

By: Hancock

S.B. No. 2065

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of certain occupations and activities.

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

ARTICLE 1. VEHICLE PROTECTION PRODUCTS

SECTION 1.001. Section 17.45, Business & Commerce Code, is amended by adding Subdivisions (14), (15), and (16) to read as follows:

(14) "Vehicle protection product":

(A) means a product or system, including a written warranty:

(i) that is:

(a) installed on or applied to a vehicle; and

(b) designed to prevent loss of or damage to a vehicle from a specific cause; and

(ii) under which, after installation or application of the product or system described by Subparagraph (i), if loss or damage results from the failure of the product or system to perform as represented in the warranty, the warrantor, to the extent agreed on as part of the warranty, is required to pay expenses to the person in this state who purchases or otherwise possesses the product or system for the loss of or damage to the vehicle; and

1 (B) may also include identity recovery, as
2 defined by Section 1304.003, Occupations Code, if the product or
3 system described by Paragraph (A) is financed under Chapter 348 or
4 353, Finance Code.

5 (15) "Warrantor" means a person named under the terms
6 of a vehicle protection product warranty as the contractual obligor
7 to a person in this state who purchases or otherwise possesses a
8 vehicle protection product.

9 (16) "Loss of or damage to the vehicle," for purposes
10 of Subdivision (14)(A)(ii), may also include unreimbursed
11 incidental expenses that may be incurred by the warrantor,
12 including expenses for a replacement vehicle, temporary vehicle
13 rental expenses, and registration expenses for replacement
14 vehicles.

15 SECTION 1.002. Section 17.46(b), Business & Commerce Code,
16 as amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts
17 of the 84th Legislature, Regular Session, 2015, is reenacted and
18 amended to read as follows:

19 (b) Except as provided in Subsection (d) of this section,
20 the term "false, misleading, or deceptive acts or practices"
21 includes, but is not limited to, the following acts:

- 22 (1) passing off goods or services as those of another;
23 (2) causing confusion or misunderstanding as to the
24 source, sponsorship, approval, or certification of goods or
25 services;
26 (3) causing confusion or misunderstanding as to
27 affiliation, connection, or association with, or certification by,

1 another;

2 (4) using deceptive representations or designations
3 of geographic origin in connection with goods or services;

4 (5) representing that goods or services have
5 sponsorship, approval, characteristics, ingredients, uses,
6 benefits, or quantities which they do not have or that a person has
7 a sponsorship, approval, status, affiliation, or connection which
8 the person does not;

9 (6) representing that goods are original or new if
10 they are deteriorated, reconditioned, reclaimed, used, or
11 secondhand;

12 (7) representing that goods or services are of a
13 particular standard, quality, or grade, or that goods are of a
14 particular style or model, if they are of another;

15 (8) disparaging the goods, services, or business of
16 another by false or misleading representation of facts;

17 (9) advertising goods or services with intent not to
18 sell them as advertised;

19 (10) advertising goods or services with intent not to
20 supply a reasonable expectable public demand, unless the
21 advertisements disclosed a limitation of quantity;

22 (11) making false or misleading statements of fact
23 concerning the reasons for, existence of, or amount of price
24 reductions;

25 (12) representing that an agreement confers or
26 involves rights, remedies, or obligations which it does not have or
27 involve, or which are prohibited by law;

1 (13) knowingly making false or misleading statements
2 of fact concerning the need for parts, replacement, or repair
3 service;

4 (14) misrepresenting the authority of a salesman,
5 representative or agent to negotiate the final terms of a consumer
6 transaction;

7 (15) basing a charge for the repair of any item in
8 whole or in part on a guaranty or warranty instead of on the value of
9 the actual repairs made or work to be performed on the item without
10 stating separately the charges for the work and the charge for the
11 warranty or guaranty, if any;

12 (16) disconnecting, turning back, or resetting the
13 odometer of any motor vehicle so as to reduce the number of miles
14 indicated on the odometer gauge;

15 (17) advertising of any sale by fraudulently
16 representing that a person is going out of business;

17 (18) advertising, selling, or distributing a card
18 which purports to be a prescription drug identification card issued
19 under Section [4151.152](#), Insurance Code, in accordance with rules
20 adopted by the commissioner of insurance, which offers a discount
21 on the purchase of health care goods or services from a third party
22 provider, and which is not evidence of insurance coverage, unless:

23 (A) the discount is authorized under an agreement
24 between the seller of the card and the provider of those goods and
25 services or the discount or card is offered to members of the
26 seller;

27 (B) the seller does not represent that the card

1 provides insurance coverage of any kind; and

2 (C) the discount is not false, misleading, or
3 deceptive;

4 (19) using or employing a chain referral sales plan in
5 connection with the sale or offer to sell of goods, merchandise, or
6 anything of value, which uses the sales technique, plan,
7 arrangement, or agreement in which the buyer or prospective buyer
8 is offered the opportunity to purchase merchandise or goods and in
9 connection with the purchase receives the seller's promise or
10 representation that the buyer shall have the right to receive
11 compensation or consideration in any form for furnishing to the
12 seller the names of other prospective buyers if receipt of the
13 compensation or consideration is contingent upon the occurrence of
14 an event subsequent to the time the buyer purchases the merchandise
15 or goods;

16 (20) representing that a guaranty or warranty confers
17 or involves rights or remedies which it does not have or involve,
18 provided, however, that nothing in this subchapter shall be
19 construed to expand the implied warranty of merchantability as
20 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
21 2A.216 to involve obligations in excess of those which are
22 appropriate to the goods;

23 (21) promoting a pyramid promotional scheme, as
24 defined by Section 17.461;

25 (22) representing that work or services have been
26 performed on, or parts replaced in, goods when the work or services
27 were not performed or the parts replaced;

1 (23) filing suit founded upon a written contractual
2 obligation of and signed by the defendant to pay money arising out
3 of or based on a consumer transaction for goods, services, loans, or
4 extensions of credit intended primarily for personal, family,
5 household, or agricultural use in any county other than in the
6 county in which the defendant resides at the time of the
7 commencement of the action or in the county in which the defendant
8 in fact signed the contract; provided, however, that a violation of
9 this subsection shall not occur where it is shown by the person
10 filing such suit that the person neither knew or had reason to know
11 that the county in which such suit was filed was neither the county
12 in which the defendant resides at the commencement of the suit nor
13 the county in which the defendant in fact signed the contract;

14 (24) failing to disclose information concerning goods
15 or services which was known at the time of the transaction if such
16 failure to disclose such information was intended to induce the
17 consumer into a transaction into which the consumer would not have
18 entered had the information been disclosed;

19 (25) using the term "corporation," "incorporated," or
20 an abbreviation of either of those terms in the name of a business
21 entity that is not incorporated under the laws of this state or
22 another jurisdiction;

23 (26) selling, offering to sell, or illegally promoting
24 an annuity contract under Chapter 22, Acts of the 57th Legislature,
25 3rd Called Session, 1962 (Article [6228a-5](#), Vernon's Texas Civil
26 Statutes), with the intent that the annuity contract will be the
27 subject of a salary reduction agreement, as defined by that Act, if

1 the annuity contract is not an eligible qualified investment under
2 that Act or is not registered with the Teacher Retirement System of
3 Texas as required by Section 8A of that Act;

4 (27) taking advantage of a disaster declared by the
5 governor under Chapter 418, Government Code, by:

6 (A) selling or leasing fuel, food, medicine, or
7 another necessity at an exorbitant or excessive price; or

8 (B) demanding an exorbitant or excessive price in
9 connection with the sale or lease of fuel, food, medicine, or
10 another necessity;

11 (28) using the translation into a foreign language of
12 a title or other word, including "attorney," "lawyer," "licensed,"
13 "notary," and "notary public," in any written or electronic
14 material, including an advertisement, a business card, a
15 letterhead, stationery, a website, or an online video, in reference
16 to a person who is not an attorney in order to imply that the person
17 is authorized to practice law in the United States;

18 (29) [~~(28)~~] delivering or distributing a solicitation
19 in connection with a good or service that:

20 (A) represents that the solicitation is sent on
21 behalf of a governmental entity when it is not; or

22 (B) resembles a governmental notice or form that
23 represents or implies that a criminal penalty may be imposed if the
24 recipient does not remit payment for the good or service;

25 (30) [~~(29)~~] delivering or distributing a solicitation
26 in connection with a good or service that resembles a check or other
27 negotiable instrument or invoice, unless the portion of the

1 solicitation that resembles a check or other negotiable instrument
2 or invoice includes the following notice, clearly and conspicuously
3 printed in at least 18-point type:

4 "SPECIMEN-NON-NEGOTIABLE";

5 (31) [~~(30)~~] in the production, sale, distribution, or
6 promotion of a synthetic substance that produces and is intended to
7 produce an effect when consumed or ingested similar to, or in excess
8 of, the effect of a controlled substance or controlled substance
9 analogue, as those terms are defined by Section 481.002, Health and
10 Safety Code:

11 (A) making a deceptive representation or
12 designation about the synthetic substance; or

13 (B) causing confusion or misunderstanding as to
14 the effects the synthetic substance causes when consumed or
15 ingested; [~~or~~]

16 (32) [~~(31)~~] a licensed public insurance adjuster
17 directly or indirectly soliciting employment, as defined by Section
18 38.01, Penal Code, for an attorney, or a licensed public insurance
19 adjuster entering into a contract with an insured for the primary
20 purpose of referring the insured to an attorney without the intent
21 to actually perform the services customarily provided by a licensed
22 public insurance adjuster, provided that this subdivision may not
23 be construed to prohibit a licensed public insurance adjuster from
24 recommending a particular attorney to an insured; or

25 (33) a warrantor of a vehicle protection product
26 warranty using, in connection with the product, a name that
27 includes "casualty," "surety," "insurance," "mutual," or any other

1 word descriptive of an insurance business, including property or
2 casualty insurance, or a surety business.

3 SECTION 1.003. Subchapter A, Chapter 348, Finance Code, is
4 amended by adding Section 348.014 to read as follows:

5 Sec. 348.014. TRANSACTION CONDITIONED ON PURCHASE OF
6 VEHICLE PROTECTION PRODUCT PROHIBITED. (a) In this section,
7 "vehicle protection product" has the meaning assigned by Section
8 17.45, Business & Commerce Code.

9 (b) A retail seller may not require as a condition of a
10 retail installment transaction or the cash sale of a motor vehicle
11 that the buyer purchase a vehicle protection product that is not
12 installed on the vehicle at the time of the transaction.

13 (c) A violation of this section is a false, misleading, or
14 deceptive act or practice within the meaning of Section 17.46,
15 Business & Commerce Code, and is actionable in a public or private
16 suit brought under Subchapter E, Chapter 17, Business & Commerce
17 Code.

18 SECTION 1.004. Subchapter A, Chapter 353, Finance Code, is
19 amended by adding Section 353.017 to read as follows:

20 Sec. 353.017. TRANSACTION CONDITIONED ON PURCHASE OF
21 VEHICLE PROTECTION PRODUCT PROHIBITED. (a) In this section,
22 "vehicle protection product" has the meaning assigned by Section
23 17.45, Business & Commerce Code.

24 (b) A retail seller may not require as a condition of a
25 retail installment transaction or the cash sale of a commercial
26 vehicle that the buyer purchase a vehicle protection product that
27 is not installed on the vehicle at the time of the transaction.

1 (c) A violation of this section is a false, misleading, or
2 deceptive act or practice within the meaning of Section 17.46,
3 Business & Commerce Code, and is actionable in a public or private
4 suit brought under Subchapter E, Chapter 17, Business & Commerce
5 Code.

6 SECTION 1.005. Chapter 2306, Occupations Code, is repealed.

7 SECTION 1.006. (a) On the effective date of this Act:

8 (1) an action, including a disciplinary or
9 administrative proceeding, pending under Chapter 51 or 2306,
10 Occupations Code, on the effective date of this Act related to an
11 alleged violation of Chapter 2306, Occupations Code, as that
12 chapter existed immediately before the effective date of this Act,
13 is dismissed;

14 (2) the Vehicle Protection Product Warrantor Advisory
15 Board is abolished; and

16 (3) a registration issued under former Chapter 2306,
17 Occupations Code, expires.

18 (b) As soon as practicable after the effective date of this
19 Act, the Texas Commission of Licensing and Regulation shall repeal
20 all rules regarding the regulation of vehicle protection product
21 warrantors adopted under former Chapter 2306, Occupations Code.

22 (c) An administrative penalty assessed by the Texas
23 Commission of Licensing and Regulation or the executive director of
24 the Texas Department of Licensing and Regulation related to a
25 violation of Chapter 2306, Occupations Code, as that chapter
26 existed immediately before the effective date of this Act, may be
27 collected as provided by Chapter 51, Occupations Code.

1 (d) The repeal by this Act of Chapter 2306, Occupations
2 Code, does not affect the validity or terms of a vehicle protection
3 product warranty that was issued or renewed before the effective
4 date of this Act.

5 SECTION 1.007. Section 17.46(b), Business & Commerce Code,
6 as amended by this Act, applies only to a cause of action that
7 accrues on or after the effective date of this Act. A cause of
8 action that accrued before the effective date of this Act is
9 governed by the law in effect immediately before the effective date
10 of this Act, and that law is continued in effect for that purpose.

11 SECTION 1.008. Sections 348.014 and 353.017, Finance Code,
12 as added by this Act, apply only to a transaction for the purchase
13 of a motor vehicle or commercial vehicle, as applicable, that
14 occurs on or after the effective date of this Act. A transaction
15 for the purchase of a motor vehicle or commercial vehicle that
16 occurs before the effective date of this Act is governed by the law
17 in effect on the date the transaction occurred, and the former law
18 is continued in effect for that purpose.

19 ARTICLE 2. TEMPORARY COMMON WORKER EMPLOYERS

20 SECTION 2.001. Section 92.001(a), Labor Code, is amended to
21 read as follows:

- 22 (a) The legislature finds that this chapter is necessary to:
- 23 (1) provide for the health, safety, and welfare of
24 common workers throughout this state; and
- 25 (2) establish uniform standards of conduct and
26 practice for temporary common worker [~~certain~~] employers in this
27 state.

1 SECTION 2.002. Section 92.002, Labor Code, is amended by
2 amending Subdivision (6) and adding Subdivision (6-a) to read as
3 follows:

4 (6) "Labor hall" means a central location maintained
5 by a temporary common worker employer [~~license holder~~] where common
6 workers assemble and are dispatched to work for a user of common
7 workers.

8 (6-a) "Municipality" has the meaning assigned by
9 Section 1.005, Local Government Code.

10 SECTION 2.003. The heading to Subchapter B, Chapter 92,
11 Labor Code, is amended to read as follows:

12 SUBCHAPTER B. AUTHORITY TO OPERATE [~~LICENSE REQUIREMENTS~~]

13 SECTION 2.004. Subchapter B, Chapter 92, Labor Code, is
14 amended by adding Section 92.0115 to read as follows:

15 Sec. 92.0115. AUTHORITY TO OPERATE. Subject to Section
16 92.013 and unless prohibited by a governmental subdivision, a
17 person may operate as a temporary common worker employer in this
18 state if the person meets the requirements of this chapter.

19 SECTION 2.005. The heading to Section 92.012, Labor Code,
20 is amended to read as follows:

21 Sec. 92.012. EXEMPTIONS [~~FROM LICENSING REQUIREMENT~~].

22 SECTION 2.006. Section 92.013(b), Labor Code, is amended to
23 read as follows:

24 (b) A municipality with a population greater than one
25 million may establish municipal [~~licensing~~] requirements that
26 impose stricter standards of conduct and practice than those
27 imposed under Subchapter C.

1 SECTION 2.007. The heading to Subchapter C, Chapter 92,
2 Labor Code, is amended to read as follows:

3 SUBCHAPTER C. STANDARDS OF CONDUCT AND PRACTICE [~~POWERS AND DUTIES~~
4 ~~OF LICENSE HOLDER~~]

5 SECTION 2.008. Section 92.021, Labor Code, is amended to
6 read as follows:

7 Sec. 92.021. POWERS AND DUTIES OF [~~LICENSE HOLDER AS~~
8 EMPLOYER. (a) Each temporary common worker employer [~~license~~
9 ~~holder~~] is the employer of the common workers provided by that
10 temporary common worker employer [~~license holder~~].

11 (b) A temporary common worker employer [~~license holder~~] may
12 hire, reassign, control, direct, and discharge the employees of the
13 temporary common worker employer [~~license holder~~].

14 SECTION 2.009. Section 92.022, Labor Code, is amended to
15 read as follows:

16 Sec. 92.022. REQUIRED RECORDS; CONFIDENTIALITY. (a) Each
17 temporary common worker employer [~~license holder~~] shall maintain
18 and make available to a governmental subdivision [~~representative of~~
19 ~~the department~~] records that show for each common worker provided
20 by the temporary common worker employer [~~license holder~~] to a user
21 of common workers:

- 22 (1) the name and address of the worker;
- 23 (2) the hours worked;
- 24 (3) the places at which the work was performed;
- 25 (4) the wages paid to the worker; and
- 26 (5) any deductions made from those wages.

27 (b) The temporary common worker employer [~~license holder~~]

1 shall maintain the records at least until the second anniversary of
2 the date on which the worker was last employed by the temporary
3 common worker employer [~~license holder~~].

4 (c) Information received by the governmental subdivision
5 [~~commission or department~~] under this section is privileged and
6 confidential and is for the exclusive use of the governmental
7 subdivision [~~commission or department~~]. The information may not be
8 disclosed to any other person except on the entry of a court order
9 requiring disclosure or on the written consent of a person under
10 investigation who is the subject of the records.

11 SECTION 2.010. Section 92.023(b), Labor Code, is amended to
12 read as follows:

13 (b) Each temporary common worker employer [~~license holder~~]
14 shall [~~also~~] post in a conspicuous place in the [~~licensed~~] premises
15 on which the temporary common worker employer operates a notice of
16 any charge permitted under this chapter that the temporary common
17 worker employer [~~license holder~~] may assess against a common worker
18 for equipment, tools, transportation, or other work-related
19 services.

20 SECTION 2.011. Section 92.024, Labor Code, is amended to
21 read as follows:

22 Sec. 92.024. LABOR HALL REQUIREMENTS. A temporary common
23 worker employer [~~license holder~~] that operates a labor hall as part
24 of a [~~licensed~~] premises on which the temporary common worker
25 employer operates shall provide adequate facilities for a worker
26 waiting for a job assignment. The facilities must include:

27 (1) restroom facilities for both men and women;

- (2) drinking water;
- (3) sufficient seating; and
- (4) access to vending refreshments and food.

SECTION 2.012. Section 92.025, Labor Code, is amended to read as follows:

Sec. 92.025. CERTAIN CHARGES AND DEDUCTIONS PROHIBITED.

(a) A temporary common worker employer [~~license holder~~] may not charge a common worker for:

- (1) safety equipment, clothing, or accessories required by the nature of the work, either by law, custom, or the requirements of the user of common workers;
- (2) uniforms, special clothing, or other items required as a condition of employment by the user of common workers;
- (3) the cashing of a check or voucher; or
- (4) the receipt by the worker of earned wages.

(b) A temporary common worker employer [~~license holder~~] may not deduct or withhold any amount from the earned wages of a common worker except:

- (1) a deduction required by federal or state law; or
- (2) a reimbursement for a cash advance made to the worker during the same pay period.

SECTION 2.013. Chapter 92, Labor Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ENFORCEMENT

Sec. 92.031. ENFORCEMENT. A governmental subdivision may enforce this chapter within the boundaries of the governmental subdivision.

1 SECTION 2.014. The following provisions of the Labor Code
2 are repealed:

- 3 (1) Sections 92.002(1), (4), and (4-a);
- 4 (2) Section 92.003;
- 5 (3) Section 92.004;
- 6 (4) Section 92.011;
- 7 (5) Section 92.013(a);
- 8 (6) Section 92.014;
- 9 (7) Section 92.015; and
- 10 (8) Section 92.023(a).

11 SECTION 2.015. (a) An administrative proceeding pending
12 under Chapter 51, Occupations Code, or Chapter 92, Labor Code, on
13 the effective date of this Act related to a violation of Chapter 92,
14 Labor Code, as that chapter existed immediately before the
15 effective date of this Act, is dismissed.

16 (b) An administrative penalty assessed by the Texas
17 Commission of Licensing and Regulation or the executive director of
18 the Texas Department of Licensing and Regulation related to a
19 violation of Chapter 92, Labor Code, as that chapter existed
20 immediately before the effective date of this Act, may be collected
21 as provided by Chapter 51, Occupations Code.

22 (c) The changes in law made by this Act do not affect the
23 pending prosecution of an offense under Chapter 92, Labor Code, as
24 that chapter existed immediately before the effective date of this
25 Act. An offense committed before the effective date of this Act is
26 governed by the law in effect on the date the offense was committed,
27 and the former law is continued in effect for that purpose. For

1 purposes of this subsection, an offense was committed before the
2 effective date of this Act if any element of the offense was
3 committed before that date.

4 ARTICLE 3. FOR-PROFIT LEGAL SERVICE CONTRACT COMPANIES

5 SECTION 3.001. Section 953.001(1), Occupations Code, is
6 amended to read as follows:

7 (1) "Administrator" means the person responsible for
8 the administration of a legal service contract. [~~The term includes
9 a person responsible for any filing required by this chapter.~~]

10 SECTION 3.002. Section 953.156, Occupations Code, is
11 amended to read as follows:

12 Sec. 953.156. FORM OF LEGAL SERVICE CONTRACT AND REQUIRED
13 DISCLOSURES. [~~(a) A legal service contract must be filed with the
14 executive director before it is marketed, sold, offered for sale,
15 administered, or issued in this state. Any subsequent endorsement
16 or attachment to the contract must also be filed with the executive
17 director before the endorsement or attachment is delivered to legal
18 service contract holders.~~

19 [~~(b)~~] A legal service contract marketed, sold, offered for
20 sale, administered, or issued in this state must:

21 (1) be written, printed, or typed in clear,
22 understandable language that is easy to read;

23 (2) include the name and full address of the company;

24 (3) include the purchase price of the contract and the
25 terms under which the contract is sold;

26 (4) include the terms and restrictions governing
27 cancellation of the contract by the company or the legal service

- 1 contract holder;
- 2 (5) identify:
- 3 (A) any administrator, if the administrator is
- 4 not the company;
- 5 (B) the sales representative; and
- 6 (C) the name of the legal service contract
- 7 holder;
- 8 (6) include the amount of any deductible or copayment;
- 9 (7) specify the legal services and other benefits to
- 10 be provided under the contract, and any limitation, exception, or
- 11 exclusion;
- 12 (8) specify the legal services, if any, for which the
- 13 company will provide reimbursement and the amount of that
- 14 reimbursement;
- 15 (9) specify any restriction governing the
- 16 transferability of the contract or the assignment of benefits;
- 17 (10) include the duties of the legal service contract
- 18 holder;
- 19 (11) ~~[include the contact information for the~~
- 20 ~~department, including the department's toll-free number and~~
- 21 ~~electronic mail address, as well as a statement that the department~~
- 22 ~~regulates the company and the company's sales representatives,~~
- 23 ~~[(12)]~~ explain the method to be used in resolving the
- 24 legal service contract holder's complaints and grievances;
- 25 (12) ~~[(13)]~~ explain how legal services may be obtained
- 26 under the legal service contract;
- 27 (13) ~~[(14)]~~ include a provision stating that no change

1 in the contract is valid until the change has been approved by an
2 executive officer of the company and unless the approval is
3 endorsed or attached to the contract;

4 (14) [~~(15)~~] include any eligibility and effective
5 date requirements, including a definition of eligible dependents
6 and the effective date of their coverage;

7 (15) [~~(16)~~] include the conditions under which
8 coverage will terminate;

9 (16) [~~(17)~~] explain any subrogation arrangements;

10 (17) [~~(18)~~] contain a payment provision that provides
11 for a grace period of at least 31 days; and

12 (18) [~~(19)~~] include conditions under which contract
13 rates may be modified[~~, and~~

14 [~~(20) include any other items required by the~~
15 ~~executive director as determined by rule].~~

16 SECTION 3.003. Section 953.162, Occupations Code, is
17 amended to read as follows:

18 Sec. 953.162. APPOINTMENT AND RESPONSIBILITIES OF
19 ADMINISTRATOR. [~~(a)~~] A company may appoint an administrator or
20 designate a person to be responsible for:

21 (1) all or any part of the administration or sale of
22 legal service contracts; and

23 (2) compliance with this chapter.

24 [~~(b) The executive director may adopt rules regarding the~~
25 ~~registration of an administrator with the department.]~~

26 SECTION 3.004. Chapter 953, Occupations Code, is amended by
27 adding Subchapter F to read as follows:

1 for compensation or the promise of compensation any of the
2 following services:

3 (A) treating a person's mustache or beard by
4 arranging, beautifying, coloring, processing, shaving, styling, or
5 trimming;

6 (B) treating a person's hair by:

7 (i) arranging, beautifying, bleaching,
8 cleansing, coloring, curling, dressing, dyeing, processing,
9 [~~shampooing,~~] shaping, singeing, straightening, styling, tinting,
10 or waving;

11 (ii) providing a necessary service that is
12 preparatory or ancillary to a service under Subparagraph (i),
13 including bobbing, clipping, cutting, or trimming; or

14 (iii) cutting the person's hair as a
15 separate and independent service for which a charge is directly or
16 indirectly made separately from a charge for any other service;

17 (C) cleansing, stimulating, or massaging a
18 person's scalp, face, neck, arms, or shoulders:

19 (i) by hand or by using a device, apparatus,
20 or appliance; and

21 (ii) with or without the use of any cosmetic
22 preparation, antiseptic, tonic, lotion, or cream;

23 (D) beautifying a person's face, neck, arms, or
24 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,
25 powder, oil, clay, cream, or appliance;

26 (E) treating a person's nails by:

27 (i) cutting, trimming, polishing, tinting,

- 1 coloring, cleansing, manicuring, or pedicuring; or
2 (ii) attaching false nails;
3 (F) massaging, cleansing, treating, or
4 beautifying a person's hands;
5 (G) administering facial treatments;
6 (H) weaving a person's hair by using any method
7 to attach commercial hair to a person's hair or scalp; or
8 (I) [~~shampooing or conditioning a person's hair,~~
9 ~~or~~
10 [~~J~~] servicing in any manner listed in Paragraph
11 (B) a person's wig, toupee, or artificial hairpiece on a person's
12 head or on a block after the initial retail sale;
13 (2) advertising or representing to the public in any
14 manner that a person is a barber or is authorized to practice
15 barbering; or
16 (3) advertising or representing to the public in any
17 manner that a location or place of business is a barbershop,
18 specialty shop, or barber school.

19 SECTION 4.002. Subchapter A, Chapter 1601, Occupations
20 Code, is amended by adding Section 1601.0025 to read as follows:

21 Sec. 1601.0025. SERVICES NOT CONSTITUTING BARBERING.
22 Notwithstanding Section 1601.002, "barbering," "practicing
23 barbering," and "practice of barbering" do not include threading,
24 which involves removing unwanted hair from a person by using a piece
25 of thread that is looped around the hair and pulled to remove the
26 hair and includes the incidental trimming of eyebrow hair.

27 SECTION 4.003. Section 1601.256(a), Occupations Code, is

1 amended to read as follows:

2 (a) A person holding a barber technician license may:

3 (1) perform only barbering as defined by Sections
4 1601.002(1)(C), (D), (F), and (G) [~~and (I)~~]; and

5 (2) practice only at a location that has been issued a
6 barbershop permit.

7 SECTION 4.004. Section 1602.002(a), Occupations Code, is
8 amended to read as follows:

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

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

13 (A) providing any method of treatment as a
14 primary service, including arranging, beautifying, bleaching,
15 cleansing, coloring, cutting, dressing, dyeing, processing,
16 [~~shampooing,~~] shaping, singeing, straightening, styling, tinting,
17 or waving;

18 (B) providing a necessary service that is
19 preparatory or ancillary to a service under Paragraph (A),
20 including bobbing, clipping, cutting, or trimming a person's hair
21 or shaving a person's neck with a safety razor; or

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

25 (2) [~~shampooing and conditioning a person's hair,~~

26 [~~3~~] servicing a person's wig or artificial hairpiece
27 on a person's head or on a block after the initial retail sale and

1 servicing in any manner listed in Subdivision (1);

2 (3) [~~(4)~~] treating a person's mustache or beard by
3 arranging, beautifying, coloring, processing, styling, trimming,
4 or shaving with a safety razor;

5 (4) [~~(5)~~] cleansing, stimulating, or massaging a
6 person's scalp, face, neck, or arms:

7 (A) by hand or by using a device, apparatus, or
8 appliance; and

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

11 (5) [~~(6)~~] beautifying a person's face, neck, or arms
12 using a cosmetic preparation, antiseptic, tonic, lotion, powder,
13 oil, clay, cream, or appliance;

14 (6) [~~(7)~~] administering facial treatments;

15 (7) [~~(8)~~] removing superfluous hair from a person's
16 body using depilatories, preparations or chemicals, tweezers, or
17 other devices or appliances of any kind or description [~~tweezing~~
18 ~~techniques~~];

19 (8) [~~(9)~~] treating a person's nails by:

20 (A) cutting, trimming, polishing, tinting,
21 coloring, cleansing, or manicuring; or

22 (B) attaching false nails;

23 (9) [~~(10)~~] massaging, cleansing, treating, or
24 beautifying a person's hands or feet;

25 (10) [~~(11)~~] applying semipermanent, thread-like
26 extensions composed of single fibers to a person's eyelashes; or

27 (11) [~~(12)~~] weaving a person's hair.

1 SECTION 4.005. Subchapter A, Chapter 1602, Occupations
2 Code, is amended by adding Section 1602.0025 to read as follows:

3 Sec. 1602.0025. SERVICES NOT CONSTITUTING COSMETOLOGY.
4 Notwithstanding Section 1602.002(a), "cosmetology" does not
5 include threading, which involves removing unwanted hair from a
6 person by using a piece of thread that is looped around the hair and
7 pulled to remove the hair and includes the incidental trimming of
8 eyebrow hair.

9 SECTION 4.006. Section 1602.255(c), Occupations Code, is
10 amended to read as follows:

11 (c) The commission shall adopt rules for the licensing of
12 specialty instructors to teach specialty courses in the practice of
13 cosmetology defined in Sections 1602.002(a)(5), (7), (8), and (10)
14 [~~1602.002(a)(6), (8), (9), and (11)~~].

15 SECTION 4.007. Section 1602.256(a), Occupations Code, is
16 amended to read as follows:

17 (a) A person holding a manicurist specialty license may
18 perform only the practice of cosmetology defined in Section
19 1602.002(a)(8) or (9) [~~1602.002(a)(9) or (10)~~].

20 SECTION 4.008. Section 1602.257(a), Occupations Code, is
21 amended to read as follows:

22 (a) A person holding an esthetician specialty license may
23 perform only the practice of cosmetology defined in Sections
24 1602.002(a)(4), (5), (6), (7), and (10) [~~1602.002(a)(5), (6), (7),~~
25 ~~(8), and (11)~~].

26 SECTION 4.009. Section 1602.2571(a), Occupations Code, is
27 amended to read as follows:

1 (a) A person holding a specialty license in eyelash
2 extension application may perform only the practice of cosmetology
3 defined in Section 1602.002(a)(10) [~~1602.002(a)(11)~~].

4 SECTION 4.010. Section 1602.259(a), Occupations Code, is
5 amended to read as follows:

6 (a) A person holding a hair weaving specialty certificate
7 may perform only the practice of cosmetology defined in Section
8 1602.002(a)(11) [~~Sections 1602.002(a)(2) and (12)~~].

9 SECTION 4.011. Section 1602.260(a), Occupations Code, is
10 amended to read as follows:

11 (a) A person holding a wig specialty certificate may perform
12 only the practice of cosmetology defined in Section 1602.002(a)(2)
13 [~~1602.002(a)(3)~~].

14 SECTION 4.012. Section 1602.261(a), Occupations Code, is
15 amended to read as follows:

16 (a) A person holding a manicurist/esthetician specialty
17 license may perform only the practice of cosmetology defined in
18 Sections 1602.002(a)(4) through (9) [~~1602.002(a)(5) through (10)~~].

19 SECTION 4.013. Section 1602.305(a), Occupations Code, is
20 amended to read as follows:

21 (a) A person holding a specialty shop license may maintain
22 an establishment in which only the practice of cosmetology as
23 defined in Section 1602.002(a)(2), (5), (7), (8), or (10)
24 [~~1602.002(a)(3), (6), (8), (9), or (11)~~] is performed.

25 SECTION 4.014. Section 1602.354(a), Occupations Code, is
26 amended to read as follows:

27 (a) The commission will by rule recognize, prepare, or

1 administer continuing education programs for the practice of
2 cosmetology. Participation in the programs is mandatory for all
3 license renewals [~~other than renewal of a shampoo specialty~~
4 ~~certificate~~].

5 SECTION 4.015. Section 1602.403(c), Occupations Code, is
6 amended to read as follows:

7 (c) A person holding a beauty shop license or specialty shop
8 license may not employ[+]

9 [(1)] a person as an operator or specialist or lease to
10 a person who acts as an operator or specialist unless the person
11 holds a license or certificate under this chapter or under Chapter
12 1601[~~+~~ or

13 [~~(2) a person to shampoo or condition a person's hair~~
14 ~~unless the person holds a shampoo apprentice permit or student~~
15 ~~permit~~].

16 SECTION 4.016. Section 1603.352(a), Occupations Code, is
17 amended to read as follows:

18 (a) A person who holds a license, certificate, or permit
19 issued under this chapter, Chapter 1601, or Chapter 1602 and who
20 performs a barbering service described by Section 1601.002(1)(E) or
21 (F) or a cosmetology service described by Section 1602.002(a)(8) or
22 (9) [~~1602.002(a)(9) or (10)~~] shall, before performing the service,
23 clean, disinfect, and sterilize with an autoclave or dry heat
24 sterilizer or sanitize with an ultraviolet sanitizer, in accordance
25 with the sterilizer or sanitizer manufacturer's instructions, each
26 metal instrument, including metal nail clippers, cuticle pushers,
27 cuticle nippers, and other metal instruments, used to perform the

1 service.

2 SECTION 4.017. The following provisions of the Occupations
3 Code are repealed:

- 4 (1) Section 1601.260(c);
- 5 (2) Section 1601.261;
- 6 (3) Section 1601.301(c);
- 7 (4) Section 1602.266(c);
- 8 (5) Section 1602.267;
- 9 (6) Section 1602.301(c); and
- 10 (7) Section 1602.456(b-1).

11 SECTION 4.018. On the effective date of this Act:

12 (1) a shampoo apprentice permit issued under former
13 Section 1601.261 or 1602.267, Occupations Code, expires; and

14 (2) a shampoo specialty certificate issued under
15 Chapter 1602 expires.

16 SECTION 4.019. (a) The changes in law made by this Act to
17 Chapters 1601, 1602, and 1603, Occupations Code, do not affect the
18 validity of a proceeding pending before a court or other
19 governmental entity on the effective date of this Act.

20 (b) An offense or other violation of law committed under
21 Chapter 1601, 1602, or 1603, Occupations Code, before the effective
22 date of this Act is governed by the law in effect when the offense or
23 violation was committed, and the former law is continued in effect
24 for that purpose. For purposes of this subsection, an offense or
25 violation was committed before the effective date of this Act if any
26 element of the offense or violation occurred before that date.

ARTICLE 5. MOTOR VEHICLE TOWING, BOOTING, AND STORAGE

SECTION 5.001. Section 2303.058, Occupations Code, is amended to read as follows:

Sec. 2303.058. ADVISORY BOARD. The Towing ~~and~~ Storage ~~and Booting~~ Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 5.002. Section 2308.002, Occupations Code, is amended by amending Subdivisions (1) and (8-a) and adding Subdivisions (5-b) and (8-b) to read as follows:

(1) "Advisory board" means the Towing ~~and~~ Storage ~~and Booting~~ Advisory Board.

(5-b) "Local authority" means a state or local governmental entity authorized to regulate traffic or parking and includes:

(A) an institution of higher education; and

(B) a political subdivision, including a county, municipality, special district, junior college district, housing authority, or other political subdivision of this state.

(8-a) "Peace officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.

(8-b) "Private property tow" means any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

SECTION 5.003. Effective September 1, 2018, Section 2308.004, Occupations Code, is amended to read as follows:

Sec. 2308.004. EXEMPTION. Sections 2308.151(b), 2308.2085, 2308.257, and 2308.258 do ~~[(a) This chapter does]~~ not

1 apply to:

2 (1) a person who, while exercising a statutory or
3 contractual lien right with regard to a vehicle:

4 (A) [~~(1)~~] installs or removes a boot; or

5 (B) [~~(2)~~] controls, installs, or directs the
6 installation and removal of one or more boots; or [~~or~~]

7 (2) [~~(b) This chapter does not apply to~~] a commercial
8 office building owner or manager who installs or removes a boot in
9 the building's parking facility.

10 SECTION 5.004. Section 2308.051(a), Occupations Code, as
11 amended by Chapters 457 (H.B. 2548) and 845 (S.B. 2153), Acts of the
12 81st Legislature, Regular Session, 2009, is reenacted and amended
13 to read as follows:

14 (a) The advisory board consists of the following members
15 appointed by the presiding officer of the commission with the
16 approval of the commission:

17 (1) one representative of a towing company operating
18 in a county with a population of less than one million;

19 (2) one representative of a towing company operating
20 in a county with a population of one million or more;

21 (3) one representative [~~owner~~] of a vehicle storage
22 facility located in a county with a population of less than one
23 million;

24 (4) one representative [~~owner~~] of a vehicle storage
25 facility located in a county with a population of one million or
26 more;

27 (5) one parking facility representative [~~owner~~];

1 (6) one peace officer [~~law enforcement officer~~] from a
2 county with a population of less than one million;

3 (7) one peace officer [~~law enforcement officer~~] from a
4 county with a population of one million or more;

5 (8) one representative of a member insurer, as defined
6 by Section 462.004, Insurance Code, of the Texas Property and
7 Casualty Insurance Guaranty Association who writes [~~property and~~
8 ~~casualty insurers who write~~] automobile insurance in this state;
9 and

10 [~~(9) one representative of a booting company~~]

11 (9) one person who operates both a towing company and a
12 vehicle storage facility [~~public member~~].

13 SECTION 5.005. Effective September 1, 2018, Section
14 2308.151, Occupations Code, is amended to read as follows:

15 Sec. 2308.151. LICENSE OR LOCAL AUTHORIZATION REQUIRED.

16 (a) Unless the person holds an appropriate license under this
17 subchapter, a person may not:

18 (1) perform towing operations; or

19 (2) operate a towing company. [~~+~~]

20 (b) Unless a person is authorized by a local authority under
21 Section 2308.2085, a person may not:

22 (1) [~~(3)~~] perform booting operations; or

23 (2) [~~(4)~~] operate a booting company.

24 SECTION 5.006. Section 2308.2085, Occupations Code, is
25 amended to read as follows:

26 Sec. 2308.2085. LOCAL AUTHORITY REGULATION OF [~~MUNICIPAL~~
27 ~~ORDINANCE REGULATING~~] BOOTING ACTIVITIES [~~COMPANIES AND~~

1 ~~OPERATORS~~]. (a) A local authority [~~municipality~~] may regulate, in
2 areas in which the entity regulates parking or traffic, [adopt an
3 ordinance that is identical to the] booting activities, including:

4 (1) operation of booting companies and operators that
5 operate on a parking facility;

6 (2) any permit and sign requirements in connection
7 with the booting of a vehicle; and

8 (3) [provisions in this chapter or that imposes
9 additional requirements that exceed the minimum standards of the
10 booting provisions in this chapter but may not adopt an ordinance
11 that conflicts with the booting provisions in this chapter.

12 [~~(b) A municipality may regulate the] fees that may be
13 charged in connection with the booting of a vehicle[~~, including~~
14 ~~associated parking fees]~~.~~

15 (b) Regulations adopted under this section must:

16 (1) incorporate the requirements of Sections [2308.257](#)
17 and [2308.258](#);

18 (2) include procedures for vehicle owners and
19 operators to file a complaint with the local authority regarding a
20 booting company or operator;

21 (3) provide for the imposition of a penalty on a
22 booting company or operator for a violation of Section [2308.258](#);
23 and

24 (4) provide for the revocation of any permit, license,
25 or other authority of a booting company or operator to boot vehicles
26 if the company or operator violates Section [2308.258](#) more than
27 twice in a five-year period [~~(c) A municipality may require~~

1 ~~booting companies to obtain a permit to operate in the~~
2 ~~municipality].~~

3 SECTION 5.007. Section 2308.255, Occupations Code, is
4 amended to read as follows:

5 Sec. 2308.255. TOWING COMPANY'S ~~[OR BOOT OPERATOR'S]~~
6 AUTHORITY TO TOW ~~[REMOVE]~~ AND STORE ~~[OR BOOT]~~ UNAUTHORIZED VEHICLE.

7 (a) A towing company ~~[that is insured as provided by Subsection~~
8 ~~(c)]~~ may, without the consent of an owner or operator of an
9 unauthorized vehicle, tow the vehicle to ~~[remove]~~ and store the
10 vehicle at a vehicle storage facility at the expense of the owner or
11 operator of the vehicle if:

12 (1) the towing company has received written
13 verification from the parking facility owner that:

14 (A) ~~[the parking facility owner has installed]~~
15 the signs required by Section 2308.252(a)(1) are posted; or

16 (B) the owner or operator received notice under
17 Section 2308.252(a)(2) or the parking facility owner gave notice
18 complying with Section 2308.252(a)(3); or

19 (2) on request the parking facility owner provides to
20 the owner or operator of the vehicle information on the name of the
21 towing company and vehicle storage facility that will be used to tow
22 ~~[remove]~~ and store the vehicle and the vehicle is:

23 (A) left in violation of Section 2308.251;

24 (B) in or obstructing a portion of a paved
25 driveway; or

26 (C) on a public roadway used for entering or
27 exiting the facility and the tow ~~[removal]~~ is approved by a peace

1 officer.

2 (b) A towing company may not tow [~~remove~~] an unauthorized
3 vehicle except under:

4 (1) this chapter;

5 (2) a municipal ordinance that complies with Section
6 [2308.208](#); or

7 (3) the direction of:

8 (A) a peace officer; or

9 (B) the owner or operator of the vehicle.

10 (c) Only a towing company that is insured against liability
11 for property damage incurred in towing a vehicle may tow [~~remove~~]
12 and store an unauthorized vehicle under this section.

13 (d) A towing company may tow [~~remove~~] and store a vehicle
14 under Subsection (a) [~~and a boot operator may boot a vehicle under~~
15 ~~Section [2308.257](#)~~] only if the parking facility owner:

16 (1) requests that the towing company tow [~~remove~~] and
17 store [~~or that the boot operator boot~~] the specific vehicle; or

18 (2) has a standing written agreement with the towing
19 company [~~or boot operator~~] to enforce parking restrictions in the
20 parking facility.

21 (e) When a tow truck is used for a nonconsent tow authorized
22 by a peace officer under Section [545.3051](#), Transportation Code, the
23 operator of the tow truck and the towing company are agents of the
24 law enforcement agency and are subject to Section [545.3051](#)(e),
25 Transportation Code.

26 SECTION 5.008. Section [2308.257](#), Occupations Code, is
27 amended by amending Subsection (b) and adding Subsection (b-1) to

1 read as follows:

2 (b) A boot operator that installs a boot on a vehicle must
3 affix a conspicuous notice to the vehicle's front windshield or
4 driver's side window stating:

5 (1) that the vehicle has been booted and damage may
6 occur if the vehicle is moved;

7 (2) the date and time the boot was installed;

8 (3) the name, address, and telephone number of the
9 booting company;

10 (4) a telephone number that is answered 24 hours a day
11 to enable the owner or operator of the vehicle to arrange for
12 removal of the boot;

13 (5) the amount of the fee for removal of the boot and
14 any associated parking fees; ~~and~~

15 (6) notice of the right of a vehicle owner or vehicle
16 operator to a hearing under Subchapter J; and

17 (7) in the manner prescribed by the local authority,
18 notice of the procedure to file a complaint with the local authority
19 for violation of this chapter by a boot operator.

20 (b-1) No more than one boot may be installed on a vehicle at
21 any time.

22 SECTION 5.009. Subchapter F, Chapter 2308, Occupations
23 Code, is amended by adding Section 2308.258 to read as follows:

24 Sec. 2308.258. BOOT REMOVAL. (a) A booting company
25 responsible for the installation of a boot on a vehicle shall remove
26 the boot not later than one hour after the time the owner or
27 operator of the vehicle contacts the company to request removal of

1 the boot.

2 (b) A booting company shall waive the amount of the fee for
3 removal of a boot, excluding any associated parking fees, if the
4 company fails to have the boot removed within the time prescribed by
5 Subsection (a).

6 SECTION 5.010. The heading to Subchapter I, Chapter 2308,
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER I. REGULATION OF TOWING COMPANIES [~~7 BOOTING COMPANIES 7~~]
9 AND PARKING FACILITY OWNERS

10 SECTION 5.011. (a) The following provisions of the
11 Occupations Code are repealed:

12 (1) Section 2308.002(9); and

13 (2) Section 2308.103(d).

14 (b) Effective September 1, 2018, Sections 2308.1555 and
15 2308.1556, Occupations Code, are repealed.

16 SECTION 5.012. (a) On September 1, 2018, a license issued
17 under former Section 2308.1555 or 2308.1556, Occupations Code,
18 expires.

19 (b) The changes in law made by this article to Section
20 2308.051(a), Occupations Code, regarding the qualifications for a
21 member of the Towing and Storage Advisory Board do not affect the
22 entitlement of a member serving on the board immediately before the
23 effective date of this article to continue to serve and function as
24 a member of the board for the remainder of the member's term. When
25 board vacancies occur on or after the effective date of this
26 article, the presiding officer of the Texas Commission of Licensing
27 and Regulation shall appoint new members to the board in a manner

1 that reflects the changes in law made by this article.

2 (c) The changes in law made by this article to Section
3 2308.255, Occupations Code, do not apply to the booting of a vehicle
4 pursuant to a standing written agreement between a booting company
5 and a parking facility owner entered into before the effective date
6 of this article. The booting of a vehicle pursuant to a standing
7 written agreement entered into before the effective date of this
8 article is governed by the law as it existed immediately before the
9 effective date of this article, and that law is continued in effect
10 for that purpose.

11 SECTION 5.013. Except as otherwise provided by this
12 article, this article takes effect immediately if this Act receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 article takes effect September 1, 2017.

17 ARTICLE 6. CONFLICT OF LAW; EFFECTIVE DATE

18 SECTION 6.001. To the extent of any conflict, this Act
19 prevails over another Act of the 85th Legislature, Regular Session,
20 2017, relating to nonsubstantive additions to and corrections in
21 enacted codes.

22 SECTION 6.002. This Act takes effect only if a specific
23 appropriation for the implementation of the Act is provided in a
24 general appropriations act of the 85th Legislature.

25 SECTION 6.003. Except as otherwise provided by this Act,
26 this Act takes effect September 1, 2017.