5 that was initiated before the effective date of this Act and that is  
6 pending before a court or other governmental entity on the  
7 effective date of this Act.

8         SECTION 16. An offense under or other violation of a law  
9 that is repealed by this Act is governed by the law in effect when  
10 the offense or violation was committed, and the former law is  
11 continued in effect for that purpose. For purposes of this section,  
12 an offense or violation was committed before the effective date of  
13 this Act if any element of the offense or violation occurred before  
14 that date.

15         SECTION 17. This Act takes effect September 1, 2015.