87R18682 DRS/ANG/BEE/JES-D

By:  Goldman H.B. No. 1560

Substitute the following for H.B. No. 1560:

By:  Goldman C.S.H.B. No. 1560

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Department of Licensing and Regulation.

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

ARTICLE 1. GENERAL POWERS AND DUTIES

SECTION 1.01.  Section 51.002, Occupations Code, is amended to read as follows:

Sec. 51.002.  APPLICATION OF SUNSET ACT. [~~(a)~~] The Texas Commission of Licensing and Regulation and the Texas Department of Licensing and Regulation are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission and the department are abolished September 1, 2033 [~~2021~~].

[~~(b)  The review of the commission and department by the Sunset Advisory Commission under this section may not include a review of any program that was transferred to the department on or after September 1, 2016.~~]

SECTION 1.02.  Section 51.054, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b)  The training program must provide the person with information regarding:

(1)  the law governing [~~legislation that created the~~] department operations [~~and the commission~~];

(2)  the programs, functions, rules, and budget of [~~operated by~~] the department;

(3)  the scope of and limitations on the rulemaking authority of the commission [~~role and functions of the department~~];

(4)  [~~the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

[~~(5)  the current budget for the department;~~

[~~(6)~~]  the results of the most recent formal audit of the department;

(5) [~~(7)~~]  the requirements of:

(A)  laws relating to [~~the~~] open meetings, [~~law, Chapter 551, Government Code;~~

[~~(B)  the~~] public information, [~~law, Chapter 552, Government Code;~~

[~~(C)  the~~] administrative procedure, and disclosing conflicts of interest [~~law, Chapter 2001, Government Code~~]; and

(B) [~~(D)~~]  other laws applicable to members of a state policy-making body in performing their duties [~~relating to public officials, including conflict-of-interest laws~~]; and

(6) [~~(8)~~]  any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(d)  The executive director of the department shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the commission. Each member of the commission shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 1.03.  Section 51.209, Occupations Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1)  An advisory board shall meet at the call of the executive director or the presiding officer of the commission.

(a-2)  An advisory board may meet by telephone conference call, videoconference, or other similar telecommunication method, provided that each portion of the meeting that is required to be open to the public shall be audible to the public and, in the case of a meeting held by videoconference, visible to the public. If a problem occurs that causes a meeting to no longer be visible or audible to the public as required under this subsection, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned. The face of each participant in a meeting held by videoconference, while that participant is speaking, must be clearly visible, and the participant's voice must be audible, to each other participant and, during the open portion of the meeting, to the members of the public. A meeting held by telephone conference call, videoconference, or other similar telecommunication method is not subject to the requirements of Sections 551.127(a-3), (b), (c), (e), (f), (h), (i), and (j), Government Code.

SECTION 1.04.  Subchapter D, Chapter 51, Occupations Code, is amended by adding Sections 51.2095 and 51.211 to read as follows:

Sec. 51.2095.  INTERDISCIPLINARY ADVISORY BOARDS. The executive director or the presiding officer of the commission may appoint interdisciplinary advisory boards consisting of members from various businesses, industries, general trades, or occupations to provide expertise related to a program regulated by the department.

Sec. 51.211.  RISK-BASED INSPECTIONS. (a) The department shall conduct risk-based inspections that prioritize inspections based on key risk factors identified by the department, including:

(1)  whether a license holder has previously violated a law establishing a regulatory program administered by the department or a rule or order of the commission or executive director; and

(2)  the number of violations committed by a license holder.

(b)  The department may use alternative inspection methods, including the use of videoconference technology or other methods instead of conducting an in-person inspection, in circumstances the department considers appropriate.

SECTION 1.05.  Section 51.251, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c)  The executive director shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

SECTION 1.06.  Section 51.252, Occupations Code, is amended by amending Subsections (a) and (c) and adding Subsection (b-2) to read as follows:

(a)  The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition [~~The executive director shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The department shall provide to the person filing the complaint and to each person who is a subject of the complaint information about the department's policies and procedures relating to complaint investigation and resolution~~].

(b-2)  The department shall make information available describing its procedures for complaint investigation and resolution.

(c)  The department [~~, at least quarterly and until final disposition of the complaint,~~] shall periodically notify the [~~person filing the~~] complaint parties [~~and each person who is a subject of the complaint~~] of the status of the complaint until final disposition [~~investigation~~] unless the notice would jeopardize an [~~undercover~~] investigation.

SECTION 1.07.  Subchapter E, Chapter 51, Occupations Code, is amended by adding Sections 51.2521 and 51.255 to read as follows:

Sec. 51.2521.  COMPLAINT INVESTIGATION. (a) The department shall assign priorities and investigate complaints based on risk to the public of the conduct alleged in the complaint.

(b)  If the department determines at any time that an allegation made or formal complaint submitted by a person is inappropriate or without merit, the department shall dismiss the complaint.

Sec. 51.255.  STATISTICAL ANALYSIS OF COMPLAINTS. (a) The department shall make available on the department's Internet website a statistical analysis of the complaints received by the department.

(b)  The analysis under this section must include aggregate information on the number, source, type, and disposition of complaints received during the preceding state fiscal year and must include, as applicable, the following information for each program regulated by the department:

(1)  the number of license holders;

(2)  the number of complaints received against license holders;

(3)  the number of complaints resolved and the manner in which they were resolved, including:

(A)  the number of complaints dismissed and the reasons for dismissal;

(B)  the number of contested cases referred to and heard by the State Office of Administrative Hearings;

(C)  the number of cases appealed to a district court;

(D)  the number of complaints resulting in disciplinary action, the disciplinary action taken, and whether the disciplinary action was imposed by an agreed settlement or default order issued by the executive director or a final order issued by the commission;

(E)  a breakdown of the nature of the alleged violations in:

(i)  complaints opened for investigation; and

(ii)  cases that resulted in disciplinary action; and

(F)  the number of complaints resolved, categorized by whether the complaint originated from department staff or from the public;

(4)  the average time required to resolve a complaint;

(5)  the average amount of administrative penalties assessed; and

(6)  the number and amount of refunds ordered by the commission or executive director or obtained through an informal resolution.

SECTION 1.08.  Section 51.351, Occupations Code, is amended by adding Subsection (e) to read as follows:

(e)  The department may take action under Section 51.353 for a violation identified during an inspection.

SECTION 1.09.  Subchapter G, Chapter 51, Occupations Code, is amended by adding Section 51.359 to read as follows:

Sec. 51.359.  REFUND. (a) Subject to Subsection (b), the commission or executive director may order a license holder to pay a refund to a consumer as provided in an agreed settlement, default order, or commission order instead of or in addition to imposing an administrative penalty or sanction.

(b)  The amount of a refund ordered may not exceed the amount the consumer paid to the license holder for a service regulated by the department. The commission or executive director may not require payment of other damages or estimate harm in a refund order.

SECTION 1.10.  Section 51.4012(a), Occupations Code, is amended to read as follows:

(a)  Notwithstanding any other law, the commission may determine that a person is not eligible for a license based on the person's criminal history [~~or other information that indicates that the person lacks the honesty, trustworthiness, and integrity to hold a license issued by the department~~].

SECTION 1.11.  Section 51.405, Occupations Code, is amended to read as follows:

Sec. 51.405.  CONTINUING EDUCATION. (a) The department [~~commission~~] shall recognize, prepare, or administer continuing education programs for license holders. A license holder must participate in the programs to the extent required by the commission to keep the person's license.

(b)  Notwithstanding other law, the commission by rule may establish a minimum number of hours of continuing education required for license renewal.

(c)  In adopting rules under this section for a program regulated by the department, the commission shall consult, if applicable, with the advisory board established for the program.

SECTION 1.12.  Subchapter H, Chapter 51, Occupations Code, is amended by adding Section 51.409 to read as follows:

Sec. 51.409.  FINANCIAL DISCLOSURE STATEMENT. (a) The commission by rule may require a person, other than an individual, applying for a license issued by the department to submit with the license application a financial disclosure statement. The rules may require any of the following information to be disclosed based on the type of license for which the application is submitted:

(1)  the name of the applicable business entity;

(2)  the name of each person who has a direct financial investment in the business;

(3)  the name of each person, other than an individual, who:

(A)  has a financial investment in the business; and

(B)  is not otherwise disclosed under Subdivision (2);

(4)  the total amount or percentage of the financial investment made by each person described by Subdivision (2); and

(5)  the name of each of the following persons associated with the business, if the person is not otherwise disclosed under Subdivision (2) or (3):

(A)  a partner;

(B)  an officer;

(C)  a director;

(D)  a managing employee;

(E)  an owner or person who controls the owner; and

(F)  a person who acts as a controlling person of the business through the exercise of direct or indirect influence or control over the management of the business, the expenditure of money by the business, or a policy of the business, including:

(i)  any management company, landlord, marketing company, or similar person who operates or contracts for the operation of the business and, if the business is a publicly traded corporation or is controlled by a publicly traded corporation, any officer or director of the corporation;

(ii)  an individual who has a personal, familial, or other relationship with an owner, manager, landlord, tenant, or provider of a business that allows the individual to exercise actual control of the business; and

(iii)  any other person the commission by rule requires to be included based on the person's exercise of direct or indirect influence or control other than a shareholder or lender of the corporation.

(b)  The department may deny an application for the issuance or renewal of a license or may suspend or revoke a license on the grounds that an applicant or license holder:

(1)  fails to disclose a relationship for which disclosure is required by rules adopted under this section; or

(2)  discloses a relationship for which disclosure is required by rules adopted under this section with a person who has failed to comply with an order of the commission or executive director.

SECTION 1.13.  Section 202.505, Occupations Code, is amended to read as follows:

Sec. 202.505.  REEXAMINATION IF LICENSE SUSPENDED OR REVOKED. The department may refuse to reinstate a license or to issue a new license until a podiatrist has passed the regular license examination if the commission or executive director suspended or revoked the license for:

(1)  failure to satisfy continuing education requirements [~~under Section 202.305~~]; or

(2)  nonpayment of the license renewal fee.

SECTION 1.14.  Section 402.305, Occupations Code, is amended to read as follows:

Sec. 402.305.  CONTINUING EDUCATION EXEMPTIONS. The department may renew the license of a license holder who does not comply with the applicable continuing education requirements [~~of Section 402.303 or 402.304~~] if the license holder:

(1)  was licensed for the first time during the 24 months before the reporting date; or

(2)  submits proof from an attending physician that the license holder suffered a serious or disabling illness or physical disability that prevented compliance with the continuing education requirements during the 24 months before the reporting date.

SECTION 1.15.  Section 802.062(b), Occupations Code, is amended to read as follows:

(b)  An [~~The~~] inspection by the department must be conducted during the facility's normal business hours, and the licensed breeder or a representative of the licensed breeder must be given a reasonable opportunity to be present during the inspection.

SECTION 1.16.  Section 1151.1581, Occupations Code, is amended to read as follows:

Sec. 1151.1581.  CONTINUING EDUCATION. (a) [~~The commission shall recognize, prepare, or administer continuing education programs for registrants under this chapter.~~

[~~(b)~~]  The comptroller must review and approve any [~~all~~] continuing education programs for registrants.

(b) [~~(c)  A registrant must participate in the programs to the extent required by the department to keep the person's certificate of registration.~~

[~~(d)  The commission may set fees for continuing education courses and providers of continuing education courses in amounts reasonable and necessary to cover the department's costs in administering the department's duties under this section.~~

[~~(e)~~]  The comptroller may set fees for any continuing education courses and providers of continuing education courses in amounts reasonable and necessary to cover the comptroller's costs in administering the comptroller's duties under this section.

[~~(f)  As part of the continuing education requirements for a registered professional appraiser who is the chief appraiser of an appraisal district, the commission by rule shall require the registrant to complete:~~

[~~(1)  at least half of the required hours in a program devoted to one or more of the topics listed in Section 1151.164(b); and~~

[~~(2)  at least two of the required hours in a program of professional ethics specific to the chief appraiser of an appraisal district, including a program on the importance of maintaining the independence of an appraisal office from political pressure.~~]

SECTION 1.17.  Section 1152.106, Occupations Code, is amended to read as follows:

Sec. 1152.106.  [~~MEETINGS;~~] VOTE REQUIRED FOR ACTION. [~~(a) The council shall meet at least semiannually at the call of the presiding officer or at the call of a majority of its members.~~

[~~(b)~~]  A decision of the council is not effective unless it receives the affirmative vote of at least four members.

SECTION 1.18.  Section 1953.106, Occupations Code, is amended to read as follows:

Sec. 1953.106.  RENEWAL OF CERTIFICATE. [~~(a)~~] To renew a certificate of registration under this chapter, a professional sanitarian must:

(1)  pay to the department a renewal fee prescribed by the commission by rule; and

(2)  provide proof of completion of any applicable continuing education requirements prescribed by the commission by rule.

SECTION 1.19.  Section 1958.104, Occupations Code, is amended to read as follows:

Sec. 1958.104.  RULES REGARDING LICENSE APPLICATION. The commission shall adopt rules regarding a license application. The commission shall adopt rules that establish minimum requirements for a license, including:

(1)  the type of license;

(2)  the qualifications for the license, including any previous training required under Section 1958.106;

(3)  renewal requirements for the license[~~, including ongoing continuing education required under Section 1958.106~~]; and

(4)  liability insurance requirements for the license.

SECTION 1.20.  Section 1958.106, Occupations Code, is amended to read as follows:

Sec. 1958.106.  TRAINING [~~; CONTINUING EDUCATION~~]. (a) The commission shall adopt rules regarding training required under this chapter [~~and continuing education required for a license holder under this chapter~~].

(b)  The rules may include requirements regarding training [~~and continuing education~~] providers, including rules establishing:

(1)  accreditation by the department;

(2)  curriculum requirements; and

(3)  qualifications.

SECTION 1.21.  Section 2308.157, Occupations Code, is amended to read as follows:

Sec. 2308.157.  REQUIREMENT FOR INITIAL RENEWAL OF INCIDENT MANAGEMENT TOWING OPERATOR'S LICENSE [~~CONTINUING EDUCATION~~]. [~~(a) The commission by rule shall recognize, prepare, or administer continuing education programs for license holders. Except as provided by Subsection (c), each license holder must complete a continuing education program before the license holder may renew the license holder's license.~~

[~~(b)  A person recognized by the commission to offer a continuing education program must:~~

[~~(1)  register with the department; and~~

[~~(2)  comply with rules adopted by the commission relating to continuing education.~~

[~~(c)~~]  To renew an incident management towing operator's license the first time, a license holder must complete a professional development course relating to incident management towing that is approved and administered by the department [~~under this section~~].

SECTION 1.22.  Section 2308.159(c), Occupations Code, is amended to read as follows:

(c)  A license holder may renew a license issued under this chapter by:

(1)  submitting an application on a form prescribed by the executive director;

(2)  submitting evidence demonstrating compliance with the requirements for the license type as required by this chapter or commission rule;

(3)  paying a renewal fee; and

(4)  completing any applicable continuing education requirements [~~as required by Section 2308.157~~].

SECTION 1.23.  The heading to Section 2308.2065, Occupations Code, is amended to read as follows:

Sec. 2308.2065.  FEES FOR NONCONSENT TOWS [~~; REFUNDS~~].

SECTION 1.24.  The following provisions are repealed:

(1)  Section 1001.058(h), Education Code;

(2)  Section 469.053(e), Government Code;

(3)  Section 754.012(d), Health and Safety Code;

(4)  Section 754.0174, Health and Safety Code;

(5)  Section 755.016, Health and Safety Code;

(6)  Sections 755.025(b), (c), (d), and (e), Health and Safety Code;

(7)  Section 51.0021, Occupations Code;

(8)  Section 51.252(d), Occupations Code;

(9)  Section 202.305, Occupations Code;

(10)  Section 202.5085, Occupations Code;

(11)  Section 203.304, Occupations Code;

(12)  Section 203.406, Occupations Code;

(13)  Section 401.355, Occupations Code;

(14)  Section 403.152, Occupations Code;

(15)  Section 455.0571, Occupations Code;

(16)  Section 506.105, Occupations Code;

(17)  Section 605.261, Occupations Code;

(18)  Section 701.303, Occupations Code;

(19)  Section 701.512, Occupations Code;

(20)  Section 802.065(e), Occupations Code;

(21)  Section 1152.204, Occupations Code;

(22)  Section 1302.208(a), Occupations Code;

(23)  Section 1305.055, Occupations Code;

(24)  Section 1901.107(a), Occupations Code;

(25)  Section 1952.1051, Occupations Code;

(26)  Section 1958.056(b), Occupations Code;

(27)  Section 2303.056(b), Occupations Code;

(28)  Section 2308.055, Occupations Code;

(29)  Section 2308.2065(c), Occupations Code;

(30)  Section 2309.056, Occupations Code; and

(31)  Section 2309.106(a), Occupations Code.

SECTION 1.25.  (a) Except as provided by Subsection (b) of this section, Section 51.054, Occupations Code, as amended by this article, applies to a member of the Texas Commission of Licensing and Regulation appointed before, on, or after the effective date of this Act.

(b)  A member of the Texas Commission of Licensing and Regulation who, before the effective date of this Act, completed the training program required by Section 51.054, Occupations Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this article to the training program required by Section 51.054, Occupations Code. A member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission held on or after December 1, 2021, until the member completes the additional training.

ARTICLE 2. DEREGULATION

SECTION 2.01.  The following provisions of the Occupations Code are repealed:

(1)  Chapter 1703; and

(2)  Section 2052.002(11-a).

SECTION 2.02.  Section 54.0405(d), Family Code, is amended to read as follows:

(d)  A polygraph examination required as a condition of probation under Subsection (a) must be administered by an individual who is [~~:~~

[~~(1)~~]  specified by the local juvenile probation department supervising the child [~~; and~~

[~~(2)  licensed as a polygraph examiner under Chapter 1703, Occupations Code~~].

SECTION 2.03.  Sections 411.0074(c) and (d), Government Code, are amended to read as follows:

(c)  The polygraph examination required by this section may only be administered by a polygraph examiner [~~licensed under Chapter 1703, Occupations Code,~~] who:

(1)  is a peace officer commissioned by the department; or

(2)  has a minimum of two years of experience conducting preemployment polygraph examinations for a law enforcement agency.

(d)  The department and the polygraph examiner shall maintain the confidentiality of the results of a polygraph examination administered under this section, except that [~~:~~

[~~(1)  the department and the polygraph examiner may disclose the results in accordance with Section 1703.306, Occupations Code; and~~

[~~(2)  notwithstanding Section 1703.306, Occupations Code,~~] the department may disclose any admission of criminal conduct made during the course of an examination to another appropriate governmental entity.

SECTION 2.04.  Section 245.053(d), Human Resources Code, is amended to read as follows:

(d)  A polygraph examination required as a condition of release under Subsection (a) must be administered by an individual who is [~~:~~

[~~(1)~~]  specified by the department [~~; and~~

[~~(2)  licensed as a polygraph examiner under Chapter 1703, Occupations Code~~].

SECTION 2.05.  Section 2052.107, Occupations Code, is amended to read as follows:

Sec. 2052.107.  OTHER COMBATIVE SPORTS LICENSES. Unless a person holds a license or registration issued under this chapter, the person may not act as a combative sports:

(1)  professional contestant;

(2)  manager of a professional contestant;

(3)  referee; or

(4)  judge [~~;~~

[~~(5)  second;~~

[~~(6)  matchmaker; or~~

[~~(7)  event coordinator~~].

SECTION 2.06.  On the effective date of this Act, the Polygraph Advisory Committee is abolished.

SECTION 2.07.  On the effective date of this Act, a pending regulatory action, including a complaint investigation, disciplinary action, or administrative penalty proceeding, of the Texas Department of Licensing and Regulation with respect to a license, permit, or certification issued under a law repealed by this article, is terminated.

SECTION 2.08.  On the effective date of this Act, a license, permit, or certification issued under a law repealed by this article expires.

SECTION 2.09.  Not later than January 1, 2023, the Texas Department of Licensing and Regulation, in consultation with the Auctioneer Advisory Board and the advisory committee established under Section 1001.058, Education Code, shall study the regulation of auctioneering and driver training and prepare a report with any findings and recommendations to improve public safety and the department's processes and to eliminate inefficiencies, including any necessary legislative changes. In conducting the study, the department may consult with any interested organizations, associations, and stakeholders. The department shall submit the report to the standing legislative committees with jurisdiction over the department.

ARTICLE 3. BARBERING AND COSMETOLOGY

SECTION 3.01.  Section 1603.001, Occupations Code, is amended to read as follows:

Sec. 1603.001.  GENERAL DEFINITIONS. [~~(a)~~] In this chapter:

(1)  "Advisory board" means the Barbering and Cosmetology Advisory Board.

(2)  "Commission" means the Texas Commission of Licensing and Regulation.

(3) [~~(2)~~]  "Department" means the Texas Department of Licensing and Regulation.

(4)  "Establishment" means a place:

(A)  in which barbering or cosmetology is practiced; and

(B)  that is required to hold a license issued under Subchapter E-2.

(5) [~~(3)~~]  "Executive director" means the executive director of the department.

(6)  "Manager" means the person who controls or directs the business of an establishment or directs the work of a person employed in an establishment.

(7)  "School" means a public secondary school, public postsecondary school, or private postsecondary school:

(A)  in which barbering or cosmetology is taught; and

(B)  that is required to hold a license issued under Subchapter E-3.

[~~(b)  Unless the context clearly indicates otherwise, the definitions in Chapters 1601 and 1602 apply to this chapter.~~]

SECTION 3.02.  Subchapter A, Chapter 1603, Occupations Code, is amended by adding Sections 1603.0011, 1603.0012, and 1603.0013 to read as follows:

Sec. 1603.0011.  PRACTICE OF BARBERING OR COSMETOLOGY. (a) The practices of barbering and cosmetology consist of performing or offering to perform for compensation any of the following services:

(1)  treating a person's hair by:

(A)  providing any method of treatment as a primary service, including arranging, beautifying, bleaching, cleansing, coloring, cutting, dressing, dyeing, processing, shaping, singeing, straightening, styling, tinting, or waving;

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

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

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

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

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

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

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

(5)  administering facial treatments;

(6)  removing superfluous hair from a person's body using depilatories, preparations or chemicals, tweezers, or other devices or appliances of any kind or description;

(7)  treating a person's nails by:

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

(B)  attaching false nails;

(8)  massaging, cleansing, treating, or beautifying a person's hands or feet; or

(9)  weaving a person's hair by using any method to attach commercial hair to a person's hair or scalp.

(b)  In addition to the services described by Subsection (a), the practice of barbering includes performing or offering to perform for compensation the service of shaving a person's face, neck, mustache, or beard with a razor of any type.

(c)  In addition to the services described by Subsection (a), the practice of cosmetology includes performing or offering to perform for compensation the service of applying semipermanent, thread-like extensions composed of single fibers to a person's eyelashes.

(d)  Advertising or representing to the public in any manner that a person is licensed to perform a barbering or cosmetology service under this chapter, or that a location or place of business is an establishment or school, constitutes the practice of barbering or cosmetology.

(e)  In this section, "safety razor" means a razor that is fitted with a guard close to the cutting edge of the razor that is intended to:

(1)  prevent the razor from cutting too deeply; and

(2)  reduce the risk and incidence of accidental cuts.

Sec. 1603.0012.  SERVICES NOT CONSTITUTING BARBERING OR COSMETOLOGY. Barbering and cosmetology do not include:

(1)  threading, which involves removing unwanted hair from a person by using a piece of thread that is looped around the hair and pulled to remove the hair and includes the incidental trimming of eyebrow hair; or

(2)  servicing a person's wig, toupee, or artificial hairpiece on a person's head or on a block after the initial retail sale in any manner described by Section 1603.0011(a)(1).

Sec. 1603.0013.  APPLICATION OF CHAPTER. This chapter does not apply to a person who:

(1)  does not represent or advertise to the public directly or indirectly that the person is authorized by the department to practice barbering or cosmetology and the person is:

(A)  licensed in this state to practice medicine, dentistry, podiatry, chiropractic, or nursing and operating within the scope of the person's license;

(B)  a commissioned or authorized medical or surgical officer of the United States armed forces; or

(C)  an inmate in the institutional division of the Texas Department of Criminal Justice who performs barbering or cosmetology during the person's incarceration;

(2)  provides a service in an emergency;

(3)  is in the business of or receives compensation for makeup applications only;

(4)  provides a cosmetic service as a volunteer or an employee performing regular duties at a licensed nursing or convalescent custodial or personal care home to a patient residing in the home;

(5)  owns, operates, or manages a licensed nursing or convalescent custodial or personal care home that allows a person with an operator license to perform cosmetic services for patients residing in the home on an occasional but not daily basis;

(6)  provides an incidental cosmetic service, or owns, operates, or manages the location where that service is provided, if the primary purpose of the service is to enable or assist the recipient of the service to participate as the subject of:

(A)  a photographic sitting at a permanent establishment that charges a fee exclusively for a photographic sitting;

(B)  a television appearance; or

(C)  the filming of a motion picture; or

(7)  performs only natural hair braiding, including braiding a person's hair, trimming hair extensions only as applicable to the braiding process, and attaching commercial hair by braiding and without the use of chemicals or adhesives.

SECTION 3.03.  Section 1603.002, Occupations Code, is amended to read as follows:

Sec. 1603.002.  REGULATION OF BARBERING AND COSMETOLOGY BY DEPARTMENT OF LICENSING AND REGULATION. The department shall administer this chapter. This chapter [~~and Chapters 1601 and 1602. A reference in this chapter to the commission's or department's powers or duties applies only in relation to those chapters, except that this section~~] does not limit the department's or commission's general powers under Chapter 51.

SECTION 3.04.  Subchapter B, Chapter 1603, Occupations Code, is amended to read as follows:

SUBCHAPTER B. [~~ADVISORY BOARDS FOR~~] BARBERING AND COSMETOLOGY ADVISORY BOARD

Sec. 1603.051.  ADVISORY BOARD; MEMBERSHIP. The Barbering and Cosmetology Advisory Board consists of nine members appointed by the presiding officer of the commission, with the commission's approval, as follows:

(1)  four members who each hold an individual practitioner license under Subchapter E-1, including:

(A)  at least one holder of a Class A barber license; and

(B)  at least one holder of a cosmetology operator license;

(2)  two members who each hold an establishment license;

(3)  two members who each hold a school license; and

(4)  one member who represents the public.

Sec. 1603.052.  DUTIES OF ADVISORY BOARD. (a) The advisory board [~~boards established under Chapters 1601 and 1602~~] shall advise the commission and the department on:

(1)  education and curricula for applicants;

(2)  the content of examinations;

(3)  proposed rules and standards on technical issues related to barbering and cosmetology; and

(4)  other issues affecting [~~administering this chapter and Chapters 1601 and 1602 regarding~~] barbering and [~~or~~] cosmetology[~~, as applicable~~].

(b)  The advisory board shall respond to questions from the commission and the department regarding barbering and cosmetology.

Sec. 1603.053.  TERMS; VACANCY. (a) Members of the advisory board serve staggered six-year terms, with the terms of three members expiring January 31 of each odd-numbered year.

(b)  If a vacancy occurs during a member's term, the presiding officer of the commission, with the commission's approval, shall appoint a replacement to fill the unexpired term.

Sec. 1603.054.  PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as the presiding officer of the advisory board for a term of two years.

SECTION 3.05.  Section 1603.101, Occupations Code, is amended to read as follows:

Sec. 1603.101.  RULES. The commission shall adopt rules consistent with this chapter for[~~:~~

[~~(1)~~]  the administration of this chapter and the operations of the department in regulating barbering and cosmetology[~~; and~~

[~~(2)  the administration of Chapters 1601 and 1602~~].

SECTION 3.06.  Section 1603.103(a), Occupations Code, is amended to read as follows:

(a)  Until the department determines, by inspection, that the person has established the school in compliance with this chapter, [~~Chapter 1601, or Chapter 1602,~~] a person may not operate a school licensed [~~or permitted~~] under this chapter[~~, Chapter 1601, or Chapter 1602~~].

SECTION 3.07.  Sections 1603.104(a) and (d), Occupations Code, are amended to read as follows:

(a)  The department may enter and inspect at any time during business hours:

(1)  the place of business of any person regulated under this chapter[~~, Chapter 1601, or Chapter 1602~~]; or

(2)  any place in which the department has reasonable cause to believe that a [~~certificate,~~] license[~~,~~] or permit holder is practicing in violation of this chapter[~~, Chapter 1601, or Chapter 1602~~] or in violation of a rule or order of the commission or executive director.

(d)  An inspector who discovers a violation of this chapter[~~, Chapter 1601, or Chapter 1602~~] or of a rule or order of the commission or executive director shall[~~:~~

[~~(1)~~]  provide written notice of the violation to the license[~~, certificate,~~] or permit holder on a form prescribed by the department[~~; and~~

[~~(2)  file a complaint with the executive director~~].

SECTION 3.08.  Section 1603.1045, Occupations Code, is amended to read as follows:

Sec. 1603.1045.  CONTRACT TO PERFORM INSPECTIONS. The department may contract with a person to perform for the department inspections of a school or establishment [~~, shop, or other facility under this chapter, Chapter 1601, or Chapter 1602~~].

SECTION 3.09.  Subchapter C, Chapter 1603, Occupations Code, is amended by adding Section 1603.106 to read as follows:

Sec. 1603.106.  CERTAIN BUILDING AND FACILITY STANDARDS PROHIBITED. The commission may not establish building or facility standards for a school that are not related to health and safety, including a requirement that a building or facility of the school have a specific:

(1)  square footage of floor space;

(2)  number of chairs; or

(3)  number of sinks.

SECTION 3.10.  Section 1603.151, Occupations Code, is amended to read as follows:

Sec. 1603.151.  NOTIFICATION OF PUBLIC INTEREST INFORMATION AND PARTICIPATION. The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department regarding barbering and cosmetology. The department may provide for that notice:

(1)  on each registration form, application, or written contract for services of a person regulated under this chapter[~~, Chapter 1601, or Chapter 1602~~];

(2)  on a sign prominently displayed in the place of business of each person regulated under this chapter[~~, Chapter 1601, or Chapter 1602~~]; or

(3)  in a bill for service provided by a person regulated under this chapter[~~, Chapter 1601, or Chapter 1602~~].

SECTION 3.11.  The heading to Subchapter E, Chapter 1603, Occupations Code, is amended to read as follows:

SUBCHAPTER E. GENERAL [~~CERTIFICATE,~~] LICENSE[~~,~~] AND PERMIT

PROVISIONS [~~REQUIREMENTS~~]

SECTION 3.12.  Subchapter E, Chapter 1603, Occupations Code, is amended by adding Section 1603.2001 to read as follows:

Sec. 1603.2001.  RULES FOR ISSUANCE OF LICENSE OR PERMIT. (a) The commission by rule shall establish requirements for the issuance of:

(1)  a license for an individual practitioner, instructor, establishment, or school; and

(2)  a student permit.

(b)  Requirements established by the commission under Subsection (a) for an individual practitioner or instructor may include requirements regarding an applicant's:

(1)  minimum age;

(2)  education level; and

(3)  completed hours of instruction.

(c)  In establishing a requirement under this section for the issuance of a license, the commission shall consider whether the requirement is the least restrictive requirement possible to ensure public safety without creating a barrier to entry into the licensed occupation.

(d)  Requirements established under this section:

(1)  for an individual practitioner specialty license may not be more stringent than requirements for a Class A barber license or a cosmetology operator license; and

(2)  for a specialty establishment license may not be more stringent than requirements for an establishment license.

(e)  The commission, as appropriate, may establish standardized requirements within license categories.

SECTION 3.13.  Sections 1603.201 and 1603.202, Occupations Code, are amended to read as follows:

Sec. 1603.201.  APPLICATION FORM. An application for a [~~certificate,~~] license[~~,~~] or permit under this chapter must be made on a form prescribed [~~and provided~~] by the department.

Sec. 1603.202.  DUPLICATE [~~CERTIFICATE,~~] LICENSE[~~,~~] OR PERMIT. The department shall issue a duplicate [~~certificate,~~] license[~~,~~] or permit to an applicant who:

(1)  submits an application for a duplicate [~~certificate,~~] license[~~,~~] or permit to the department; and

(2)  pays the required fee.

SECTION 3.14.  Subchapter E, Chapter 1603, Occupations Code, is amended by adding Section 1603.2025 to read as follows:

Sec. 1603.2025.  TEMPORARY LICENSE. (a) The department may issue a temporary license.

(b)  The commission by rule may establish requirements for the issuance of a temporary license.

(c)  A temporary license expires on the 60th day after the date the license is issued. A temporary license may not be renewed.

SECTION 3.15.  Sections 1603.203 and 1603.204, Occupations Code, are amended to read as follows:

Sec. 1603.203.  PROVISIONAL [~~CERTIFICATE OR~~] LICENSE. (a) The department may issue a provisional [~~certificate or~~] license to an applicant currently licensed in another jurisdiction who seeks a [~~certificate or~~] license in this state and who:

(1)  has been licensed in good standing in the profession for which the person seeks the [~~certificate or~~] license for at least two years in another jurisdiction, including a foreign country, that has requirements substantially equivalent to the requirements of this chapter [~~, Chapter 1601, or Chapter 1602, as appropriate~~]; and

(2)  has passed a national or other examination recognized by the department [~~commission~~] relating to the practice of that profession.

(b)  A provisional [~~certificate or~~] license is valid until the date the department approves or denies the provisional [~~certificate or~~] license holder's application. The department shall issue a [~~certificate or~~] license to the provisional [~~certificate or~~] license holder if:

(1)  the provisional [~~certificate or~~] license holder is eligible to hold a [~~certificate or~~] license under this chapter [~~Chapter 1601 or Chapter 1602~~]; or

(2)  the provisional [~~certificate or~~] license holder passes the part of the examination [~~under Chapter 1601 or Chapter 1602~~] that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of the profession in this state and:

(A)  the department verifies that the provisional [~~certificate or~~] license holder meets the education [~~academic~~] and experience requirements for the [~~certificate or~~] license; and

(B)  the provisional [~~certificate or~~] license holder satisfies any other [~~certificate or~~] license requirements.

(c)  The department must approve or deny a provisional [~~certificate or~~] license holder's application for a [~~certificate or~~] license not later than the 180th day after the date the provisional [~~certificate or~~] license is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

Sec. 1603.204.  SUBSTANTIALLY EQUIVALENT [~~RECIPROCAL CERTIFICATE,~~] LICENSE[~~, OR PERMIT~~]. (a) A person who holds a license[~~, certificate, or permit~~] to practice barbering or cosmetology from another state or country that has standards or work experience requirements that are substantially equivalent to the requirements of this chapter [~~, Chapter 1601, or Chapter 1602~~] may apply for a license[~~, certificate, or permit~~] to perform the same acts of barbering or cosmetology in this state that the person practiced in the other state or country.

(b)  The person must:

(1)  submit an application for the license[~~, certificate, or permit~~] to the department; and

(2)  pay fees in an amount prescribed by the commission, including any applicable license[~~, certificate, or permit~~] fee.

(c)  A person issued a license[~~, certificate, or permit~~] under this section:

(1)  may perform the acts of barbering or cosmetology authorized by [~~stated on~~] the license[~~, certificate, or permit~~]; and

(2)  is subject to the renewal procedures and fees provided in this chapter [~~, Chapter 1601, or Chapter 1602~~] for the performance of those acts of barbering or cosmetology.

SECTION 3.16.  Sections 1603.208(a)(2) and (3), Occupations Code, are amended to read as follows:

(2)  "Digitally prearranged remote service" means a barbering or cosmetology service performed for compensation by a person holding a license[~~, certificate of registration, or permit~~] under Subchapter E-1 [~~Chapter 1601 or 1602 or this chapter~~] that is:

(A)  prearranged through a digital network; and

(B)  performed at a location other than an establishment [~~a place of business that is~~] licensed [~~or permitted~~] under Subchapter E-2 [~~Chapter 1601 or 1602 or this chapter~~].

(3)  "Remote service business" means a corporation, partnership, sole proprietorship, or other entity that, for compensation, enables a client to schedule a digitally prearranged remote service with a person holding a license[~~, certificate of registration, or permit~~] under Subchapter E-1 [~~Chapter 1601 or 1602 or this chapter~~].

SECTION 3.17.  Sections 1603.208(c), (d), (f), (g), and (i), Occupations Code, are amended to read as follows:

(c)  Sections 1603.2110 and 1603.2111 [~~1601.453, 1601.455, 1602.251(c), and 1602.407~~] do not apply to a digitally prearranged remote service scheduled through a remote service business.

(d)  A person who holds a license[~~, certificate of registration, or permit~~] to practice barbering or cosmetology and who performs a digitally prearranged remote service shall:

(1)  comply with this section and the rules adopted under this section; and

(2)  practice within the scope of the person's license[~~, certificate of registration, or permit~~].

(f)  Before a person licensed[~~, registered, or permitted~~] to practice barbering or cosmetology performs a digitally prearranged remote service for a client requesting the service, a remote service business must [~~shall~~] provide through the entity's digital network:

(1)  the following information regarding the person who will perform the service:

(A)  the person's first and last name;

(B)  the [~~number of the~~] person's license number[~~, certificate of registration, or permit, as applicable~~]; and

(C)  a photograph of the person;

(2)  the following information regarding the business:

(A)  Internet website address; and

(B)  telephone number; and

(3)  the department's Internet website address and telephone number and notice that the client may contact the department to file a complaint against the business or person.

(g)  Within a reasonable time after completion of a digitally prearranged remote service, the remote service business shall issue to the client who requested the service a receipt that includes:

(1)  the date the service was provided;

(2)  a description of the service;

(3)  the first and last name of the person who performed the service;

(4)  the [~~number of the~~] person's license number[~~, certificate of registration, or permit, as applicable~~];

(5)  the following information regarding the business:

(A)  Internet website address; and

(B)  telephone number; and

(6)  the department's Internet website address and telephone number and notice that the client may contact the department to file a complaint against the business or person.

(i)  A remote service business shall terminate a person's access to the business's digital network if the business or department determines the person violated:

(1)  this chapter; or

(2)  a rule adopted under this chapter[~~;~~

[~~(3)  Chapter 1601 or 1602; or~~

[~~(4)  a rule adopted under Chapter 1601 or 1602~~].

SECTION 3.18.  Subchapter E, Chapter 1603, Occupations Code, is amended by adding Section 1603.209 to read as follows:

Sec. 1603.209.  INFECTIOUS AND CONTAGIOUS DISEASES. (a) A person holding a license or permit issued under Subchapter E-1 may not perform any practice of barbering or cosmetology if the person knows the person is suffering from an infectious or contagious disease for which the person is not entitled to protection under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(b)  A person holding an establishment or school license may not employ a person to perform any practice of barbering or cosmetology or to instruct in the practice of barbering or cosmetology if the license holder knows that the person is suffering from an infectious or contagious disease for which the person is not entitled to protection under the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

SECTION 3.19.  Chapter 1603, Occupations Code, is amended by adding Subchapters E-1, E-2, and E-3 to read as follows:

SUBCHAPTER E-1. INDIVIDUAL PRACTITIONER AND INSTRUCTOR LICENSES; STUDENT PERMIT; PRACTICE

Sec. 1603.2101.  INDIVIDUAL PRACTITIONER LICENSE OR STUDENT PERMIT REQUIRED; USE OF CERTAIN TERMS WITHOUT LICENSE PROHIBITED. (a) A person may not perform or offer or attempt to perform any act of barbering or cosmetology unless the person holds a license or permit issued under this subchapter to perform that act.

(b)  Unless the person holds an appropriate license issued under this subchapter, a person may not directly or indirectly use or cause to be used as a professional or business identification, title, name, representation, asset, or means of advantage or benefit:

(1)  the term "barber" or "barbering";

(2)  the term "cosmetologist" or "cosmetology"; or

(3)  any combination, variation, or abbreviation of the terms listed in Subdivisions (1) and (2).

Sec. 1603.2102.  ISSUANCE OF INDIVIDUAL PRACTITIONER LICENSE. The department shall issue an individual practitioner license to an applicant who:

(1)  meets the applicable eligibility requirements;

(2)  passes the applicable examination;

(3)  pays the required fee;

(4)  has not committed an act that constitutes a ground for denial of the license; and

(5)  submits an application on a form prescribed by the department.

Sec. 1603.2103.  INDIVIDUAL PRACTITIONER LICENSES. (a) A person holding:

(1)  a Class A barber license may perform any barbering service;

(2)  a cosmetology operator license may perform any cosmetology service;

(3)  a manicurist license may perform any service described by Section 1603.0011(a)(7) or (8);

(4)  an esthetician license may perform any service described by Section 1603.0011(a)(3), (4), (5), or (6) or (c);

(5)  a manicurist/esthetician license may perform any service described by Section 1603.0011(a)(3), (4), (5), (6), (7), or (8) or (c);

(6)  a hair weaving specialist license may perform any service described by Section 1603.0011(a)(9);

(7)  a hair weaving specialist/esthetician license may perform any service described by Section 1603.0011(a)(3), (4), (5), (6), or (9) or (c); and

(8)  an eyelash extension specialist license may perform any service described by Section 1603.0011(c).

(b)  The commission by rule shall provide for the issuance of:

(1)  a Class A barber license to a person who holds a cosmetology operator license; and

(2)  a cosmetology operator license to a person who holds a Class A barber license.

Sec. 1603.2104.  INSTRUCTOR LICENSE REQUIRED. (a) A person may not teach or offer or attempt to teach any act of barbering or cosmetology unless the person holds an instructor license issued under this subchapter to perform that act.

(b)  A person holding an instructor license may perform any act of barbering or cosmetology authorized by the license and may instruct a person in any act of barbering or cosmetology authorized by the license.

Sec. 1603.2105.  ISSUANCE OF INSTRUCTOR LICENSE. (a) The department shall issue an instructor license to an applicant who:

(1)  meets the applicable eligibility requirements;

(2)  has completed:

(A)  a course consisting of at least 750 hours of instruction in barbering or cosmetology courses and methods of teaching in a barber or cosmetology school; or

(B)  at least one year of work experience as the holder of a Class A barber license or cosmetology operator license and:

(i)  has completed 500 hours of instruction in barbering or cosmetology courses and methods of teaching in a commission-approved training program;

(ii)  has completed 15 semester hours in education courses from an accredited college or university in the 10-year period preceding the date of the application; or

(iii)  has a degree in education from an accredited college or university;

(3)  passes the applicable examination;

(4)  pays the required fee;

(5)  has not committed an act that constitutes a ground for denial of the license; and

(6)  submits an application on a form prescribed by the department.

(b)  The commission shall adopt rules for the licensing of specialty instructors to teach specialty courses in the practice of barbering or cosmetology.

Sec. 1603.2106.  WAIVER OF CERTAIN LICENSE REQUIREMENTS. (a) The department may waive any requirement for a license issued under this subchapter for an applicant holding a license from another jurisdiction that has license requirements substantially equivalent to those of this state.

(b)  The department shall issue a license to an applicant under Subsection (a) if the applicant:

(1)  submits an application on a form prescribed by the department;

(2)  pays the application fee; and

(3)  provides proof that the applicant holds a current license to engage in the same or a similar activity issued by another jurisdiction that has license requirements substantially equivalent to those of this state.

(c)  The department may not require a personal interview as part of the application process under this section.

(d)  A license issued under this section may be renewed as provided by Subchapter G.

Sec. 1603.2107.  STUDENT PERMIT. (a) A student enrolled in a school licensed under Subchapter E-3 must hold a permit stating the student's name and the name of the school.

(b)  The department shall issue a student permit to an applicant who submits an application to the department for a student permit accompanied by the required fee.

(c)  A separate application is required for each enrollment. The application fee applies only to the first enrollment. The department may not charge the application fee for any later enrollment.

Sec. 1603.2108.  TRANSFER OF LICENSE OR PERMIT PROHIBITED. A license or permit issued under this subchapter is not transferable.

Sec. 1603.2109.  DISPLAY OF LICENSE OR PERMIT. (a) The holder of a license issued under this subchapter shall:

(1)  display the original license and an attached photograph of the license holder in a conspicuous place near the license holder's work chair in the establishment in which the holder is working; or

(2)  make available at the reception desk of the establishment in which the holder is working, in the manner prescribed by the department:

(A)  the original license and an attached photograph of the license holder; or

(B)  a digital image of the license and photograph of the license holder.

(b)  The holder of a student permit issued under this subchapter shall display the permit in a reasonable manner at the school in which the permit holder is enrolled.

Sec. 1603.2110.  LOCATION OF PRACTICE. A person holding a license or permit issued under this subchapter may practice barbering or cosmetology only at a licensed establishment or school.

Sec. 1603.2111.  SERVICE AT UNLICENSED LOCATION. (a) In this section, "licensed facility" means:

(1)  an establishment licensed under Subchapter E-2; or

(2)  a school licensed under Subchapter E-3.

(b)  A person holding a license under this subchapter may perform a service within the scope of the license at a location other than a licensed facility for a client:

(1)  who, because of illness or physical or mental incapacitation, is unable to receive the service at a licensed facility; or

(2)  in preparation for and at the location of a special event, including a wedding.

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

SUBCHAPTER E-2. ESTABLISHMENT LICENSES; OPERATION

Sec. 1603.2201.  LICENSE REQUIRED. (a) A person may not own, operate, or manage an establishment in which an act of barbering or cosmetology is practiced unless the person holds a license issued under this subchapter to operate the establishment.

(b)  A person may not lease space on the premises of a licensed establishment to engage in the practice of barbering or cosmetology as an independent contractor unless the person holds a license issued under Subchapter E-1.

Sec. 1603.2202.  ISSUANCE OF LICENSE. The department shall issue the applicable establishment license under this subchapter to an applicant if:

(1)  the applicant:

(A)  owns or rents the establishment;

(B)  verifies the application;

(C)  complies with the application requirements of this chapter;

(D)  pays the required inspection and license fees; and

(E)  has not committed an act that constitutes a ground for denial of a license; and

(2)  the establishment:

(A)  meets the commission's minimum health standards for an establishment; and

(B)  complies with all commission rules.

Sec. 1603.2203.  ESTABLISHMENT LICENSES. (a) An establishment licensed as:

(1)  an establishment may provide any barbering or cosmetology service;

(2)  a manicurist specialty establishment may provide any service described by Section 1603.0011(a)(7) or (8);

(3)  an esthetician specialty establishment may provide any service described by Section 1603.0011(a)(3), (4), (5), or (6) or (c);

(4)  a manicurist/esthetician specialty establishment may provide any service described by Section 1603.0011(a)(3), (4), (5), (6), (7), or (8) or (c);

(5)  a hair weaving specialty establishment may provide any service described by Section 1603.0011(a)(9);

(6)  an eyelash extension specialty establishment may provide any service described by Section 1603.0011(c);

(7)  a mini-establishment may provide any barbering or cosmetology service; and

(8)  a mobile establishment may provide any barbering or cosmetology service.

(b)  In this section:

(1)  "Mini-establishment" includes a room or suite of rooms that is one of a number of connected establishments in a single premises that open onto a common hallway or another configuration of operations as authorized by the department in which a person practices under a license issued under Subchapter E-1.

(2)  "Mobile establishment" means a facility that is readily movable and where barbering, cosmetology, or both are practiced other than at a fixed location.

Sec. 1603.2204.  TRANSFER OF LICENSE PROHIBITED. A license issued under this subchapter is not transferable.

Sec. 1603.2205.  USE OF ESTABLISHMENT AS SLEEPING QUARTERS PROHIBITED. (a) An owner or manager of a licensed establishment may not permit a person to sleep in a room used as part of the establishment.

(b)  A person may not perform an act for which a license is required in a room in an establishment that is used as sleeping quarters.

SUBCHAPTER E-3. SCHOOL LICENSES; OPERATION

Sec. 1603.2301.  LICENSE REQUIRED. A person may not operate a school for instruction in the practice of barbering or cosmetology unless the person holds a license issued under this subchapter to operate the school.

Sec. 1603.2302.  ISSUANCE OF LICENSE. The department shall issue a license under this subchapter to an applicant who, as applicable:

(1)  submits an application on a form prescribed by the department;

(2)  pays the required fee;

(3)  provides to the department adequate proof of financial responsibility;

(4)  meets the health and safety standards established by the commission; and

(5)  satisfies any other requirements of this chapter or commission rule.

Sec. 1603.2303.  SCHOOL LICENSES; INSTRUCTORS; ENFORCEMENT. (a) The holder of a public secondary school license, public postsecondary school license, or private postsecondary school license:

(1)  may provide instruction in the barbering or cosmetology services for which the license holder has been approved by the department; and

(2)  may only employ to provide the instruction described by Subdivision (1) a person who holds an instructor license issued under Subchapter E-1 to teach the acts of barbering or cosmetology for which the person will provide instruction.

(b)  The department may take any disciplinary or other enforcement action against a person who violates Subsection (a)(2).

Sec. 1603.2304.  CHANGE OF SCHOOL OWNERSHIP OR LOCATION. (a) If a licensed school changes ownership:

(1)  the outgoing owner shall notify the department of the change not later than the 10th day before the date the change takes effect; and

(2)  the new owner shall obtain a license under this subchapter in accordance with commission rule.

(b)  A school may not change the location of the school unless the school obtains approval from the department before the change by showing that the proposed location meets the requirements of this chapter and commission rules.

Sec. 1603.2305.  SIGNS REQUIRED. The holder of a school license shall place a sign on the front outside portion of the school's building in a prominent place that reads "SCHOOL--STUDENT PRACTITIONERS" in:

(1)  at least 10-inch block letters; or

(2)  a manner prescribed by the department.

Sec. 1603.2306.  INFORMATION PROVIDED TO PROSPECTIVE STUDENT. The holder of a school license shall provide to each prospective student, as applicable:

(1)  a course outline;

(2)  a schedule of the tuition and other fees assessed;

(3)  the school's refund policy required under Section 1603.3602;

(4)  the school's grading policy and rules relating to incomplete grades;

(5)  the school's rules of operation and conduct, including rules relating to absences;

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

(7)  the current job placement rates and employment rates of students who complete a course of instruction.

Sec. 1603.2307.  COURSE LENGTH AND CURRICULUM CONTENT. (a) A school shall design course length and curriculum content to reasonably ensure that a student develops the job skills and knowledge necessary for employment.

(b)  A school must submit to the department for approval the course length and curriculum content for each course offered by the school. The school may not implement a course length and curriculum content without the approval of the department.

(c)  Before issuing or renewing a license under this subchapter, the department must require the school to account for each course length and curriculum content.

Sec. 1603.2308.  REQUIRED COURSES. (a) A school shall instruct students in the theory and practice of subjects necessary and beneficial to the practice of barbering and cosmetology.

(b)  The commission by rule shall establish the subjects in which students shall receive instruction.

(c)  A school may not increase, decrease, or withhold for any reason the number of hours earned by a student.

Sec. 1603.2309.  DAILY ATTENDANCE RECORDS. (a) A school shall maintain an attendance record showing the students' daily attendance.

(b)  The department may inspect a school's attendance records at any time.

Sec. 1603.2310.  INSTRUCTOR-TO-STUDENT RATIO. A licensed school must have at least one instructor for every 25 students on the school's premises.

Sec. 1603.2311.  REPORTS TO DEPARTMENT. (a) A licensed school shall maintain a monthly progress report regarding each student attending the school. The report must certify the daily attendance record of each student and the number of hours earned by each student during the previous month.

(b)  On a student's completion of a prescribed course of instruction, the school shall notify the department that the student has completed the required number of hours and is eligible to take the appropriate examination.

(c)  The holder of a school license shall provide to the department on request:

(1)  the current course completion rates of students who attend a course of instruction offered by the school; and

(2)  job placement rates and employment rates of students who complete a course of instruction.

Sec. 1603.2312.  ADDITIONAL DUTIES OF LICENSE HOLDER. The holder of a school license shall:

(1)  maintain a sanitary premises;

(2)  establish regular class and instruction hours and grades;

(3)  hold examinations before issuing diplomas; and

(4)  maintain a copy of the school's curriculum in a conspicuous place and verify that the curriculum is being followed.

Sec. 1603.2313.  TRANSFER OF HOURS OF INSTRUCTION. (a) A student at a licensed school may transfer completed hours of instruction to another licensed school in this state.

(b)  In order for the hours of instruction to be transferred, a transcript showing the completed courses and number of hours certified by the school in which the instruction was given must be submitted to the department.

(c)  In evaluating a student's transcript, the department shall determine whether the agreed tuition has been paid. If the tuition has not been paid, the department shall notify the student that the student's transcript cannot be certified to the school to which the student seeks a transfer until proof is provided that the tuition has been paid.

(d)  On evaluation and approval, the department shall certify in writing to the student and to the school to which the student seeks a transfer that:

(1)  the stated courses and hours have been successfully completed; and

(2)  the student is not required to repeat the hours of instruction.

Sec. 1603.2314.  IDENTIFICATION OF AND WORK PERFORMED BY STUDENT. (a) Each licensed school shall maintain in a conspicuous place a list of the names and identifying pictures of the students who are enrolled in the school's courses.

(b)  A school may not receive compensation for work done by a student unless the student has completed 10 percent of the required number of hours for a license under Subchapter E-1.

(c)  If a school violates this section, the license of the school may be revoked or suspended.

SECTION 3.20.  Section 1603.252(b), Occupations Code, is amended to read as follows:

(b)  The executive director shall determine uniform standards for acceptable performance on an examination for a license under Subchapter E-1 [~~or certificate under Chapter 1601 and for a license or certificate under Chapter 1602~~].

SECTION 3.21.  Sections 1603.253 and 1603.255, Occupations Code, are amended to read as follows:

Sec. 1603.253.  WRITTEN EXAMINATION. The department [~~commission~~] shall select an examination for each written examination required under this chapter[~~, Chapter 1601, or Chapter 1602~~]. The written examination must be:

(1)  validated by an independent testing professional; or

(2)  purchased from a national testing service.

Sec. 1603.255.  EARLY EXAMINATION.  The commission by rule [~~department~~] may allow for the early written examination of a student [~~who has completed the following number of hours of instruction in a department-approved training program:~~

[~~(1)  1,000 hours for a student seeking a Class A barber certificate in a private barber school;~~

[~~(2)  900 hours for a student seeking an operator license in a private cosmetology school; or~~

[~~(3)  900 hours for a student seeking a Class A barber certificate or operator license in a publicly funded barber or cosmetology school~~].

SECTION 3.22.  Sections 1603.256(a) and (c), Occupations Code, are amended to read as follows:

(a)  The commission may require a practical examination as it considers necessary for a license [~~or certificate~~] issued under Subchapter E-1 [~~Chapter 1601 or 1602~~].

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

(1)  the department;

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

(3)  a licensed [~~barber~~] school[~~, private beauty culture school, or a public secondary or postsecondary beauty culture school~~] that is approved by the department to administer the examination under Section 1603.252; or

(4)  the Windham School District.

SECTION 3.23.  Subchapter G, Chapter 1603, Occupations Code, is amended to read as follows:

SUBCHAPTER G. [~~CERTIFICATE,~~] LICENSE[~~, AND PERMIT~~] RENEWAL

Sec. 1603.3001.  LICENSE TERMS. (a) Except as provided by Subsection (b), a license other than a temporary license expires on the second anniversary of the date the license is issued.

(b)  A school license expires on the first anniversary of the date the license is issued.

Sec. 1603.3002.  RENEWAL RULES. (a) The commission by rule may establish requirements for the renewal of a license issued under this chapter, including continuing education requirements.

(b)  The commission may establish separate requirements for:

(1)  the initial renewal of a license; and

(2)  subsequent renewals of a license.

(c)  Before establishing continuing education requirements under this section, the commission must consider the potential impact of continuing education with respect to:

(1)  identifying and assisting trafficked persons; and

(2)  providing license holders with opportunities to acquire new skills.

Sec. 1603.3003.  ISSUANCE OF RENEWAL LICENSE. The department shall issue a renewal license on receipt of:

(1)  a renewal application in the form prescribed by the department; and

(2)  any renewal fee.

Sec. 1603.3004.  RENEWAL WHILE IN ARMED FORCES. (a) The department may not require the holder of a license issued under Subchapter E-1 who is serving on active duty in the United States armed forces to renew the person's license.

(b)  The department shall issue a renewal license on application and payment of the required renewal fee not later than the 90th day after the date the person is released or discharged from active duty in the United States armed forces.

Sec. 1603.301.  DENIAL OF RENEWAL DUE TO ADMINISTRATIVE PENALTY. The department may deny a person's request to renew a [~~certificate,~~] license[~~, or permit~~] issued under this chapter[~~, Chapter 1601, or Chapter 1602~~] if the person has not paid an administrative penalty imposed under Subchapter F, Chapter 51.  This section does not apply if:

(1)  the person's time to pay or request a hearing has not expired under Section 51.304;

(2)  the person has requested a hearing under Section 51.304, but the person's time to pay has not expired under Section 51.307; or

(3)  the penalty is stayed.

SECTION 3.24.  The heading to Subchapter H, Chapter 1603, Occupations Code, is amended to read as follows:

SUBCHAPTER H. PRACTICE PROVISIONS APPLICABLE TO MORE THAN ONE LICENSE TYPE [~~CHAPTERS 1601 AND 1602~~]

SECTION 3.25.  Section 1603.351, Occupations Code, is amended to read as follows:

Sec. 1603.351.  MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE EDUCATION. (a) The commission shall prescribe the minimum curriculum, including the subjects and the number of hours in each subject, taught by a licensed school [~~licensed under this chapter, Chapter 1601, or Chapter 1602~~].

(a-1)  Notwithstanding any other law, the commission may adopt rules to:

(1)  authorize a licensed school [~~licensed under this chapter, Chapter 1601, or Chapter 1602~~] to account for any hours of instruction completed under this chapter [~~those chapters~~] on the basis of clock hours or credit hours; and

(2)  establish standards for determining the equivalency and conversion of clock hours to credit hours and credit hours to clock hours.

(b)  The commission may adopt rules allowing distance education only for the theory portion of the curriculum taught by a licensed school [~~licensed under this chapter, Chapter 1601, or Chapter 1602~~].

(c)  Distance education does not satisfy the requirements of the practical portion of the curriculum taught by a licensed school [~~licensed under this chapter, Chapter 1601, or Chapter 1602~~].

SECTION 3.26.  Sections 1603.352(a) and (b), Occupations Code, are amended to read as follows:

(a)  A person who holds a license[~~, certificate,~~] or permit issued under this chapter[~~, Chapter 1601, or Chapter 1602~~] and who performs a [~~barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology~~] service described by Section 1603.0011(a)(7) or (8) [~~1602.002(a)(8) or (9)~~] shall, before performing the service, clean, disinfect, and sterilize with an autoclave or dry heat sterilizer or sanitize with an ultraviolet sanitizer, in accordance with the sterilizer or sanitizer manufacturer's instructions, each metal instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service.

(b)  The owner or manager of a licensed establishment or [~~barber shop, barber~~] school[~~, beauty shop, specialty shop, beauty culture school, or other facility licensed under this chapter, Chapter 1601, or Chapter 1602,~~] is responsible for providing an autoclave, a dry heat sterilizer, or an ultraviolet sanitizer for use in the establishment [~~shop~~] or school as required by Subsection (a).

SECTION 3.27.  Subchapter H, Chapter 1603, Occupations Code, is amended by adding Sections 1603.353, 1603.354, 1603.355, 1603.356, 1603.357, and 1603.358 to read as follows:

Sec. 1603.353.  EMPLOYMENT OF LICENSE HOLDER. (a) A licensed school may not employ a person holding a license issued under Subchapter E-1 solely to perform the practices of barbering or cosmetology for which the person is licensed.

(b)  A person holding a license for an establishment may not employ or lease to a person to practice barbering or cosmetology at the establishment unless the person holds a license issued under Subchapter E-1.

Sec. 1603.354.  NECESSARY EQUIPMENT. The owner, operator, or manager of a licensed establishment or school shall equip the establishment or school with the facilities, supplies, appliances, furnishings, and materials necessary to enable a person employed on the premises to comply with this chapter.

Sec. 1603.355.  DISPLAY OF LICENSE. A licensed school or establishment shall display the license in a conspicuous place in the school or establishment for which the license is issued.

Sec. 1603.356.  DISPLAY OF HUMAN TRAFFICKING INFORMATION. (a) A licensed school or establishment shall display a sign approved by or acceptable to the commission or the department concerning services and assistance available to victims of human trafficking.

(b)  The sign required by this section must:

(1)  be in English, Spanish, Vietnamese, and any other language required by commission rule; and

(2)  include a toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

(c)  The commission by rule shall establish requirements regarding the posting of signs under this section.

Sec. 1603.357.  DISPLAY OF SANITATION RULES. A licensed school or establishment shall display a copy of the commission's sanitation rules.

Sec. 1603.358.  OPERATION OF ESTABLISHMENT AND SCHOOL ON SINGLE PREMISES. A person may not operate an establishment on the same premises as a school unless the facilities are separated by walls of permanent construction without an opening between the facilities.

SECTION 3.28.  Chapter 1603, Occupations Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. FINANCIAL PROVISIONS APPLICABLE TO PRIVATE POSTSECONDARY SCHOOLS

Sec. 1603.3601.  CANCELLATION AND SETTLEMENT POLICY. The holder of a private postsecondary school license shall maintain a cancellation and settlement policy that provides a full refund of money paid by a student if the student:

(1)  cancels the enrollment agreement or contract not later than midnight of the third day after the date the agreement or contract is signed by the student, excluding Saturdays, Sundays, and legal holidays; or

(2)  entered into the enrollment agreement or contract because of a misrepresentation made:

(A)  in the advertising or promotional materials of the school; or

(B)  by an owner or representative of the school.

Sec. 1603.3602.  REFUND POLICY. (a) The holder of a private postsecondary school license shall maintain a refund policy to provide for the refund of any unused parts of tuition, fees, and other charges paid by a student who, at the expiration of the cancellation period established under Section 1603.3601:

(1)  fails to enter the course of training;

(2)  withdraws from the course of training; or

(3)  is terminated from the course of training before completion of the course.

(b)  The refund policy must provide that:

(1)  the refund is based on the period of the student's enrollment, computed on the basis of course time expressed in scheduled hours, as specified by an enrollment agreement, contract, or other document acceptable to the department;

(2)  the effective date of the termination for refund purposes is the earliest of:

(A)  the last date of attendance, if the student is terminated by the school;

(B)  the date the license holder receives the student's written notice of withdrawal; or

(C)  10 school days after the last date of attendance; and

(3)  the school may retain not more than $100 if:

(A)  tuition is collected before the course of training begins; and

(B)  the student does not begin the course of training before the cancellation period established under Section 1603.3601 expires.

Sec. 1603.3603.  WITHDRAWAL OR TERMINATION OF STUDENT. (a) If a student at a private postsecondary school begins a course of training that is scheduled to run not more than 12 months and, during the last 50 percent of the course, withdraws from the course or is terminated by the school, the school:

(1)  may retain 100 percent of the tuition and fees paid by the student; and

(2)  is not obligated to refund any additional outstanding tuition.

(b)  If a student at a private postsecondary school begins a course of training that is scheduled to run not more than 12 months and, before the last 50 percent of the course, withdraws from the course or is terminated by the school, the school shall refund:

(1)  90 percent of any outstanding tuition for a withdrawal or termination that occurs during the first week or first 10 percent of the course, whichever period is shorter;

(2)  80 percent of any outstanding tuition for a withdrawal or termination that occurs after the first week or first 10 percent of the course, whichever period is shorter, but within the first three weeks of the course;

(3)  75 percent of any outstanding tuition for a withdrawal or termination that occurs after the first three weeks of the course but not later than the completion of the first 25 percent of the course; and

(4)  50 percent of any outstanding tuition for a withdrawal or termination that occurs not later than the completion of the first 50 percent of the course.

(c)  A refund owed under this section must be paid not later than the 30th day after the date the student becomes eligible for the refund.

Sec. 1603.3604.  INTEREST ON REFUND. (a) If tuition is not refunded within the period required by Section 1603.3603, the private postsecondary school shall pay interest on the amount of the refund for the period beginning the first day after the date the refund period expires and ending the day preceding the date the refund is made.

(b)  If tuition is refunded to a lending institution, the interest shall be paid to that institution and applied against the student's loan.

(c)  The commissioner of education shall annually set the interest rate at a rate sufficient to deter a school from retaining money paid by a student.

(d)  The department may exempt a school from the payment of interest if the school makes a good faith effort to refund the tuition but is unable to locate the student. The school shall provide to the department on request documentation of the effort to locate the student.

Sec. 1603.3605.  REENTRY OF STUDENT AFTER WITHDRAWAL. If a student voluntarily withdraws or is terminated after completing 50 percent of the course at a private postsecondary school, the school shall allow the student to reenter at any time during the 48-month period following the date of withdrawal or termination.

Sec. 1603.3606.  EFFECT OF STUDENT WITHDRAWAL. (a) A private postsecondary school shall record a grade of incomplete for a student who withdraws but is not entitled to a refund under Section 1603.3603 if the student:

(1)  requests the grade at the time the student withdraws; and

(2)  withdraws for an appropriate reason unrelated to the student's academic status.

(b)  A student who receives a grade of incomplete may reenroll in the program during the 48-month period following the date the student withdraws and complete the subjects without payment of additional tuition.

Sec. 1603.3607.  EFFECT OF PRIVATE POSTSECONDARY SCHOOL CLOSURE. (a) If a private postsecondary school closes, the department shall attempt to arrange for students enrolled in the closed school to attend another private postsecondary school.

(b)  If a student from a closed school is placed in another private postsecondary school, the expense incurred by the school in providing training directly related to educating the student, including the applicable tuition for the period for which the student paid tuition, shall be paid from the barbering and cosmetology school tuition protection account.

(c)  If a student from a closed private postsecondary school cannot be placed in another private postsecondary school, the student's tuition and fees shall be refunded as provided by Section 1603.3602. If a student from a closed private postsecondary school does not accept a place that is available and reasonable in another private postsecondary school, the student's tuition and fees shall be refunded as provided by Section 1603.3603. A refund under this subsection shall be paid from the barbering and cosmetology school tuition protection account. The amount of the refund may not exceed $35,000.

(d)  If another private postsecondary school assumes responsibility for the closed school's students and there are no significant changes in the quality of the training, the student from the closed school is not entitled to a refund under Subsection (c).

Sec. 1603.3608.  BARBERING AND COSMETOLOGY SCHOOL TUITION PROTECTION ACCOUNT. (a) If on January 1 of any year the amount in the barbering and cosmetology school tuition protection account is less than $225,000, the department shall collect a fee from each private postsecondary school during that year by applying a percentage to the school's renewal fee at a rate that will bring the balance of the account to $225,000.

(b)  The department shall administer claims made against the account.

(c)  The comptroller shall invest the account in the same manner as other state funds.

(d)  Sufficient money from the account shall be appropriated to the department for the purpose described by Section 1603.3607.

(e)  Attorney's fees, court costs, or damages may not be paid from the account.

Sec. 1603.3609.  RULES. The commission by rule may:

(1)  adjust any tuition reimbursement limit established under this subchapter; and

(2)  adopt procedures regarding the collection of fees from private postsecondary schools under Section 1603.3608.

SECTION 3.29.  Section 1603.401, Occupations Code, is amended to read as follows:

Sec. 1603.401.  DENIAL, SUSPENSION, OR REVOCATION. The department shall deny an application for issuance or renewal of, or shall suspend or revoke, a [~~certificate,~~] license[~~,~~] or permit if the applicant or person holding the [~~certificate,~~] license[~~,~~] or permit:

(1)  engages in gross malpractice;

(2)  knowingly continues to practice while having an infectious or contagious disease;

(3)  knowingly makes a false or deceptive statement in advertising;

(4)  advertises, practices, or attempts to practice under another person's name or trade name;

(5)  engages in fraud or deceit in obtaining a [~~certificate,~~] license[~~,~~] or permit; or

(6)  engages in an act that violates this chapter or [~~,~~] Chapter 51[~~, Chapter 1601, or Chapter 1602~~] or a rule or order adopted or issued under this chapter or Chapter 51 [~~those chapters~~].

SECTION 3.30.  The heading to Subchapter J, Chapter 1603, Occupations Code, is amended to read as follows:

SUBCHAPTER J. OTHER [~~PENALTIES AND~~] ENFORCEMENT PROVISIONS

SECTION 3.31.  Sections 1603.453 and 1603.454, Occupations Code, are amended to read as follows:

Sec. 1603.453.  APPEAL BOND NOT REQUIRED. The department is not required to give an appeal bond in a cause arising under this chapter[~~, Chapter 1601, or Chapter 1602~~].

Sec. 1603.454.  ENFORCEMENT BY ATTORNEY GENERAL. The attorney general shall represent the department in an action to enforce this chapter[~~, Chapter 1601, or Chapter 1602~~].

SECTION 3.32.  The following provisions of the Occupations Code are repealed:

(1)  Chapters 1601 and 1602;

(2)  Section 1603.205;

(3)  Section 1603.206;

(4)  Section 1603.207;

(5)  Section 1603.254;

(6)  Section 1603.451;

(7)  Section 1603.452;

(8)  Section 1603.455; and

(9)  Section 1603.456.

SECTION 3.33.  (a) To ensure that licensed schools offering instruction in barbering and cosmetology maintain accreditation and that students of those schools continue to qualify for federal aid, the Texas Commission of Licensing and Regulation shall, as soon as practicable after the effective date of this Act, adopt any rules necessary for the orderly implementation of the changes in law made by this article to the licensing system and curricula requirements and standards for schools offering instruction in barbering and cosmetology.

(b)  Not later than September 1, 2023:

(1)  the Texas Commission of Licensing and Regulation shall adopt any additional rules necessary to implement the changes in law made by this article; and

(2)  the Texas Department of Licensing and Regulation shall begin to issue and renew licenses and permits under Subchapters E-1, E-2, and E-3, Chapter 1603, Occupations Code, as added by this article.

SECTION 3.34.  Notwithstanding the repeal by this article of Chapters 1601 and 1602, and Sections 1603.205, 1603.206, and 1603.207, Occupations Code, the Texas Department of Licensing and Regulation may continue to issue until September 1, 2023, a certificate, license, or permit under those provisions as they existed immediately before the effective date of this Act, and those provisions are continued in effect for that purpose.

SECTION 3.35.  Notwithstanding the repeal by this article of Chapters 1601 and 1602, Occupations Code, until the Texas Commission of Licensing and Regulation adopts rules regarding written and practical examination requirements for the issuance of licenses under Chapter 1603, Occupations Code, as amended by this article, the Texas Department of Licensing and Regulation shall continue to operate under the requirements regarding written and practical examinations in former Chapters 1601 and 1602, Occupations Code, as those chapters were in effect immediately before the effective date of this Act, and those provisions are continued in effect for that purpose.

SECTION 3.36.  (a) A certificate, license, or permit issued under former Chapter 1601 or 1602, Occupations Code, or under former Section 1603.205, 1603.206, or 1603.207, Occupations Code, before the effective date of this Act, continues to be valid until the certificate, license, or permit expires, and those chapters and sections are continued in effect for that purpose.

(b)  A person who on the effective date of this Act holds a certificate, license, or permit issued under former Chapter 1601 or 1602, Occupations Code, or under former Section 1603.205, 1603.206, or 1603.207, Occupations Code, is entitled on expiration of that certificate, license, or permit to issuance of a comparable license or permit under the applicable provision of Chapter 1603, Occupations Code, as amended by this article, if the person otherwise meets the requirements for the license or permit.

SECTION 3.37.  Notwithstanding any other law, on the effective date of this Act, the holder of a license issued under former Section 1601.256, 1601.262, or 1601.263, Occupations Code, before the effective date of this Act may perform the services described by Sections 1603.0011(a)(6) and (c), Occupations Code, as added by this Act.

SECTION 3.38.  (a) On December 1, 2021:

(1)  the Advisory Board on Barbering and the Advisory Board on Cosmetology are abolished; and

(2)  the presiding officer of the Texas Commission of Licensing and Regulation shall appoint members to the Barbering and Cosmetology Advisory Board in accordance with Section 1603.051, Occupations Code, as amended by this article.

(b)  Notwithstanding Section 1603.053, Occupations Code, as added by this article, in making the initial appointments to the Barbering and Cosmetology Advisory Board, the presiding officer of the Texas Commission of Licensing and Regulation shall designate three members of the advisory board to serve terms expiring January 31, 2023, three members to serve terms expiring January 31, 2025, and three members to serve terms expiring January 31, 2027.

SECTION 3.39.  As soon as practicable after the effective date of this Act, the comptroller of public accounts shall transfer to the barbering and cosmetology school tuition protection account the unexpended and unencumbered balance of the barber school tuition protection account and the unexpended and unencumbered balance of the private beauty culture school tuition protection account.

SECTION 3.40.  (a) 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 on the effective date of this Act. A disciplinary action that is pending on the effective date of this Act 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.

(b)  The repeal of a law by this article does not entitle a person to a refund of a certificate, license, or permit fee paid by the person before the effective date of this Act.

ARTICLE 4. RESIDENTIAL SERVICE CONTRACTS

SECTION 4.01.  Section 1101.006, Occupations Code, is amended to read as follows:

Sec. 1101.006.  APPLICATION OF SUNSET ACT. The Texas Real Estate Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter and [~~,~~] Chapter 1102[~~, and Chapter 1303~~] of this code and Chapter 221, Property Code, expire September 1, 2025.

SECTION 4.02.  Section 1304.003(a), Occupations Code, is amended by amending Subdivision (2) and adding Subdivision (4) to read as follows:

(2)  "Service contract" means an agreement that is entered into for a separately stated consideration and for a specified term under which a provider agrees to:

(A)  repair, replace, or maintain a product, or provide indemnification for the repair, replacement, or maintenance of a product, for operational or structural failure or damage caused by a defect in materials or workmanship or by normal wear;

(B)  provide identity recovery, if the service contract is financed under Chapter 348 or 353, Finance Code; [~~or~~]

(C)  provide compensation to the buyer of a vehicle on the total constructive loss under a depreciation benefit optional member program; or

(D)  provide a service, reimbursement, or payment under a residential service contract.

(4)  "Residential service contract" means a service contract of any duration under which a provider agrees to, in the event of the operational or structural failure of, damage caused by a power surge to, a defect in materials or workmanship of, or damage caused by normal wear to a structural component, an appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system of a residential property that is attached to or located on the residential property:

(A)  service, maintain, repair, or replace all or any part of the structural component, appliance, or electrical, plumbing, heating, cooling, or air-conditioning system;

(B)  provide incidental payment of indemnity under limited circumstances, including food spoilage; or

(C)  provide reimbursement or payment instead of service, repair, or replacement when a part, structural component, appliance, or service provider or technician is unavailable.

SECTION 4.03.  Section 1304.003(b), Occupations Code, is amended to read as follows:

(b)  A service contract described by Subsection (a)(2)(A) may [~~also~~] provide for:

(1)  incidental payment or indemnity under limited circumstances, including towing, rental, and emergency road service;

(2)  the repair or replacement of a product for damage resulting from a power surge or for accidental damage incurred in handling the product;

(3)  identity recovery, if the service contract is financed under Chapter 348 or 353, Finance Code; or

(4)  the replacement of a motor vehicle key or key fob in the event the key or key fob is inoperable, lost, or stolen.

SECTION 4.04.  Section 1304.004(b), Occupations Code, is amended to read as follows:

(b)  This chapter does not apply to:

(1)  a warranty;

(2)  a maintenance agreement;

(3)  a service contract sold or offered for sale to a person who is not a consumer;

(4)  [~~a residential service contract sold by an entity licensed by the Texas Real Estate Commission under Chapter 1303;~~

[~~(5)~~] an agreement issued by an automobile service club that holds a certificate of authority under Chapter 722, Transportation Code;

(5) [~~(6)~~]  a service contract sold by a motor vehicle dealer on a motor vehicle sold by that dealer, if the dealer:

(A)  is the provider;

(B)  is licensed as a motor vehicle dealer under Chapter 2301; and

(C)  covers its obligations under the service contract with a reimbursement insurance policy; or

(6) [~~(7)~~]  a contract offered by a local exchange telephone company that provides for the repair of inside telephone wiring, if:

(A)  the contract term does not exceed one month; and

(B)  the consumer can terminate the contract before a new contract term begins without liability except for payment of charges for the term that has begun.

SECTION 4.05.  Subchapter A, Chapter 1304, Occupations Code, is amended by adding Section 1304.0041 to read as follows:

Sec. 1304.0041.  CERTAIN EXEMPT AGREEMENTS. This chapter does not apply to:

(1)  a performance guarantee offered by:

(A)  the builder of a residential property; or

(B)  the manufacturer or seller of an appliance or other system or component of a residential property;

(2)  a residential service contract executed before August 28, 1979;

(3)  a guarantee or warranty that is:

(A)  designed to guarantee or warrant the repair or service of an appliance, system, or component of a residential property; and

(B)  issued by a person who sells, services, repairs, or replaces the appliance, system, or component at the time or before the guarantee or warranty is issued;

(4)  a service or maintenance agreement or a warranty that:

(A)  is sold, offered for sale, or issued by a manufacturer or merchant who manufactures or sells a product or part of a product, including a structural component, an appliance, or an electrical, plumbing, heating, cooling, or air-conditioning system of a building or residence; and

(B)  provides for, warrants, or guarantees the maintenance, repair, replacement, or performance of the product or part of the product; or

(5)  home warranty insurance as defined by Section 2005.001, Insurance Code.

SECTION 4.06.  Section 1304.005, Occupations Code, is amended to read as follows:

Sec. 1304.005.  EXEMPTIONS FROM CERTAIN OTHER LAWS. Marketing, selling, offering for sale, issuing, making, proposing to make, and administering a service contract are exempt from:

(1)  [~~Chapter 1303;~~

[~~(2)~~] Chapter 722, Transportation Code; and

(2) [~~(3)~~]  the Insurance Code and other laws of this state regulating the business of insurance.

SECTION 4.07.  Section 1304.151, Occupations Code, is amended by amending Subsection (b) and adding Subsection (b-4) to read as follows:

(b)  If the provider ensures its obligations under Subsection (a)(2), the amount maintained in the reserve account may not be less than an amount equal to 40 percent of the gross consideration the provider received from consumers from the sale of all service contracts issued and outstanding in this state, minus any claims paid. The executive director may review and examine the reserve account. Except as provided by Subsections [~~Subsection~~] (b-1) and (b-4), the amount of the security deposit may not be less than $250,000. The provider must submit to the executive director on request a copy of the provider's financial statements that must be prepared in accordance with generally accepted accounting principles, be without qualification as to the going concern status of the provider, and be audited by an independent certified public accountant. The commission by rule may require the provider to submit additional financial reports.

(b-4)  The amount of the security deposit required under Subsection (b) may not be less than $25,000 for a provider of a residential service contract.

SECTION 4.08.  Section 1304.156, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f)  A residential service contract must state that the provider agrees that, under normal circumstances, the provider will initiate the performance of services not later than 48 hours after the contract holder requests the services.

SECTION 4.09.  Subchapter D, Chapter 1304, Occupations Code, is amended by adding Section 1304.157 to read as follows:

Sec. 1304.157.  RESIDENTIAL SERVICE CONTRACTS. (a) A person may not sell, offer to sell, arrange or solicit the sale of, or receive an application for a residential service contract unless the person is:

(1)  employed by a provider or administrator of a residential service contract who is licensed under this chapter; or

(2)  licensed as a real estate sales agent, real estate broker, mobile home dealer, or insurance agent in this state.

(b)  Notwithstanding Subsection (a), a person compensated by a provider or administrator, but who is not employed by that provider or administrator, may sell, offer to sell, arrange or solicit the sale of, or receive an application for a residential service contract if the contract contains the following statement in at least 10-point boldface type: "NOTICE: THIS COMPANY PAYS PERSONS NOT EMPLOYED BY THE PROVIDER FOR THE SALE, ADVERTISING, INSPECTION, OR PROCESSING OF A RESIDENTIAL SERVICE CONTRACT UNDER CHAPTER 1304, OCCUPATIONS CODE." For purposes of Subsection (a) and this subsection, a person is employed by a provider or administrator if, in connection with the person selling, offering to sell, arranging or soliciting the sale of, or receiving applications for residential service contracts, the provider or administrator:

(1)  directs and controls the person's performance; and

(2)  is responsible for representations made by the person when acting within the scope of the person's employment.

(c)  Notwithstanding Section 1304.151(a)(1), a provider of a residential service contract may use a reimbursement insurance policy issued by a captive insurance company as defined by Section 964.001, Insurance Code, to insure the provider's residential service contracts if the provider maintains a funded reserve equal to not less than 25 percent of the gross consideration the provider received from consumers from the sale of all the provider's service contracts issued and outstanding in this state, minus any claims paid. A reimbursement insurance policy issued to a residential service contract provider in accordance with this subsection:

(1)  is not subject to Section 1304.152; and

(2)  is considered to satisfy the requirements of Sections 1304.1025 and 1304.151(a)(1) for purposes of this chapter.

SECTION 4.10.  Chapter 1303, Occupations Code, is repealed.

SECTION 4.11.  Not later than June 1, 2022, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement the changes in law made by this article to Chapter 1304, Occupations Code.

SECTION 4.12.  (a) A residential service company licensed under former Chapter 1303, Occupations Code, that on May 1, 2021, maintained security in accordance with former Section 1303.154, Occupations Code, shall continue to maintain security in an amount not less than the amount required under that section until September 1, 2026, and the former law is continued in effect for that purpose.

(b)  A residential service company described by Subsection (a) of this section that is operating as a residential service contract provider licensed under Chapter 1304, Occupations Code, as amended by this article, is not required to comply with the security requirements for residential service contract providers under Chapter 1304, Occupations Code, as amended by this article, until September 1, 2026.

SECTION 4.13.  (a) In this section, "department" means the Texas Department of Licensing and Regulation.

(b)  On the effective date of this Act:

(1)  a license issued by the Texas Real Estate Commission under former Chapter 1303, Occupations Code, is continued in effect as a license of the department;

(2)  all rules, fees, policies, procedures, decisions, and forms of the Texas Real Estate Commission that relate to a program or activity transferred under this article are continued in effect as rules, fees, policies, procedures, decisions, and forms of the Texas Commission of Licensing and Regulation or the department, as applicable, and remain in effect until changed by the Texas Commission of Licensing and Regulation or the department; and

(3)  a complaint, investigation, contested case, or other proceeding related to a program that is transferred under this article and that is pending on the effective date of this Act is transferred without change in status to the Texas Commission of Licensing and Regulation or the department, as appropriate.

(c)  On the effective date of this Act:

(1)  all money, contracts, leases, property, software source code and documentation, records, and obligations of the Texas Real Estate Commission relating to a program or activity transferred to the department under this article are transferred to the department; and

(2)  the unexpended and unobligated balance of any money appropriated by the legislature relating to that program or activity is transferred to the department.

(d)  As soon as practicable after the effective date of this Act, the Texas Real Estate Commission shall transfer to the Texas Commission of Licensing and Regulation or the department, as appropriate, any bond, reimbursement insurance policy, or other security held for a residential service company that relates to a program or activity transferred under this article.

(e)  Unless the context indicates otherwise, a reference in law or administrative rule to the Texas Real Estate Commission with respect to a program or activity transferred from the Texas Real Estate Commission to the department under this article means the Texas Commission of Licensing and Regulation or the department, as appropriate.

(f)  The Texas Real Estate Commission shall provide the department with access to any systems, facilities, or information necessary to implement the change in law made by this article.

ARTICLE 5. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

SECTION 5.01.  Section 401.304(a), Occupations Code, is amended to read as follows:

(a)  To be eligible for licensing as a speech-language pathologist or audiologist, an applicant must:

(1)  if the application is for a license in:

(A)  speech-language pathology, possess at least a master's degree with a major in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is approved by the commission or department and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university; or

(B)  audiology, possess at least a master's [~~doctoral~~] degree in audiology or a related hearing science from a program accredited by a national accrediting organization that is approved by the commission or department and recognized by the United States secretary of education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) in an accredited or approved college or university;

(2)  submit a transcript from a public or private institution of higher learning showing successful completion of course work in amounts set by the commission by rule in:

(A)  normal development and use of speech, language, and hearing;

(B)  evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C)  related fields that augment the work of clinical practitioners of speech-language pathology and audiology;

(3)  have successfully completed at least 36 semester hours in courses that are acceptable toward a graduate degree by the college or university in which the courses are taken, at least 24 of which must be in the professional area for which the license is requested;

(4)  have completed the minimum number of hours, established by the commission by rule, of supervised clinical experience with persons who present a variety of communication disorders; and

(5)  have completed the full-time supervised professional experience, as defined by commission rule, in which clinical work has been accomplished in the major professional area for which the license is being sought.

SECTION 5.02.  Section 401.304(a), Occupations Code, as amended by this article, applies only to a license application submitted on or after the effective date of this Act. A license application submitted before that date is governed by the law in effect on the date the license application was submitted, and the former law is continued in effect for that purpose.

ARTICLE 6. EFFECTIVE DATE

SECTION 6.01.  This Act takes effect September 1, 2021.