

A Bold Direction for Tomorrow's Texas

Texas Department of Licensing and Regulation

Licensing and Administrative Procedures Committee
August 23, 2016



Executive Director William H. Kuntz, Jr.
Deputy Executive Director Brian Francis

TDLR: Who We Are

Open and Transparent

Apply Clear, Consistent,
and Common Sense Rules

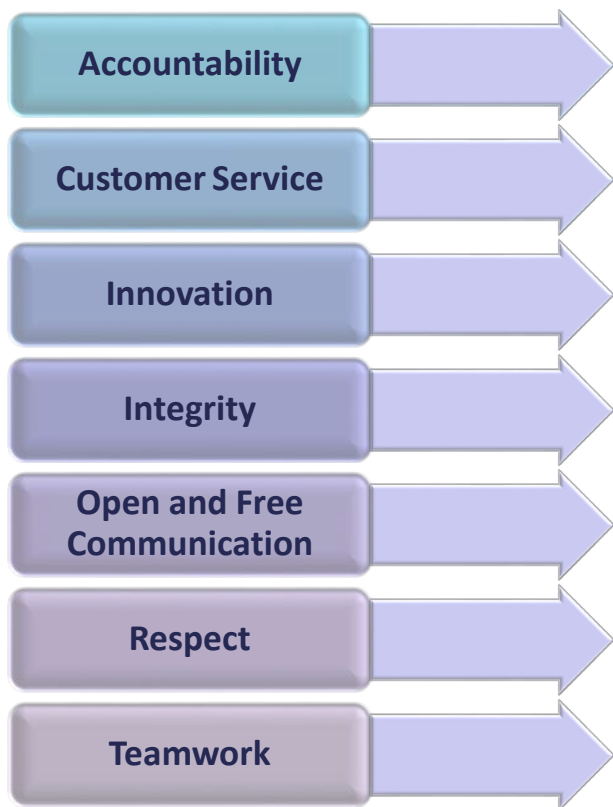
Keep Costs Low and
Efficiency High

Deliver Exceptional
Customer Service

The **Texas Department of Licensing and Regulation (TDLR)** is responsible for licensing and regulating a broad range of occupations, businesses, facilities, and equipment in Texas. Our purpose is to protect the health and safety of Texans and ensure they are served by qualified professionals. With a functionally-aligned business model guided by respect-based leadership, TDLR is unmatched in Texas state government.

Chapter 51 of the Texas Occupations Code establishes TDLR and its responsibilities. The **Texas Commission of Licensing and Regulation (Commission)** is TDLR's governing board and policy-making body. The Commission has seven public members appointed to staggered six-year terms by the Governor with the consent of the Texas Senate. By law, Commission members cannot engage in any of the businesses or trades regulated by TDLR.

TDLR: What We Believe



Core Values

TDLR core values reflect what is truly important to us. They are the foundation of our agency culture and the driving force behind our daily work and organizational success.

Mission

To honor the trust of all Texans, safeguard the public, and provide a fair and efficient licensing and regulatory environment at the lowest possible cost.

Vision

To be the leader in public service by creating innovative, low-cost licensing and regulatory “next” practices, and cultivating highly engaged employees who provide exceptional customer service.

TDLR: Who We Regulate

We believe in carefully balancing the interest of protecting public health and safety with the need to preserve freedom and the rights of individuals to pursue their dreams.

TDLR's culture of innovation allows us to successfully manage growth and increasing responsibilities while maintaining a motivated and lean workforce.

TRANSFERS

In 2015, the 84th Texas Legislature **transferred 14** occupational licensing programs to TDLR's existing programs.

PROGRAMS

The agency's responsibilities increased from regulating **17 programs** in 1999 to a total of **32 programs** by 2016.

LICENSEES

During that same period, TDLR's licensee population will increase from **116,000** to over **680,000**.



32 PROGRAMS WITH 168 LICENSE TYPES as of 9/1/2015

Business and Occupations

Combative Sports
 Driver Education and Safety
 For-Profit Legal Services
 Licensed Breeders
 Polygraph Examiners
 Professional Employer Organization
 Service Contract Providers
 Temporary Common Worker Employers
 Towing Companies
 Used Automotive Parts Recyclers
 Vehicle Protection Product Warrantors
 Vehicle Storage Facilities

Health Professions

Athletic Trainers
 Dietitians
 Dyslexia Therapists & Practitioners
 Hearing Instrument Fitters & Dispensers
 Midwives
 Orthotists & Prosthetists
 Speech-Language Pathologists & Audiologists

Professionals

Auctioneers
 Barbering
 Cosmetology
 Property Tax Consultants
 Property Tax Professionals

Building and Mechanical

Air Conditioning and Refrigeration
 Architectural Barriers
 Boiler Safety
 Electrical Safety
 Elevators, Escalators & Related Equipment
 Industrialized Housing and Buildings

Natural Resources

Water Well Drillers & Pump Installers
 Weather Modification

KEY STATISTICS – FY 2015

Licensing

• Total License Population	652,388
– Individual Licensees	455,076
– Business & Facility Licensees	197,312

Enforcement

• Complaints Opened	10,511
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Compliance and Field Operations

• Inspections Completed	120,549
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Customer Service

• Telephone Calls Received	409,608
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KEYS TO SUCCESS

Employees

TDLR's culture of innovation and professional development encourages each employee to offer suggestions to improve our services and themselves. This core belief in team building and leadership development enables the agency to nimbly respond to a dynamic marketplace and economic environment. A recent example of our employees' contribution to the agency's success was our **recognition** as one of the **Top Workplaces to work** (private and public sector) in the greater Austin area.

Alignment with Chapter 51

Chapter 51 of the Texas Occupations Code establishes TDLR and its general responsibilities. Chapter 51 guides TDLR's approach to administering these diverse programs by creating uniform provisions for rule-making, advisory boards, complaint resolution, penalties, renewal notices, and licensing requirements. Aligning existing and new programs under Chapter 51 guidelines ensures efficiency in all of TDLR's key efforts and brings consistency to the broad range of our licensing programs.



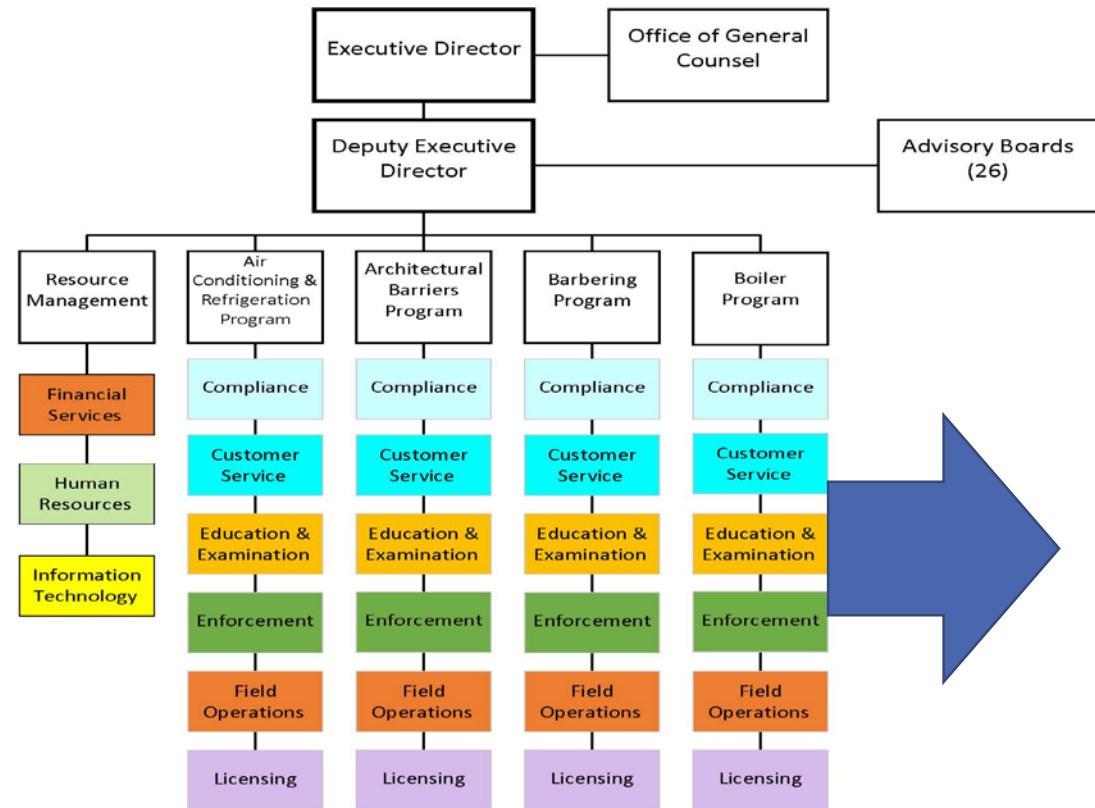
TDLR: How We Do It

Move to Functional Alignment

Beginning in 1999, TDLR moved from a government agency silo structure that duplicated positions for each program to a business model planned along functional lines.

- A silo structure uses the same employee positions for each program, duplicating work and wasting reserves.
- Application of Peak Load Theory: have enough licensing analysts to process all applications efficiently without the excess capacity created by silos.

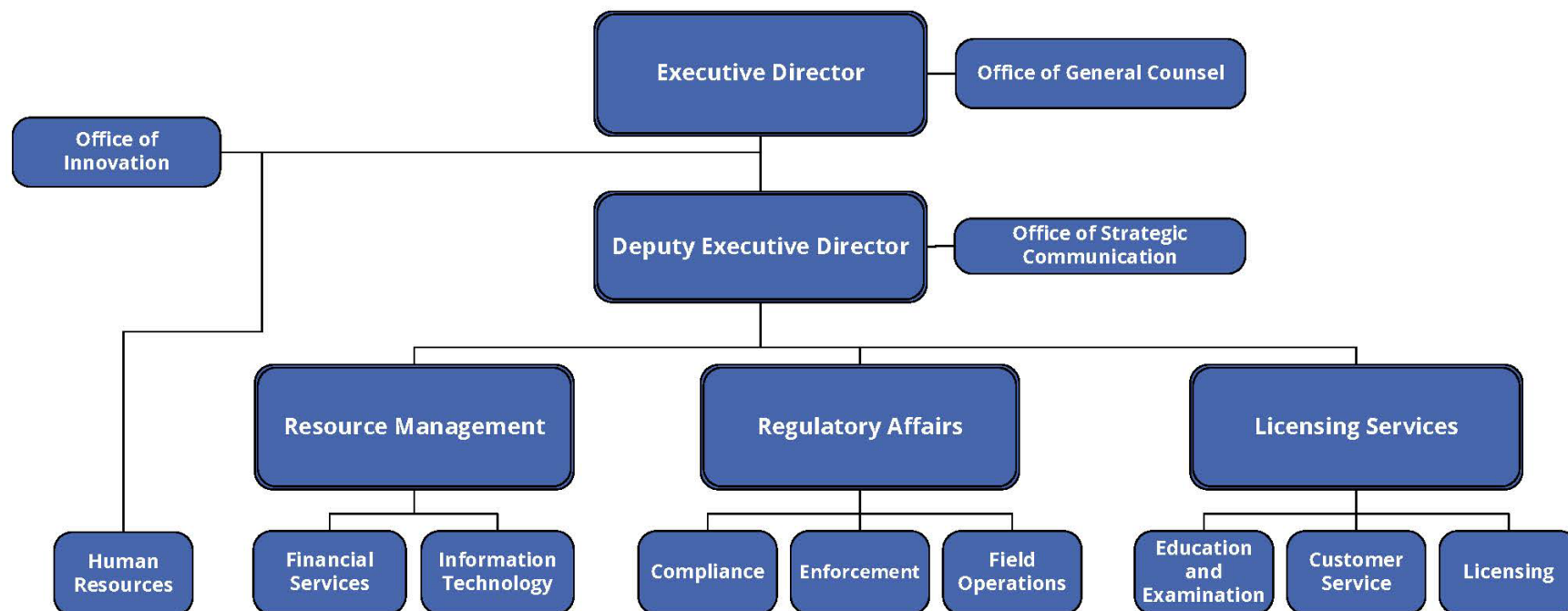
Inefficient Silo Organization Structure



TDLR: How We Do It

Functional Alignment

Functional alignment eliminates redundancies across divisions and emphasizes collaboration and cross-training. The result is a significant decrease in taxpayers' costs, increased productivity, and reduction in the number of employees required — all reasons the Legislature continues to trust TDLR with more responsibilities.



TDLR: History of Consolidation

YEAR	PROGRAM	LICENSEE POPULATION	CUMULATIVE FEE REDUCTION	INCREASED SERVICES
2001	Weather Modification	18	\$0	✓
2004	For-Profit Legal Service Contracts	9,078	\$3,436,383	✓
2005	Barbering	23,216	\$1,210,305	✓
2005	Cosmetology	267,607	\$3,447,593	✓
2007	Towing	31,104	\$1,294,770	✓
2009	Used Automotive Parts Recycling	3,263	\$0	✓
2009	Polygraph Examiners	262	\$60,025	✓
2009	Property Tax Professionals	3,434	\$37,026	✓
2015	Driver Education and Safety	4,157	<i>Coming soon</i>	✓
2016	^ Athletic Trainers	3,358	+	✓
2016	^ Dietitians	5,299	+	✓
2016	^ Dyslexia Therapists and Practitioners	954	+	✓
2016	^ Hearing Instrument Fitters and Dispensers	782	+	✓
2016	^ Midwives	267	+	✓
2016	^ Orthotists and Prosthetists	870	+	✓
2016	^ Speech-Language Pathologists and Audiologists	19,769	+	✓
	TOTAL	373,438	\$9,486,102	
2017	Code Enforcement Officers	2,309	<i>Coming soon</i>	<i>FY 2018</i>
2017	Laser Hair Removal	2,347	<i>Coming soon</i>	<i>FY 2018</i>
2017	Massage Therapists	30,697	<i>Coming soon</i>	<i>FY 2018</i>
2017	Mold Assessors and Remediators	3,911	<i>Coming soon</i>	<i>FY 2018</i>
2017	Offender Education Providers	2,242	<i>Coming soon</i>	<i>FY 2018</i>
2017	Sanitarians	1,251	<i>Coming soon</i>	<i>FY 2018</i>
	TOTAL	42,757	<i>Coming soon</i>	

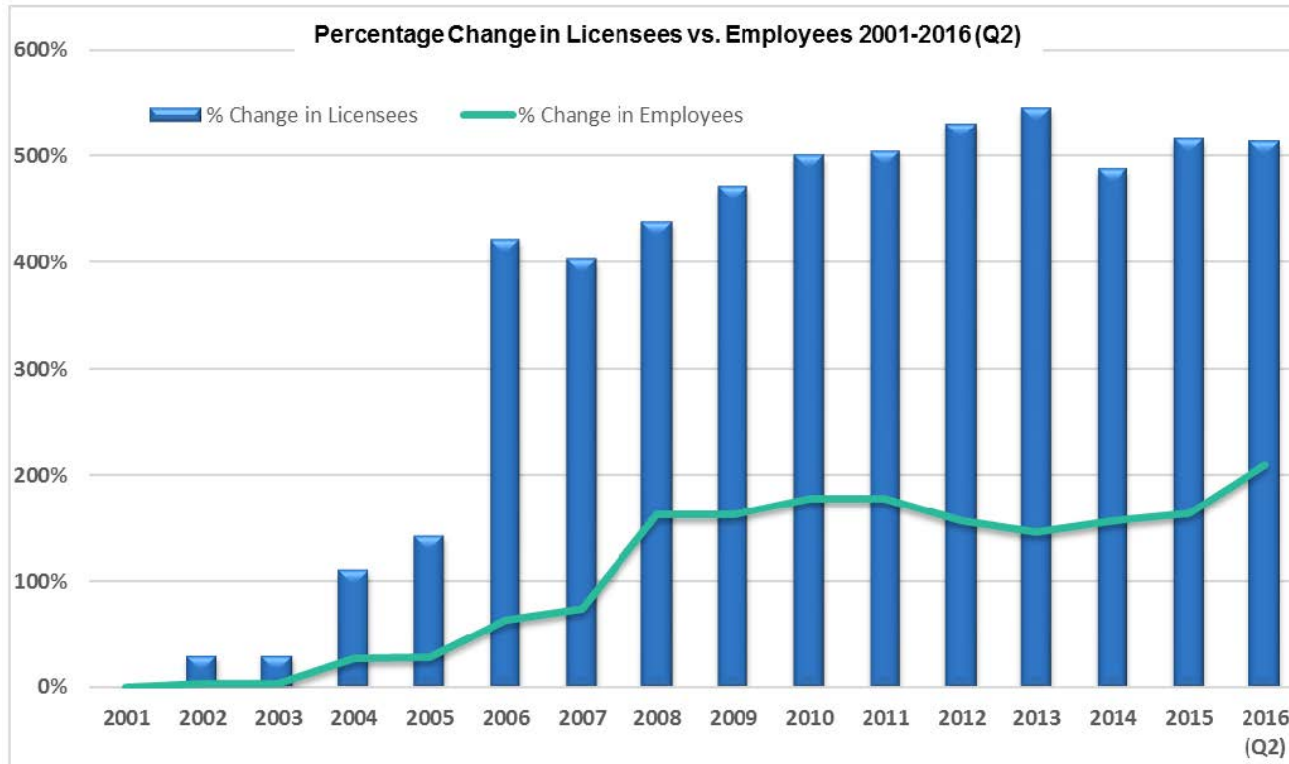
^ Transfer effective October 3, 2016

+TDLR has adopted rule amendments that include fee reductions through elimination of OPP, subscription, and convenience fees charged at DSHS

TDLR: History of New Programs

YEAR	PROGRAM	LICENSEE POPULATION	CUMULATIVE FEE REDUCTION	INCREASED SERVICES
1999	Service Contract Providers	317	\$1,428,750	✓
2002	Vehicle Protection Product Warrantors	52	\$954	✓
2004	Electricians	120,355	\$3,985,742	✓
2011	Licensed Breeders	174	\$0	✓
TOTAL		120,898	\$5,415,466	

TDLR: Enhanced Efficiency Ratio



In 2001 TDLR had 1 employee for every 732 licensees.

In 2016 the ratio increased to 1 employee for every 1,598 licensees.

188% Improvement in Efficiency

Smaller, Smarter Government

Interim Charge 1: Identify all occupations licensed by the state to determine if they are necessary for public safety and health. Determine if any criminal penalties associated with licensure are unnecessarily punitive, recommend methods to improve reciprocity with other states, and determine if a mandatory certification program could be used in lieu of mandatory licensure.

TDLR: Strategic Planning Process

TDLR looks at every aspect of the regulatory process to assess the efficiency and effectiveness of our overall operating model.

- ***Your Voice Matters.*** All ideas, comments, and suggestions do make a difference.
 - Reach out to Licensees, Consumers, TDLR Staff
 - Use Facebook, Emails, and Face-to-Face Sessions in nine cities across the state
 - Make real policy and rule changes based on feedback we received during these sessions
 - Share the feedback with state lawmakers and the public



“One good idea can create real change for Texas and for Texans.”

William H. Kuntz, Jr.
Executive Director



Interim Charge 1: Identify all occupations licensed by the state to determine if they are necessary for public safety and health. Determine if any criminal penalties associated with licensure are unnecessarily punitive, recommend methods to improve reciprocity with other states, and determine if a mandatory certification program could be used in lieu of mandatory licensure.

Removing Unnecessary Criminal Penalties

TDLR has identified the following programs with unnecessary criminal and civil penalties for administrative violations. TDLR recommends eliminating these criminal and civil penalties from administrative licensing statutes:

Program		Recommended Statutory Change	Benefit of Change
1	Athletic Trainers	Eliminate the unnecessary criminal penalties from administrative licensing statutes.	Licensees will no longer be subjected to the threat of criminal penalties for administrative violations.
2	Code Enforcement Officers		
3	Dietitians		
4	Midwives		
5	Orthotists and Prosthetists		
6	Sanitarians		
7	Speech-Language Pathologists and Audiologists		
8	Hearing Instrument Fitters and Dispensers	Eliminate the unnecessary civil penalties from administrative licensing statutes.	Licensees will no longer be subjected to the threat of civil penalties for administrative violations.
9	Midwives		
10	Mold Assessors and Remediators		
11	Orthotists and Prosthetists		

Interim Charge 1: Identify all occupations licensed by the state to determine if they are necessary for public safety and health. Determine if any criminal penalties associated with licensure are unnecessarily punitive, **recommend methods to improve reciprocity with other states**, and determine if a mandatory certification program could be used in lieu of mandatory licensure.

Improving Reciprocity and Licensing

TDLR has identified several licensing impediments that hinder reciprocity and create overall barriers to entry. These impediments ultimately create inefficiencies and are not cost effective. TDLR recommends the following changes:

Program		Recommended Statutory Change	Benefit of Change
1	Hearing Instrument Fitters and Dispensers	Repeal the subsection relating to out-of-state applicants and reexamination.	Aligns all TDLR licensing provisions which will result in greater efficiency and cost effectiveness.
		Repeal the subsections relating to a prohibition for a person failing an examination from reapplying for temporary training license.	
		Amend the subsection by removing the requirement for an out-of-state applicant to hold a license at least three years prior to application.	Allows for <i>greater reciprocity</i> and fairness, for qualified out-of-state applicants and removes a barrier to entry for new competition.
2	Orthotists and Prosthetists	Amend the subsection by removing the residency requirement for a license.	
3	Athletic Trainers	Repeal/amend by removing the residency requirement that unnecessary restriction limits the number of qualified individuals eligible to serve on the advisory board.	Allows for greater participation on advisory boards for qualified out-of-state licensees.
4	Hearing Instruments Fitters and Dispensers		
5	Speech-Language Pathologists and Audiologists		
6	Dietitians	Eliminate the requirement that a person failing the exam three times must complete credit hours in the areas of weakness before reexamination.	Aligns all TDLR licensing provisions which will result in greater efficiency and cost effectiveness.

Interim Charge 1: *Identify all occupations licensed by the state to determine if they are necessary for public safety and health. Determine if any criminal penalties associated with licensure are unnecessarily punitive, **recommend methods to improve reciprocity with other states**, and determine if a mandatory certification program could be used in lieu of mandatory licensure.*

Improving Reciprocity and Licensing (Continued)

With the help of this committee, the 84th Texas Legislature passed House Bill 3742 to improve reciprocity and licensing by providing TDLR more flexibility to develop alternative means of deciding a person's eligibility.

Before

The Commission could waive prerequisites for licenses from another state **only if** they were substantially equivalent to what Texas required, if that state had an agreement with Texas.



House Bill 3742

Relating to the authority of the Texas Department of Licensing and Regulation to determine applicant eligibility for a license.

Signed by Governor:
6/16/15

Effective Date: 9/1/15



After

The Commission, TDLR, and the executive director of TDLR may now consider factors like education, training, experience, supervision, or military service on a case-by-case basis to determine eligibility.

Interim Charge 1: Identify all occupations licensed by the state to determine if they are necessary for public safety and health. Determine if any criminal penalties associated with licensure are unnecessarily punitive, recommend methods to improve reciprocity with other states, and **determine if a mandatory certification program could be used in lieu of mandatory licensure.**

Licensure vs. Certification vs. Deregulation

TDLR's focus is on protecting the health and safety of Texans and ensuring they are served by qualified individuals in each of the regulated programs. TDLR recommends four programs and seven license types be deregulated:

Program		Recommended Statutory Change	Benefit of Change
1	Temporary Common Worker Employers	Programs have zero to little enforcement activity, and minimal risk of consumer harm. Repeal statewide licensing requirement; preserve municipal authority and retain consumer protection provisions.	Individuals and companies will no longer be required to submit initial license or renewal applications, pay the initial fees and renewal fees, and be subjected to potential disciplinary action in the form of administrative penalties and sanctions.
2	For-Profit Legal Service Contracts		
3	Vehicle Protection Product Warrantors		
4	Vehicle Towing and Booting, Sections relating to Booting	Repeal statewide requirement for booting company and operator licenses. Preserve the authority of municipalities, political subdivisions, and institutions of higher education to regulate these activities.	
5	Threading (Barbers and Cosmetologists) (See House Bill 4069, 84R – 2015)	Repeal statewide licensing requirement for an individual engaging in threading to hold an operator license, esthetician license, Class A barber license, or a barber technician in the barbering and cosmetology statutes.	
6	Shampoo Apprentice Permit (Barbers and Cosmetologists) (See House Bill 2720, 84R – 2015)	Repeal the requirement that an individual must hold a cosmetology or barber student permit to shampoo.	

Interim Charge 2: Identify regulatory functions across all agencies and departments. **Make recommendations for possible consolidation**, and study any effort that could make processes more efficient, reduce regulatory burden, and make effective use of taxpayer funds.

Consolidation and Efficiencies

TDLR constantly evaluates our operations to eliminate inefficiencies and reduce costs. The agency has identified licensing impediments across various programs that could be eliminated to increase efficiency:

Program		Recommended Statutory Change	Benefit of Change
1	Vehicle Storage Facilities	Repeal the unnecessary licensing requirement for a tow operator to hold a dual license to work in a VSF.	Tow operators will no longer be required to hold a dual operator and VSF license to work in a vehicle storage facility. They will pay the lower towing operator initial and renewal fee.
2	Athletic Trainers	Repeal the unnecessary provisional license requirement and temporary license/certificate of registration.	Removes unused provisions and aligns all TDLR licensing provisions which will result in greater efficiency and cost effectiveness.
3	Dietitians		
4	Massage Therapy		
5	Speech-Language Pathologists and Audiologists		

Interim Charge 2: Identify regulatory functions across all agencies and departments. **Make recommendations for possible consolidation**, and study any effort that could make processes more efficient, reduce regulatory burden, and make effective use of taxpayer funds.

Consolidation and Efficiencies (Continued)

TDLR also recommends for consolidation and efficiency the following:

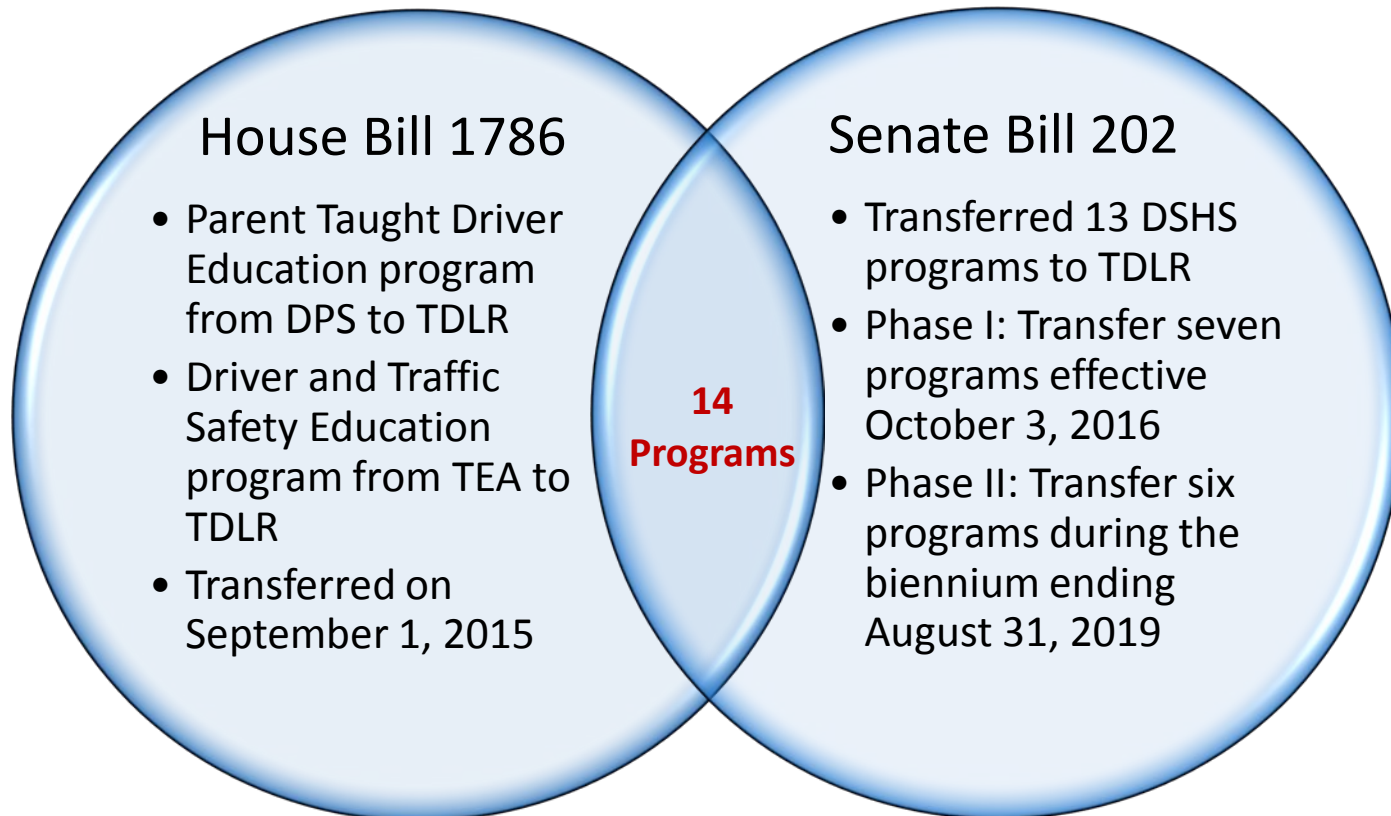
- Transfer of PTC to TREC where the program activities are better aligned
- Coordinating with TREC and TDI to better clarify each agency's responsibilities with respect to the SCP program.

Program		Recommended Statutory Change	Benefit of Change
1	Property Tax Consultants	PTC activities are more aligned with the real estate related activities regulated by the Texas Real Estate Commission.	Transferring the property tax consultant statute to the Texas Real Estate Commission will better align these regulatory activities.
2	Service Contract Providers	Coordinate with the Texas Real Estate Commission and the Texas Department of Insurance to clarify each agency's regulatory responsibilities in regards to service contracts.	Service contract providers and consumers will benefit from a clearer regulatory structure, reduced redundancies and efficient administration.

Interim Charge 2: Identify regulatory functions across all agencies and departments. **Make recommendations for possible consolidation**, and study any effort that could make processes more efficient, reduce regulatory burden, and make effective use of taxpayer funds.

Transfers to TDLR

The 84th Legislature transferred 14 programs to TDLR:



Interim Charge 2: Identify regulatory functions across all agencies and departments. Make recommendations for possible consolidation, and **study any effort that could make processes more efficient, reduce regulatory burden, and make effective use of taxpayer funds.**

Reducing Regulatory Burdens

Regulatory burdens result from inflexible or excessive requirements, and government interference with private business practices. TDLR recommends the following changes to alleviate regulatory burdens on licensees and consumers:

Program		Recommended Statutory Change	Benefit of Change
1	Hearing Instrument Fitters and Dispensers	Repeal the provisions requiring a CEO of a corporation or each partner in a partnership to be a licensed hearing instrument fitter and dispenser.	Removes the unfair, unreasonable, and restrictive requirement for corporations or partners wanting to engage in the hearing instrument fitter and dispenser business.
2		Amend the section to remove the provisions that are outdated and prevents the use of electronic processing of licenses which create excessive and burdensome regulatory costs and administrative or procedural delay.	Aligns all TDLR licensing provisions which will result in greater efficiency and cost effectiveness.
3	Boilers	Amend to clearly exempt regulation of espresso machine-type equipment from law which is excessive and a burdensome regulatory cost.	Allows a company operating an espresso machine to continue to operate without being required to be licensed and inspected by the State.
4	Vehicle Towing & Booting	Amend the sections by removing the provisions that interfere with the private contractual relationship between parking facility owners and towing companies.	The amendment of these sections reduces the influence of government on the private contractual agreements or other arrangements.
5	Barbers	Amend or repeal the provision that requires a school to readmit a student within four years after the student withdraws or is terminated.	
6	Cosmetologists		

Interim Charge 2: Identify regulatory functions across all agencies and departments. Make recommendations for possible consolidation, and **study any effort that could make processes more efficient, reduce regulatory burden, and make effective use of taxpayer funds.**

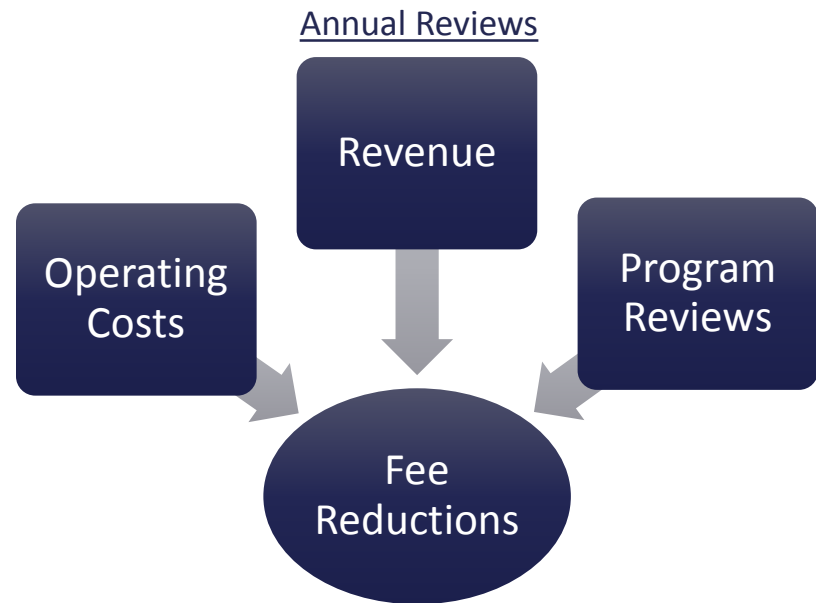
Reducing Regulatory Burdens (Continued)

Program		Recommended Statutory Change	Benefit of Change
1	Cosmetologists	Amend the section to allow properly licensed and compliant barber schools to operate in the same space as a licensed cosmetology school and to remove excessive and burdensome regulation.	Allows a school owner to operate a barber and cosmetology school that meet the terms and requirements under their respective statutes to operate in the same space.
2	Barbers and Cosmetologists (See House Bill 4068, 84R – 2015)	Amend the current square footage and equipment for schools in order to provide greater flexibility and lower operational costs for specialty schools.	The current square footage and equipment requirements for schools do not provide flexibility for specialty schools.
3	Licensed Dyslexia Therapists and Licensed Dyslexia Practitioners	Amend the unnecessary requirement to consult with the advisory board concerning day-to-day operations.	Allows TDLR to be more efficient and consistent in its administration of licensing programs.
4	Massage Therapy	Amend the section that requires a Memorandum of Understanding (MOU) to be adopted by Commission rule. MOUs are not adopted by rule. They are entered into by agreement so this provision is unnecessary and would cause administrative procedural delays.	Allows TDLR to be more efficient and consistent in its administration of licensing programs.
5	Speech-Language Pathologists and Audiologists	Repeal the section relating to the required use of private investigators due to redundancy and unnecessary costs to the agency.	Aligns all TDLR licensing provisions which will result in greater efficiency and cost effectiveness.
6	Vehicle Storage Facilities	Amend the section by removing the specific size requirements relating to the fonts on signs and allowing for tolerances to be established by rule.	Allows for greater common sense and reasonableness in the enforcement of sign requirements.

Interim Charge 2: *Identify regulatory functions across all agencies and departments. Make recommendations for possible consolidation, and study any effort that could make processes more efficient, reduce regulatory burden, and **make effective use of taxpayer funds.***

Fee Reductions

- TDLR serves its regulated industries and the public at the lowest cost possible without compromising the quality of its service.
- Over the past fourteen years, licensees have benefited from our efforts with a cumulative cost savings of over **\$32.5 million** in license fees.



Interim Charge 5: Conduct legislative oversight and monitoring of the agencies and programs under the committee’s jurisdiction and the implementation of relevant legislation passed or considered by the 84th Legislature.

What We Have Done

TDLR recommended to the 84th Texas Legislature statutory changes to several of our programs to address redundancies, remove impediments, streamline regulation, make the licensing process easier, and strengthen consumer protection. It is because of the continued support by the members of our oversight committee, the entire legislature and Texas leadership that TDLR continues to be successful.

TDLR RECOMMENDATIONS	RESULT
Expand barbering and cosmetology services to allow operators to earn income by working at special events such as weddings, proms, and quinceañeras. Convenient for licensees and the public, with minimal health or safety concerns.	HB 104 passed 9/1/2015 TDLR implemented 1/1/2016
Establish by law a water well driller and pump installer apprentice license to expand industry workforce and promote new career paths.	HB 930 passed 9/1/2015 TDLR implemented 1/1/2016
Create alternative licensing provisions and expedited processing for military service members, veterans, and spouses.	SB 1307 passed 9/1/2015 TDLR implemented 1/1/2016
Deregulate natural hair braiding due to lack of health and safety concerns.	HB 2717 passed 9/1/2015 TDLR implemented 1/1/2016
Exempt new car dealers and haulers from the towing law, a regulatory redundancy for industries outside the towing profession who are already regulated by US and TxDOT. Helpful to law enforcement by clearing up confusion over jurisdiction.	SB 1820 passed 5/23/2015 TDLR implemented 1/20/2016
Change “Auctioneer Education Advisory Board” to “Auctioneer Advisory Board” and reinstate the associate auctioneer license to expand industry workforce and promote new career paths.	HB 2481 passed 9/1/2015 TDLR implemented 2/15/2016
Empower building owners to remove an elevator from service through an updated TDLR process. Simplified the regulatory process for Texas property owners.	HB 2741 passed 6/10/2015 TDLR implemented 2/15/2016
Broaden the field of certified boiler inspection entities which can provide third party inspections.	HB 3091 passed 6/16/2015 TDLR implemented 2/15/2016
Change “Medical Advisory Board” to “Combative Sports Advisory Board” to reflect the Board’s expansion to include more industry experts and diverse representatives.	HB 3315 passed 9/1/2015 TDLR implemented 3/15/2016
Remove licensing impediments by granting TDLR authority to consider alternative ways to license qualified applicants.	HB 3742 passed 9/1/2015 TDLR implemented 9/1/2015
Authorize the Texas Facilities Commission (TFC) to partner with the private sector for the construction of a parking garage at the E.O. Thompson Building. TDLR partnership with private sector to promote business expansion, support growth, and save taxpayer dollars.	HB 1 passed 9/1/2015 To be completed by TFC

Necessary Funding to Address Increased Regulatory Responsibilities

TDLR is capable of absorbing additional responsibilities due to our functional alignment. However, the current transfers and consolidations are testing our capabilities and will push our physical limitations. Absent any reduction in other TDLR responsibilities, by the end of 2019 TDLR will oversee 38 licensing programs with at least 168 license types and over 720,000 licensees. If more responsibilities are sent to us in the upcoming legislative session, TDLR will need to look closely at our organizational structure and address challenges in timely funding, hiring, retention, and physical facilities.

Below are the Legislative Appropriation Requests Exceptional Items that TDLR determines are necessary for the continued success of the agency. Specifically, Exceptional Item #1 is imperative to the completion of Senate Bill 202's consolidation.

EXCEPTIONAL ITEMS REQUESTS	FY 18	FTE's	FY 19
1. Successfully Consolidate 13 DSHS Programs	\$2,334,072	25	\$ 1,502,995
2. Enhance Enforcement Strength to Protect Consumer Health and Safety	268,373	5	268,373
3. Ensure Efficient Processing of Licenses	137,180	3	137,180
4. Support Public Outreach and Prevent Loss of Program and Industry Expertise	194,982	3	194,982
5. Strengthen Information Technology Security and Building Safety	232,650	-	177,650
Total Exceptional Items Requests	\$3,167,257	36	\$2,281,180