86R5326 SOS/KKR-D

By:  Guillen H.B. No. 2667

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of certain occupations and activities; authorizing fees.

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

ARTICLE 1. DRIVER EDUCATION

SECTION 1.001.  Section 1001.001(7), Education Code, is amended to read as follows:

(7)  "Driver education school" means an enterprise that:

(A)  maintains a place of business or solicits business in this state; and

(B)  is operated by an individual, association, partnership, or corporation for educating and training persons [~~at a primary or branch location~~] in driver education or driver education instructor development.

SECTION 1.002.  Section 1001.151(e), Education Code, is amended to read as follows:

(e)  The commission may establish a fee for an application for approval to offer a driver education course [~~by an alternative method of instruction under Section 1001.3541~~].

SECTION 1.003.  Section 1001.204(b), Education Code, is amended to read as follows:

(b)  The department shall approve an application for a driver education school license if the application is submitted on a form approved by the department [~~executive director~~], the application is accompanied by [~~includes~~] the fee, and the department determines [~~on inspection of the premises of the school, it is determined~~] that the school:

(1)  has courses, curricula, and instruction of a quality, content, and length that reasonably and adequately achieve the stated objective for which the courses, curricula, and instruction are offered;

(2)  has adequate space, equipment, instructional material, and instructors to provide training of good quality in the classroom and behind the wheel, if applicable;

(3)  has instructors who have adequate educational qualifications and experience;

(4)  provides to each student before enrollment:

(A)  a copy of:

(i)  the refund policy;

(ii)  the schedule of tuition, fees, and other charges; and

(iii)  the regulations relating to absence, grading policy, and rules of operation and conduct; and

(B)  the department's name, mailing address, telephone number, and Internet website address for the purpose of directing complaints to the department;

(5)  maintains adequate records as prescribed by the department to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(6)  on completion of training, issues each student a certificate indicating the course name and satisfactory completion;

(7)  complies with all county, municipal, state, and federal regulations, including fire, building, and sanitation codes and assumed name registration, if applicable;

(8)  is financially sound and capable of fulfilling its commitments for training;

(9)  maintains and publishes as part of its student enrollment contract the proper policy for the refund of the unused portion of tuition, fees, and other charges if a student fails to take the course or withdraws or is discontinued from the school at any time before completion;

(10)  does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the department;

(11)  does not use a name similar to the name of another existing school or tax-supported educational institution in this state, unless specifically approved in writing by the executive director;

(12)  submits to the department for approval the applicable course hour lengths and curriculum content for each course offered by the school;

(13)  does not owe an administrative penalty for a violation of this chapter; [~~and~~]

(14)  meets any additional criteria required by the department, including any applicable inspection requirements; and

(15)  provides adequate testing and security measures for the school's method of instruction.

SECTION 1.004.  Subchapter F, Chapter 1001, Education Code, is amended by adding Sections 1001.2531, 1001.2532, 1001.2533, 1001.2534, and 1001.2535 to read as follows:

Sec. 1001.2531.  DRIVER EDUCATION INSTRUCTOR REQUIREMENTS. (a) The commission by rule shall establish standards for a driver education instructor to be certified as a teaching assistant, driver education teacher, or supervising teacher.

(b)  An applicant for a driver education instructor license under this section must:

(1)  apply to the department on a form prescribed by the department and under rules adopted by the commission;

(2)  submit with the application a nonrefundable application fee in an amount set by commission rule; and

(3)  present satisfactory evidence to the department that the applicant:

(A)  is at least 21 years of age;

(B)  holds a high school diploma or high school equivalency certificate; and

(C)  meets any other requirement established by commission rule.

Sec. 1001.2532.  TEACHING ASSISTANT. (a) A teaching assistant is a driver education instructor who is authorized to teach or provide only behind-the-wheel training.

(b)  To be eligible to be certified as a teaching assistant, a driver education instructor must:

(1)  have successfully completed:

(A)  six semester hours of driver and traffic safety education from an accredited college or university; or

(B)  a teaching assistant development course approved by the department; and

(2)  pass any required examination.

Sec. 1001.2533.  DRIVER EDUCATION TEACHER. (a) A driver education teacher is a driver education instructor who is authorized to teach or provide behind-the-wheel training and classroom training.

(b)  To be eligible to be certified as a driver education teacher, a driver education instructor must:

(1)  have successfully completed:

(A)  nine semester hours of driver and traffic safety education from an accredited college or university; or

(B)  a driver education teacher development course approved by the department;

(2)  pass any required examination; and

(3)  comply with the additional requirements under Section 1001.2535.

Sec. 1001.2534.  SUPERVISING TEACHER. (a) A supervising teacher is a driver education instructor who is authorized to teach instructor training classes.

(b)  To be eligible to be certified as a supervising teacher, a driver education instructor must:

(1)  have been certified as a driver education teacher for at least one year; and

(2)  have successfully completed:

(A)  15 semester hours of driver and traffic safety education from an accredited college or university; or

(B)  a supervising teacher development course approved by the department; and

(3)  comply with the additional requirements under Section 1001.2535.

Sec. 1001.2535.  ADDITIONAL REQUIREMENTS FOR DRIVER EDUCATION TEACHER AND SUPERVISING TEACHER. (a) In addition to the requirements under Section 1001.2533 or 1001.2534, as applicable, to be eligible to be certified as a driver education teacher or supervising teacher, a driver education instructor must:

(1)  hold a teaching certificate and any additional certification required by commission rule to teach driver education;

(2)  have completed 15 semester hours in education courses at an accredited college or university during the 10 years before the application date; or

(3)  have obtained an associate or baccalaureate degree in education from an accredited college or university.

(b)  The commission, department, or executive director may adopt an alternative method to determine or verify an instructor's eligibility under Subsection (a).

SECTION 1.005.  Subchapter H, Chapter 1001, Education Code, is amended by adding Section 1001.3542 to read as follows:

Sec. 1001.3542.  METHOD OF INSTRUCTION FOR DRIVER EDUCATION COURSE. A driver education school may teach a driver education course by any method approved by the department, including an alternative method under Section 1001.3541 or a traditional method under Subchapter C.

SECTION 1.006.  The following provisions of the Education Code are repealed:

(1)  Sections 1001.253, 1001.254, and 1001.256; and

(2)  Section 1001.3541(b).

SECTION 1.007.  (a) As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall adopt rules to implement Section 1001.204(b), Education Code, as amended by this article, and Section 1001.2531, Education Code, as added by this article.

(b)  A driver education instructor license issued under Section 1001.253, Education Code, before the repeal of that section by this article, continues to be valid until the license expires, and former Section 1001.253, Education Code, is continued in effect for that purpose.

(c)  A person who holds on the effective date of this Act a driver education instructor license described by former Section 1001.253(b), Education Code, is entitled on expiration of that license to issuance of a driver education instructor license certified as a teaching assistant under Section 1001.2532, Education Code, as added by this article, if the person otherwise meets the requirements for renewal of a driver education instructor license certified as a teaching assistant.

(d)  A person who holds on the effective date of this Act a driver education instructor license described by former Section 1001.253(c), Education Code, is entitled on expiration of that license to issuance of a driver education instructor license certified as a driver education teacher under Section 1001.2533, Education Code, as added by this article, if the person otherwise meets the requirements for renewal of a driver education instructor license certified as a driver education teacher.

(e)  A person who holds on the effective date of this Act a driver education instructor license described by former Section 1001.253(e), Education Code, is entitled on expiration of that license to issuance of a driver education instructor license certified as a supervising teacher under Section 1001.2534, Education Code, as added by this article, if the person otherwise meets the requirements for renewal of a driver education instructor license certified as a supervising teacher.

(f)  The changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

(g)  Sections 1001.2531, 1001.2532, 1001.2533, 1001.2534, and 1001.2535, Education Code, as added by this article, apply only to an application for, or renewal of, an instructor license submitted to the Texas Department of Licensing and Regulation on or after the effective date of this Act. An application submitted before that date is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

ARTICLE 2. TEXAS DEPARTMENT OF LICENSING AND REGULATION

SECTION 2.001.  Section 51.401, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a)  Notwithstanding any other law, a license issued by the department is valid for two years from the date of issuance.

(a-1)  A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the department before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

SECTION 2.002.  As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement Section 51.401, Occupations Code, as amended by this article.

SECTION 2.003.  Section 51.401, Occupations Code, as amended by this article, applies only to a license issued or renewed by the Texas Department of Licensing and Regulation on or after January 1, 2020. A license issued or renewed by the department before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

ARTICLE 3. MASSAGE THERAPY, BARBERING, AND COSMETOLOGY

SECTION 3.001.  Section 455.151, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e)  Notwithstanding Subsections (a) and (b), a person may act as or represent that the person is a massage establishment if the person holds a dual beauty shop and massage establishment license issued under Section 1602.307.

SECTION 3.002.  Subchapter G, Chapter 1602, Occupations Code, is amended by adding Section 1602.307 to read as follows:

Sec. 1602.307.  DUAL BEAUTY SHOP AND MASSAGE ESTABLISHMENT LICENSE. (a) A person holding a dual beauty shop and massage establishment license may own, operate, or manage an establishment in which any practice of cosmetology defined by Section 1602.002(a) or any massage therapy or other massage services as defined by Section 455.001 are performed.

(b)  An applicant for a dual beauty shop and massage establishment license must submit:

(1)  an application on a department-approved form that is verified by the applicant;

(2)  proof that the applicant meets the applicable requirements under this chapter and Chapter 1603 for obtaining a beauty shop license and the requirements under Chapter 455 for obtaining a massage establishment license; and

(3)  the required license fee.

(c)  The department shall issue a dual beauty shop and massage establishment license to an applicant who:

(1)  meets the requirements under this chapter, Chapter 1603, and Chapter 455;

(2)  complies with commission rules; and

(3)  pays the required fees.

(d)  The holder of a dual beauty shop and massage establishment license shall comply with this chapter, Chapters 1603 and 455, and commission rules related to cosmetology and massage therapy.

SECTION 3.003.  Section 1603.256(c), Occupations Code, is amended to read as follows:

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

(1)  the department; [~~or~~]

(2)  a person with whom the department contracts under Section 1603.252; or

(3)  a school licensed or permitted under this chapter, Chapter 1601, or Chapter 1602.

SECTION 3.004.  As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement Section 1602.307, Occupations Code, as added by this article.

ARTICLE 4. ORTHOTIC AND PROSTHETIC TECHNICIANS

SECTION 4.001.  The following provisions of the Occupations Code are repealed:

(1)  Sections 605.002(19), (20), and (21); and

(2)  Section 605.259.

SECTION 4.002. (a) On the effective date of this Act, a registered orthotic technician or registered prosthetic technician certificate issued under former Section 605.259, Occupations Code, expires.

(b)  As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall repeal all rules regarding the regulation of orthotic and prosthetic technicians adopted under Chapter 605, Occupations Code.

SECTION 4.003.  The change in law made by this article does not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

ARTICLE 5. MOLD

SECTION 5.001.  Section 544.303, Insurance Code, is amended to read as follows:

Sec. 544.303.  PROHIBITION OF CERTAIN UNDERWRITING DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. An insurer may not make an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage if:

(1)  the applicant for insurance coverage has property eligible for coverage under a residential property policy;

(2)  the property has had mold damage;

(3)  mold remediation has been performed on the property; and

(4)  the property was [~~:~~

[~~(A) remediated, as evidenced by a certificate of mold remediation issued to the property owner under Section 1958.154, Occupations Code, that establishes with reasonable certainty that the underlying cause of the mold at the property has been remediated; or~~

[~~(B)~~] inspected and certified by an independent assessor, adjuster, or person or entity experienced in the remediation of mold damage, as prescribed by the department, [~~or adjustor~~] who determined, based on the inspection, that the property does not contain evidence of mold damage.

SECTION 5.002.  Chapter 1958, Occupations Code, is repealed.

SECTION 5.003.  (a)  On the effective date of this Act:

(1)  a license or registration issued under former Chapter 1958, Occupations Code, expires; and

(2)  an action, including a complaint investigation, disciplinary action, or administrative penalty proceeding pending before the Texas Department of Licensing and Regulation relating to an alleged violation of former Chapter 1958, Occupations Code, is dismissed.

(b)  As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall repeal all rules regarding the regulation of mold assessors and remediators adopted under former Chapter 1958, Occupations Code.

(c)  An administrative penalty assessed by the Texas Commission of Licensing and Regulation or the executive director of the Texas Department of Licensing and Regulation related to a violation of former Chapter 1958, Occupations Code, before the effective date of this Act, may be collected as provided by Chapter 51, Occupations Code.

(d)  A mold remediation initiated before the effective date of this Act is governed by former Section 1958.154, Occupations Code, as that section existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose. A person who held on the effective date of this Act a mold assessment or mold remediation license under former Chapter 1958, Occupations Code, may sign and provide a certificate of mold remediation after the effective date of this Act for a mold remediation initiated before the effective date of this Act.

(e)  The change in law made by this article applies only to a contract entered into or renewed on or after the effective date of this Act. A contract entered into or renewed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(f)  As soon as practicable after the effective date of this Act, the commissioner of insurance shall adopt rules required by Section 544.303, Insurance Code, as amended by this article.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.001.  This Act takes effect September 1, 2019.