87R3491 DRS/ANG/CXP/JES-D

By:  Buckingham, et al. S.B. No. 714

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)  Notwithstanding Chapter 551, Government Code, an advisory board may meet by telephone conference call, videoconference, or other similar telecommunication method. A meeting held by telephone conference call, videoconference, or other similar telecommunication method is subject to the requirements of Sections 551.125(c), (d), (e), and (f), 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 commission shall adopt rules for conducting inspections based on risk to the public.

(b)  The rules must provide for the prioritization of inspections based on the following factors:

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

(2)  the number of complaints filed against a license holder;

(3)  negative publicity regarding a license holder; and

(4)  any other risk-based factor identified by the commission.

(c)  The commission may adopt rules that provide for the use of alternative inspection methods, including the use of videoconference technology or other methods instead of conducting an in-person inspection, in circumstances the commission considers appropriate.

SECTION 1.05.  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 1.06.  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 commission determines at any time that an allegation made or formal complaint submitted by a person is inappropriate or without merit, the commission shall dismiss the complaint and no further action may be taken. The commission may delegate to the department the duty to dismiss complaints under this subsection. The department shall inform the commission of all dismissals made under this subsection.

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)  the manner in which complaints were resolved categorized by the nature of the alleged violation; 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.

SECTION 1.07.  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 1.08.  Subchapter G, Chapter 51, Occupations Code, is amended by adding Sections 51.3531 and 51.359 to read as follows:

Sec. 51.3531.  DENIAL OF LICENSE RENEWAL. The commission may deny the renewal of a license if the applicant is in violation of an order of the commission or the executive director.

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 other 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 1.09.  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 1.10.  Section 51.405, Occupations Code, is amended to read as follows:

Sec. 51.405.  CONTINUING EDUCATION. (a) The 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)  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 1.11.  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 a license or suspend or revoke a license on the grounds that a business has failed to disclose a relationship for which disclosure is required by rules adopted under this section.

SECTION 1.12.  Section 755.025(a), Health and Safety Code, is amended to read as follows:

(a)  The executive director shall require each boiler to be inspected internally and externally at the time of initial installation and at subsequent intervals in accordance with the rules for risk-based inspections adopted under Section 51.211, Occupations Code [~~as provided by this section~~]. The executive director may provide that the inspection be performed by any inspector.

SECTION 1.13.  Section 755.026(a), Health and Safety Code, is amended to read as follows:

(a)  With the approval of the executive director and the inspection agency that has jurisdiction for the power boiler, the interval between internal inspections may be extended in accordance with the rules for risk-based inspections adopted under Section 51.211, Occupations Code [~~to a period not exceeding a total of 60 months. For unfired steam boilers or steam collection or liberation drums of process steam generators, the inspection interval may be extended to the next scheduled downtime of the boiler, but not exceeding a total of:~~

[~~(1)  84 months for unfired steam boilers;~~

[~~(2)  120 months for steam collection or liberation drums of process steam generators manufactured before January 1, 1970; or~~

[~~(3)  144 months for steam collection or liberation drums of process steam generators manufactured on or after January 1, 1970~~].

SECTION 1.14.  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 1.15.  Section 402.207(c), Occupations Code, is amended to read as follows:

(c)  An apprentice permit holder shall work under the supervision of a license holder for at least one year. [~~During the apprentice year, the apprentice permit holder shall complete 20 hours of classroom continuing education as required by Section 402.303 for a license holder.~~]

SECTION 1.16.  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 1.17.  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 1.18.  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 1.19.  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 1.20.  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 1.21.  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 1.22.  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)  Sections 755.026(c) and (c-1), Health and Safety Code;

(8)  Section 51.0021, Occupations Code;

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

(10)  Section 202.305, Occupations Code;

(11)  Section 202.5085, Occupations Code;

(12)  Section 203.304, Occupations Code;

(13)  Section 203.406, Occupations Code;

(14)  Section 401.355, Occupations Code;

(15)  Section 402.303, Occupations Code;

(16)  Section 403.152, Occupations Code;

(17)  Section 455.0571, Occupations Code;

(18)  Section 506.105, Occupations Code;

(19)  Section 605.261, Occupations Code;

(20)  Section 701.303, Occupations Code;

(21)  Section 701.512, Occupations Code;

(22)  Section 802.062(a), Occupations Code;

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

(24)  Section 1151.1581, Occupations Code;

(25)  Section 1152.204, Occupations Code;

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

(27)  Section 1305.055, Occupations Code;

(28)  Section 1305.168, Occupations Code;

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

(30)  Section 1952.1051, Occupations Code;

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

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

(33)  Section 2308.055, Occupations Code;

(34)  Section 2308.157, Occupations Code;

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

(36)  Section 2309.056, Occupations Code; and

(37)  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;

(2)  Chapter 1802; and

(3)  Section 2052.002(11-a).

SECTION 2.02.  Articles 18.19(c), (d), and (e), Code of Criminal Procedure, are amended to read as follows:

(c)  If there is no prosecution or conviction for an offense involving the weapon seized, the magistrate to whom the seizure was reported shall, before the 61st day after the date the magistrate determines that there will be no prosecution or conviction, notify in writing the person found in possession of the weapon that the person is entitled to the weapon upon written request to the magistrate. The magistrate shall order the weapon returned to the person found in possession before the 61st day after the date the magistrate receives a request from the person. If the weapon is not requested before the 61st day after the date of notification, the magistrate shall, before the 121st day after the date of notification, order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer [~~licensed under Chapter 1802, Occupations Code~~], or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the magistrate. If the magistrate does not order the return, destruction, sale, or forfeiture of the weapon within the applicable period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from the magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a  seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

(d)  A person either convicted or receiving deferred adjudication under Chapter 46, Penal Code, is entitled to the weapon seized upon request to the court in which the person was convicted or placed on deferred adjudication. However, the court entering the judgment shall order the weapon destroyed, sold at public sale by the law enforcement agency holding the weapon or by an auctioneer [~~licensed under Chapter 1802, Occupations Code~~],  or forfeited to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court if:

(1)  the person does not request the weapon before the 61st day after the date of the judgment of conviction or the order placing the person on deferred adjudication;

(2)  the person has been previously convicted under Chapter 46, Penal Code;

(3)  the weapon is one defined as a prohibited weapon under Chapter 46, Penal Code;

(4)  the offense for which the person is convicted or receives deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as those terms are defined by Section 481.134, Health and Safety Code; or

(5)  the court determines based on the prior criminal history of the defendant or based on the circumstances surrounding the commission of the offense that possession of the seized weapon would pose a threat to the community or one or more individuals.

(e)  If the person found in possession of a weapon is convicted of an offense involving the use of the weapon, before the 61st day after the date of conviction the court entering judgment of conviction shall order destruction of the weapon, sale at public sale by the law enforcement agency holding the weapon or by an auctioneer [~~licensed under Chapter 1802, Occupations Code~~],  or forfeiture to the state for use by the law enforcement agency holding the weapon or by a county forensic laboratory designated by the court. If the court entering judgment of conviction does not order the destruction, sale, or forfeiture of the weapon within the period prescribed by this subsection, the law enforcement agency holding the weapon may request an order of destruction, sale, or forfeiture of the weapon from a magistrate. Only a firearms dealer licensed under 18 U.S.C. Section 923 may purchase a weapon at public sale under this subsection. Proceeds from the sale of a seized weapon under this subsection shall be transferred, after the deduction of court costs to which a district court clerk is entitled under Article 59.05(f), followed by the deduction of auction costs, to the law enforcement agency holding the weapon.

SECTION 2.03.  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 2.04.  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 2.05.  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 2.06.  Section 252.022(a), Local Government Code, is amended to read as follows:

(a)  This chapter does not apply to an expenditure for:

(1)  a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

(2)  a procurement necessary to preserve or protect the public health or safety of the municipality's residents;

(3)  a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

(4)  a procurement for personal, professional, or planning services;

(5)  a procurement for work that is performed and paid for by the day as the work progresses;

(6)  a purchase of land or a right-of-way;

(7)  a procurement of items that are available from only one source, including:

(A)  items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B)  films, manuscripts, or books;

(C)  gas, water, and other utility services;

(D)  captive replacement parts or components for equipment;

(E)  books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and

(F)  management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

(8)  a purchase of rare books, papers, and other library materials for a public library;

(9)  paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;

(10)  a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;

(11)  a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;

(12)  personal property sold:

(A)  at an auction [~~by a state licensed auctioneer~~];

(B)  at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;

(C)  by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

(D)  under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

(13)  services performed by blind or severely disabled persons;

(14)  goods purchased by a municipality for subsequent retail sale by the municipality;

(15)  electricity; or

(16)  advertising, other than legal notices.

SECTION 2.07.  Section 262.024(a), Local Government Code, is amended to read as follows:

(a)  A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1)  an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2)  an item necessary to preserve or protect the public health or safety of the residents of the county;

(3)  an item necessary because of unforeseen damage to public property;

(4)  a personal or professional service;

(5)  any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6)  any land or right-of-way;

(7)  an item that can be obtained from only one source, including:

(A)  items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B)  films, manuscripts, or books;

(C)  electric power, gas, water, and other utility services; and

(D)  captive replacement parts or components for equipment;

(8)  an item of food;

(9)  personal property sold:

(A)  at an auction [~~by a state licensed auctioneer~~];

(B)  at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C)  by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10)  any work performed under a contract for community and economic development made by a county under Section 381.004; or

(11)  vehicle and equipment repairs.

SECTION 2.08.  Section 263.153(c), Local Government Code, is amended to read as follows:

(c)  A county that contracts with an auctioneer [~~licensed under Chapter 1802, Occupations Code,~~] who uses an Internet auction site offering online bidding through the Internet to sell surplus or salvage property under this subchapter having an estimated value of not more than $500 shall satisfy the notice requirement under this section by posting the property on the site for at least 10 days unless the property is sold before the 10th day.

SECTION 2.09.  Section 1101.005, Occupations Code, is amended to read as follows:

Sec. 1101.005.  APPLICABILITY OF CHAPTER.  This chapter does not apply to:

(1)  an attorney licensed in this state;

(2)  an attorney-in-fact authorized under a power of attorney to conduct not more than three real estate transactions annually;

(3)  a public official while engaged in official duties;

(4)  an auctioneer [~~licensed under Chapter 1802~~] while conducting the sale of real estate by auction if the auctioneer does not perform another act of a broker;

(5)  a person conducting a real estate transaction under a court order or the authority of a will or written trust instrument;

(6)  a person employed by an owner in the sale of structures and land on which structures are located if the structures are erected by the owner in the course of the owner's business;

(7)  an on-site manager of an apartment complex;

(8)  an owner or the owner's employee who leases the owner's improved or unimproved real estate; or

(9)  a transaction involving:

(A)  the sale, lease, or transfer of a mineral or mining interest in real property;

(B)  the sale, lease, or transfer of a cemetery lot;

(C)  the lease or management of a hotel or motel; or

(D)  the sale of real property under a power of sale conferred by a deed of trust or other contract lien.

SECTION 2.10.  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 2.11.  Sections 33.25(b), (f), and (g), Tax Code, are amended to read as follows:

(b)  The commissioners court of a county having a population of three million or more by official action may authorize a peace officer or the collector for the county charged with selling property under this subchapter by public auction to enter into an agreement with an auctioneer [~~a person who holds an auctioneer's license~~] to advertise the auction sale of the property and to conduct the auction sale of the property. The agreement may provide for on-line bidding and sale.

(f)  The proceeds of a sale of property under this section shall be applied to:

(1)  any compensation owed to or any expense advanced by the [~~licensed~~] auctioneer under an agreement entered into under Subsection (b) or a service provider under an agreement entered into under Subsection (c);

(2)  all usual costs, expenses, and fees of the seizure and sale, payable to the peace officer conducting the sale;

(3)  all additional expenses incurred in advertising the sale or in removing, storing, preserving, or safeguarding the seized property pending its sale;

(4)  all usual court costs payable to the clerk of the court that issued the tax warrant; and

(5)  taxes, penalties, interest, and attorney's fees included in the application for warrant.

(g)  The peace officer or [~~licensed~~] auctioneer conducting the sale shall pay all proceeds from the sale to the collector designated in the tax warrant for distribution as required by Subsection (f).

SECTION 2.12.  Section 460.406(c), Transportation Code, is amended to read as follows:

(c)  The board of directors may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1)  the aggregate amount involved in the contract is less than the greater of:

(A)  $50,000; or

(B)  the amount of an expenditure under a contract that would require a municipality to comply with Section 252.021(a), Local Government Code;

(2)  the contract is for construction for which not more than one bid or proposal is received;

(3)  the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition, including:

(A)  items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

(B)  gas, water, and other utility services; and

(C)  captive replacement parts or components for equipment;

(4)  the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5)  the contract is for personal, professional, or planning services;

(6)  the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A)  a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B)  a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C)  an agreement with a securities dealer, broker, or underwriter; and

(D)  any other contract or agreement considered by the board of directors to be appropriate or necessary in support of the authority's financing activities;

(7)  the contract is for work that is performed and paid for by the day as the work progresses;

(8)  the contract is for the lease or purchase of an interest in land;

(9)  the contract is for the purchase of personal property sold:

(A)  at an auction [~~by a state licensed auctioneer~~];

(B)  at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C)  by a political subdivision of this state, a state agency, or an entity of the federal government;

(10)  the contract is for services performed by persons who are blind or have severe disabilities;

(11)  the contract is for the purchase of electricity;

(12)  the contract is one for an authority project and awarded for alternate project delivery using the procedures, requirements, and limitations under Subchapters E, F, G, H, and I, Chapter 2269, Government Code; or

(13)  the contract is for fare enforcement officer services under Section 460.1092.

SECTION 2.13.  Sections 503.024(b) and (d), Transportation Code, are amended to read as follows:

(b)  For the purposes of Section 503.021, a person is not engaging in business as a dealer by:

(1)  selling or offering to sell, if the sale or offer is not made to avoid a requirement of this chapter, a vehicle the person acquired for personal or business use to:

(A)  a person other than a retail buyer if not sold or offered through an [~~a licensed~~] auctioneer; or

(B)  any person if the sale or offer is made through an [~~a licensed~~] auctioneer;

(2)  selling, in a manner provided by law for the forced sale of vehicles, a vehicle in which the person holds a security interest;

(3)  acting under a court order as a receiver, trustee, administrator, executor, guardian, or other appointed person;

(4)  selling a vehicle the person acquired from the vehicle's owner as a result of paying an insurance claim if the person is an insurance company;

(5)  selling an antique passenger car or truck that is at least 25 years of age; or

(6)  selling a special interest vehicle that is at least 12 years of age if the person is a collector.

(d)  For the purposes of Section 503.021, an [~~a licensed~~] auctioneer is not engaging in business as a dealer by, as a bid caller, selling or offering to sell property, including a business that holds the title to any number of vehicles, to the highest bidder at a bona fide auction if:

(1)  legal or equitable title does not pass to the auctioneer;

(2)  the auction is not held to avoid a requirement of this chapter; and

(3)  for an auction of vehicles owned legally or equitably by a person who holds a general distinguishing number, the auction is conducted at the location for which the general distinguishing number was issued.

SECTION 2.14.  On the effective date of this Act:

(1)  the Polygraph Advisory Committee is abolished;

(2)  the Auctioneer Advisory Board is abolished; and

(3)  money in the auctioneer education and recovery fund is transferred to the general revenue fund.

SECTION 2.15.  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 2.16.  On the effective date of this Act, a license, permit, or certification issued under a law repealed by this article expires.

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 that holds a license issued under Subchapter E-2 in which barbering or cosmetology is practiced.

(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 place that holds a license issued under Subchapter E-3 to teach barbering or cosmetology.

[~~(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, 1603.0013, and 1603.0014 to read as follows:

Sec. 1603.0011.  DEFINITION OF BARBERING. In this chapter, "barbering" means:

(1)  the practice of performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

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

(B)  treating a person's hair by:

(i)  arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shaping, singeing, straightening, styling, tinting, or waving;

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

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

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

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

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

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

(E)  treating a person's nails by:

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

(ii)  attaching false nails;

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

(G)  administering facial treatments; or

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

(2)  advertising or representing to the public in any manner that a person is a barber or is authorized to practice barbering; or

(3)  advertising or representing to the public in any manner that a location or place of business is an establishment or school.

Sec. 1603.0012.  DEFINITION OF COSMETOLOGY. (a)  In this chapter, "cosmetology" means the practice 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, 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, 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, or manicuring; or

(B)  attaching false nails;

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

(9)  applying semipermanent, thread-like extensions composed of single fibers to a person's eyelashes; or

(10)  weaving a person's hair.

(b)  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. 1603.0013.  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:

(A)  Section 1603.0011(1)(B); or

(B)  Section 1603.0012(a)(1).

Sec. 1603.0014.  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 [~~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; TERM. (a) Subject to Subsection (b), the presiding officer of the commission shall designate a member of the advisory board to serve as the presiding officer of the advisory board for a two-year term.

(b)  The presiding officer of the commission shall designate each member of the advisory board who represents the public to serve as the presiding officer of the advisory board for at least one term.

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, establishment, or school; and

(2)  a student permit.

(b)  A requirement established for the issuance of a license must be the least restrictive requirement possible to ensure public safety without creating a barrier to entry into the licensed occupation.

(c)  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.

(d)  The commission, as appropriate, shall 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 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 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.  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 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.  Subchapter E, Chapter 1603, Occupations Code, is amended by adding Sections 1603.2041 and 1603.2042 to read as follows:

Sec. 1603.2041.  INACTIVE STATUS. (a) The holder of a license issued under this chapter may place the license on inactive status by:

(1)  applying to the commission on a form prescribed by the commission not later than the 10th day before the date the license expires; and

(2)  paying the required fee.

(b)  The holder of a license that has been placed on inactive status under this section is not required to comply with any continuing education requirements established by the commission under this chapter.

(c)  To maintain inactive status, the holder of a license must reapply for inactive status on or before the second anniversary of the date the status is granted by submitting the required form accompanied by the required renewal fee.

(d)  The holder of a license to practice barbering or cosmetology that has been placed on inactive status under this section may not perform or attempt to perform the practice of barbering or cosmetology.

(e)  A person whose license is on inactive status under this section may return the person's license to active status by:

(1)  applying to the commission for reinstatement of the license on the form prescribed by the commission;

(2)  submitting written documentation that the person has completed any applicable continuing education requirements under this chapter within the preceding two years; and

(3)  paying the required license fee.

Sec. 1603.2042.  REINSTATEMENT OF EXPIRED LICENSE BY RETIREE. A license holder who retires from practice and whose license under Subchapter E-1 has been expired for more than five years may qualify for a new license by applying to the department and by:

(1)  making a proper showing to the department, supported by a personal affidavit;

(2)  paying the required examination fee;

(3)  passing a satisfactory examination conducted by the department; and

(4)  paying the fee for an original license.

SECTION 3.17.  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 3.18.  Sections 1603.208(c), (d), (f), (g), and (i), Occupations Code, are amended to read as follows:

(c)  Sections 1603.2108 and 1603.2109 [~~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 3.19.  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 3.20.  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 LICENSES; STUDENT PERMIT; PRACTICE

Sec. 1603.2101.  LICENSE OR 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 LICENSE. The department shall issue a 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 1603.0012(a)(7) or (8);

(4)  an esthetician license may perform any service described by Section 1603.0012(a)(3), (4), (5), (6), or (9);

(5)  a manicurist/esthetician license may perform any service described by Section 1603.0012(a)(3), (4), (5), (6), (7), (8), or (9);

(6)  a hair weaving specialist license may perform any service described by Section 1603.0012(a)(10);

(7)  a hair weaving specialist/esthetician license may perform any service described by Section 1603.0012(a)(3), (4), (5), (6), (9), or (10); and

(8)  an eyelash extension specialist license may perform any service described by Section 1603.0012(a)(9).

(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.  WAIVER OF CERTAIN LICENSE REQUIREMENTS. (a) The department shall issue a license to an applicant for a Class A barber license described by Section 1603.2103(a)(1), a cosmetology operator license described by Section 1603.2103(a)(2), an esthetician license described by Section 1603.2103(a)(4), a hair weaving specialist license described by Section 1603.2103(a)(6), or a hair weaving specialist/esthetician license described by Section 1603.2103(a)(7) 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.

(b)  The department may waive any requirement for a license issued under this subchapter, other than a license listed in Subsection (a), for an applicant holding a license from another state or country 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. 1603.2105.  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, reenrollment, or transfer enrollment. The application fee applies only to the first enrollment. The department may not charge the application fee for any later enrollment, reenrollment, or transfer enrollment.

Sec. 1603.2106.  TRANSFER OF LICENSE OR PERMIT PROHIBITED. A license or permit issued under this subchapter is not transferable.

Sec. 1603.2107.  DISPLAY OF LICENSE OR PERMIT. (a) The holder of a license issued under this subchapter shall 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.

(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. 1603.2108.  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. 1603.2109.  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 or permit under this subchapter may perform a service within the scope of the license or permit 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 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 1603.0012(a)(7) or (8);

(3)  an esthetician specialty establishment may provide any service described by Section 1603.0012(a)(3), (4), (5), (6), or (9);

(4)  a manicurist/esthetician specialty establishment may provide any service described by Section 1603.0012(a)(3), (4), (5), (6), (7), (8), or (9);

(5)  a hair weaving specialty establishment may provide any service described by Section 1603.0012(a)(10);

(6)  an eyelash extension specialty establishment may provide any service described by Section 1603.0012(a)(9);

(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 determined by commission rule 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:

(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; and

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

Sec. 1603.2303.  SCHOOL LICENSES. The holder of a public secondary school license, private postsecondary school license, or public postsecondary school license may provide instruction in the barbering or cosmetology services for which the license holder has been approved by the department.

Sec. 1603.2304.  CHANGE OF SCHOOL OWNERSHIP OR LOCATION. (a) If a licensed school changes ownership, the outgoing owner shall notify the department of the change not later than the 10th day before the date the change takes effect.

(b)  A licensed school under this subchapter 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:

(1)  place a sign on the front outside portion of the school's building in a prominent place that reads in at least 10-inch block letters: "SCHOOL--STUDENT PRACTITIONERS"; and

(2)  prominently display printed signs containing the information required by Subdivision (1) on each inside wall of the school.

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

(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 licensed 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 licensed school must submit to the commission 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 commission.

(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 licensed 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.

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

(b)  The department may inspect a school's attendance record book 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 credit 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:

(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. (a) The holder of a school license shall:

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

(2)  hold examinations before issuing diplomas; and

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

(b)  The holder of a school license may not require a student to work, be instructed, or earn credit for more than 48 hours in a calendar week.

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 executive director.

(c)  In evaluating a student's transcript, the executive director shall determine whether the agreed tuition has been paid. If the tuition has not been paid, the executive director 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 executive director 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.

(e)  If a school's license has been expired for more than 30 days, a student of that school may not transfer hours of instruction the student completed at that school.

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 3.21.  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 3.22.  Sections 1603.253 and 1603.255, Occupations Code, are amended to read as follows:

Sec. 1603.253.  WRITTEN EXAMINATION. The 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 3.23.  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 3.24.  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)  a renewal fee in an amount equal to the original license fee.

Sec. 1603.3004.  RENEWAL WHILE IN ARMED FORCES. (a) The department may not require the holder of a Class A barber license described by Section 1603.2103(1), a cosmetology operator license described by Section 1603.2103(2), a manicurist license described by Section 1603.2103(3), an esthetician license described by Section 1603.2103(4), or a manicurist/esthetician license described by Section 1603.2103(5) 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 3.25.  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 3.26.  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 3.27.  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 1603.0012(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 3.28.  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, and Vietnamese; 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 or school on the same premises as another one of those facilities unless the facilities are separated by walls of permanent construction without an opening between the facilities.

SECTION 3.29.  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 fails to withdraw from the course of training before the cancellation period 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 3.30.  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[~~, Chapter 51, Chapter 1601, or Chapter 1602~~] or a rule or order adopted or issued under this chapter [~~those chapters~~].

SECTION 3.31.  The heading to Subchapter J, Chapter 1603, Occupations Code, is amended to read as follows:

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

SECTION 3.32.  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 3.33.  The following provisions of the Occupations Code are repealed:

(1)  Chapters 1601 and 1602;

(2)  Sections 1603.104(b), (c), and (c-1);

(3)  Section 1603.205;

(4)  Section 1603.206;

(5)  Section 1603.207;

(6)  Section 1603.254;

(7)  Section 1603.451;

(8)  Section 1603.452;

(9)  Section 1603.455; and

(10)  Section 1603.456.

SECTION 3.34.  (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, 2022:

(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 licenses and permits under Subchapters E-1, E-2, and E-3, Chapter 1603, Occupations Code, as added by this article.

SECTION 3.35.  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, 2022, 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 3.36.  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 3.37.  (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 3.38.  Notwithstanding any other law, on the effective date of this Act, a person holding a permit under former Subchapter G, Chapter 1601, Occupations Code, a facility license under former Subchapter G, Chapter 1602, Occupations Code, or a license or permit under former Section 1603.205, 1603.206, or 1603.207, Occupations Code, before the effective date of this Act may employ or contract with any qualified individual practitioner holding a certificate, license, or permit issued under Chapter 1601 or 1602, Occupations Code, before the effective date of this Act, without regard to the chapter under which the practitioner was issued the certificate, license, or permit.

SECTION 3.39.  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 1603.0012(a)(6) and (9), Occupations Code, as added by this Act.

SECTION 3.40.  (a) On the effective date of this Act, the Advisory Board on Barbering and the Advisory Board on Cosmetology are abolished.

(b)  Not later than December 1, 2021, 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.

(c)  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 3.41.  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 3.42.  (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. DRIVER TRAINING

SECTION 4.01.  Section 1001.001, Education Code, is amended by adding Subdivisions (2-a), (6-a), (6-b), (14-b), (14-c), and (14-d) and amending Subdivisions (8), (9), (13), and (14-a) to read as follows:

(2-a)  "Classroom instruction" includes instruction provided in a traditional classroom setting or another in-person setting or in an online setting.

(6-a)  "Driver education instructor" means an individual who holds a license to teach or provide driver education issued under Section 1001.251.

(6-b)  "Driver education provider" means an in-person driver education provider, an online driver education provider, or a parent-taught driver education provider.

(8)  "Driver training" means:

(A)  driver education provided by a driver education provider [~~school~~]; or

(B)  driving safety training provided by a driving safety provider [~~school~~].

(9)  "Driver training provider [~~school~~]" means a driver education provider [~~school~~] or driving safety provider [~~school~~].

(13)  "Driving safety provider" means a business that provides a driving safety course [~~school" means an enterprise that:~~

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

[~~(B)  is operated by an individual, association, partnership, or corporation for educating and training persons in driving safety~~].

(14-a)  "In-person driver education provider" means a business that provides driver education courses in person, including behind-the-wheel training, observation hours, and driver license examinations.

(14-b)  "National criminal history record information" has the meaning assigned by Section 22.081.

(14-c)  "Online driver education provider" means a business that provides driver education courses to students remotely through the Internet.

(14-d)  "Parent-taught driver education provider" means a business that provides driver education course materials through physical means or remotely through the Internet to persons who conduct parent-taught driver education under Section 1001.112.

SECTION 4.02.  Section 1001.002(c), Education Code, is amended to read as follows:

(c)  A driver education course is exempt from this chapter, other than Section 1001.055, if the course is:

(1)  conducted by a vocational driver training provider that exclusively trains [~~school operated to train~~] or prepares [~~prepare~~] a person for a field of endeavor in a business, trade, technical, or industrial occupation;

(2)  conducted by a school or training program that offers only instruction of purely avocational or recreational subjects as determined by the department;

(3)  sponsored by an employer to train its own employees without charging tuition;

(4)  sponsored by a recognized trade, business, or professional organization with a closed membership to instruct the members of the organization; or

(5)  conducted by a school regulated and approved under another law of this state.

SECTION 4.03.  Section 1001.003, Education Code, is amended to read as follows:

Sec. 1001.003.  LEGISLATIVE INTENT REGARDING SMALL BUSINESSES. It is the intent of the legislature that commission rules that affect driver training providers [~~schools~~] that qualify as small businesses be adopted and administered so as to have the least possible adverse economic effect on the providers [~~schools~~].

SECTION 4.04.  Section 1001.004(b), Education Code, is amended to read as follows:

(b)  The department may charge a fee to each driver education provider [~~school~~] in an amount not to exceed the actual expense incurred in the regulation of driver education courses established under Section 1001.1015.

SECTION 4.05.  Section 1001.051, Education Code, is amended to read as follows:

Sec. 1001.051.  JURISDICTION OVER PROVIDERS [~~SCHOOLS~~]. The department has jurisdiction over and control of driver training providers [~~schools~~] regulated under this chapter.

SECTION 4.06.  Sections 1001.053(a) and (b), Education Code, are amended to read as follows:

(a)  The department and executive director, as appropriate, shall:

(1)  administer this chapter;

(2)  enforce minimum standards for driver training providers [~~schools~~] under this chapter;

(3)  enforce rules adopted by the commission that are necessary to administer this chapter; and

(4)  inspect a driver training provider [~~school or course provider~~] and reinspect the [~~school or course~~] provider for compliance with this chapter.

(b)  The executive director may designate a person knowledgeable in the administration of regulating driver training providers [~~schools~~] to administer this chapter.

SECTION 4.07.  Section 1001.054, Education Code, is amended to read as follows:

Sec. 1001.054.  RULES RESTRICTING ADVERTISING. [~~(c)~~]  The commission by rule may restrict advertising by a branch location of an in-person [~~a~~] driver education provider [~~training school~~] so that the location adequately identifies the primary location of the provider [~~school~~] in a solicitation.

SECTION 4.08.  Sections 1001.055(a), (a-1), and (a-2), Education Code, are amended to read as follows:

(a)  The department shall provide to each licensed or exempt driver education [~~school and to each parent-taught course~~] provider [~~approved under this chapter~~] driver education certificates or certificate numbers to enable the [~~school or approved parent-taught course~~] provider to issue department-approved driver education certificates to certify completion of an approved driver education course and satisfy the requirements of Sections 521.204(a)(2), Transportation Code, 521.1601, Transportation Code, as added by Chapter 1253 (H.B. 339), Acts of the 81st Legislature, Regular Session, 2009, and 521.1601, Transportation Code, as added by Chapter 1413 (S.B. 1317), Acts of the 81st Legislature, Regular Session, 2009.

(a-1)  A certificate issued by a driver education [~~school or parent-taught course~~] provider licensed [~~approved~~] under this chapter must:

(1)  be in a form required by the department; and

(2)  include an identifying certificate number provided by the department that may be used to verify the authenticity of the certificate with the [~~driver education school or approved parent-taught course~~] provider.

(a-2)  A driver education [~~school or parent-taught course~~] provider licensed [~~approved~~] under this chapter that purchases driver education certificate numbers shall issue original and duplicate certificates in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates. The [~~driver education school or approved parent-taught course~~] provider shall electronically submit to the department in the manner established by the department data identified by the department relating to issuance of department-approved driver education certificates with the certificate numbers.

SECTION 4.09.  Sections 1001.056(a), (b), (c-1), (d), (e), and (g), Education Code, are amended to read as follows:

(a)  In this section, "operator" means a person approved by a driving safety [~~course~~] provider to conduct an approved driving safety course.

(b)  The department shall provide each licensed driving safety [~~course~~] provider with course completion certificate numbers to enable the provider to issue department-approved uniform certificates of course completion.

(c-1)  A driving safety [~~course~~] provider shall provide for the issuance of original and duplicate certificates in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates.

(d)  A certificate under this section must:

(1)  be in a form required by the department; and

(2)  include an identifying number by which the department, a court, or the Department of Public Safety may verify its authenticity with the driving safety [~~course~~] provider.

(e)  The commission by rule shall establish a fee for each course completion certificate number. A driving safety [~~course~~] provider that supplies a certificate to an operator shall collect from the operator a fee equal to the amount of the fee paid to the department for the certificate number.

(g)  A driving safety [~~course~~] provider shall issue a duplicate certificate by United States mail or commercial or electronic delivery. The commission by rule shall determine the amount of the fee for issuance of a duplicate certificate under this subsection.

SECTION 4.10.  Section 1001.058(b), Education Code, is amended to read as follows:

(b)  The advisory committee consists of nine [~~eleven~~] members appointed for staggered six-year terms by the presiding officer of the commission, with the approval of the commission, as follows:

(1)  three driver education providers [~~one member representing a driver education school that offers a traditional classroom course and in-car training~~];

(2)  three driving safety providers [~~one member representing a driver education school that offers a traditional classroom course, alternative methods of instruction, or in-car training~~];

(3)  [~~one member representing a driving safety school offering a traditional classroom course or providing an alternative method of instruction;~~

[~~(4)  one member representing a driving safety course provider approved for a traditional classroom course and for an alternative method of instruction;~~

[~~(5)  one member representing a driving safety course provider approved for a traditional classroom course or for an alternative method of instruction;~~

[~~(6)~~]  one driver education [~~licensed~~] instructor;

(4)  the division head [~~(7) one representative~~] of the Department of Public Safety driver license division or the division head's designee;

[~~(8)  one member representing a drug and alcohol driving awareness program course provider;~~

[~~(9)  one member representing a parent-taught course provider;~~] and

(5)  one member of [~~(10) two members representing~~] the public.

SECTION 4.11.  Section 1001.059(b), Education Code, is amended to read as follows:

(b)  The department may collaborate with another state agency or contract with a licensed driver education provider [~~school~~] or a driver education instructor to create the course.

SECTION 4.12.  Subchapter B, Chapter 1001, Education Code, is amended by adding Section 1001.060 to read as follows:

Sec. 1001.060.  COORDINATION WITH DEPARTMENT OF PUBLIC SAFETY. (a) The department shall enter into a memorandum of understanding with the Department of Public Safety for:

(1)  the interagency development of the content of driver's license examinations and examination reference materials; and

(2)  any other matter the agencies consider appropriate.

(b)  The memorandum of understanding must authorize the Department of Public Safety to share with the department any relevant information, including information related to examination results.

SECTION 4.13.  The heading to Subchapter C, Chapter 1001, Education Code, is amended to read as follows:

SUBCHAPTER C. [~~OPERATION OF~~] DRIVER EDUCATION AND DRIVING SAFETY CURRICULUM [~~SCHOOL~~]

SECTION 4.14.  Section 1001.101, Education Code, is amended to read as follows:

Sec. 1001.101.  ADULT AND MINOR DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS. (a) The commission by rule shall establish or approve the curriculum and designate the educational materials to be used in a driver education course for minors and adults, including a driver education course conducted by a school district, driver education provider [~~school~~], or parent or other individual under this chapter.

(b)  The commission by rule shall prescribe the minimum number of hours of classroom instruction, observation instruction, and behind-the-wheel training that must be completed for a [~~A~~] driver education course to be approved under this chapter [~~must require the student to complete:~~

[~~(1)  7 hours of behind-the-wheel instruction in the presence of a person who holds a driver education instructor license or who meets the requirements for a driver education course conducted by a parent or other individual under Section 1001.112;~~

[~~(2)  7 hours of observation instruction in the presence of a person who holds a driver education instructor license or who meets the requirements for a driver education course conducted by a parent or other individual under Section 1001.112; and~~

[~~(3)  30 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, in the presence of an adult who meets the requirements of Section 521.222(d)(2), Transportation Code~~].

SECTION 4.15.  Sections 1001.1015(b) and (d), Education Code, are amended to read as follows:

(b)  A driver education course under Subsection (a) must:

(1)  provide at least the minimum number of hours of classroom instruction required by commission rule [~~be a six-hour course~~]; and

(2)  include instruction in:

(A)  alcohol and drug awareness;

(B)  the traffic laws of this state;

(C)  highway signs, signals, and markings that regulate, warn, or direct traffic; and

(D)  the issues commonly associated with motor vehicle accidents, including poor decision-making, risk taking, impaired driving, distraction, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, and using a wireless communication device while operating a vehicle.

(d)  A driving safety course [~~or a drug and alcohol driving awareness program~~] may not be approved as a driver education course under Subsection (a).

SECTION 4.16.  Sections 1001.1016(b) and (c), Education Code, are amended to read as follows:

(b)  The commission by rule shall require an in-person [~~a~~] driver education provider or online driver education provider [~~school providing a driver education course~~] to:

(1)  in the manner described by the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), make reasonable modifications and provide aids and services when providing the classroom instruction portion of a driver education [~~the~~] course that are necessary to ensure that a student who is deaf or hard of hearing may fully participate in the course; and

(2)  provide to the department the provider's [~~school's~~] plan for complying with the rules adopted under this section as a condition of obtaining a license under Section 1001.211 or renewing a license [~~under Section 1001.303~~].

(c)  The rules adopted under Subsection (b) must allow an in-person [~~a~~] driver education provider or online driver education provider [~~school~~] to comply with the requirements of this section by playing a video that presents the classroom instruction portion of the driver education course in a manner that complies with the requirements of this section.

SECTION 4.17.  Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.1017 to read as follows:

Sec. 1001.1017.  COURSE APPROVAL. A driver training provider shall submit to the commission for approval the course length and curriculum content for each course offered by the provider. The provider may implement a course length and curriculum content only after approval by the commission.

SECTION 4.18.  Section 1001.112, Education Code, is amended to read as follows:

Sec. 1001.112.  PARENT-TAUGHT DRIVER EDUCATION. (a) A person who is eligible under Subsection (b) may use course materials provided by a parent-taught driver education provider to conduct [~~The commission by rule shall provide for approval of~~] a driver education course approved under Section 1001.1017 for [~~conducted by the following persons with the noted relationship to~~] a person who is required to complete a driver education course to obtain a Class C license.

(b)  A person is eligible to conduct a driver education course for another person as provided by Subsection (a) if the person:

(1)  is either:

(A)  a parent, stepparent, foster parent, legal guardian, grandparent, or step-grandparent of the other person; or

(B) [~~(2)~~]  an individual who:

(i) [~~(A)~~]  has been designated on a form prescribed by the department for purposes of this section by a parent or[~~, a~~] legal guardian of the other person[~~,~~] or by a judge of a court with jurisdiction over the other person [~~on a form prescribed by the department~~];

(ii) [~~(B)~~]  is at least 25 years of age [~~or older~~];

(iii) [~~(C)~~]  does not charge a fee for conducting the course; and

(iv) [~~(D)~~]  has at least seven years of driving experience;

(2)  has possessed [~~and~~

[~~(E)  otherwise qualifies to conduct a course under Subsection (a-1).~~

[~~(a-1)  The rules must provide that the student driver spend a minimum number of hours in classroom and behind-the-wheel instruction.~~

[~~(a-2)  The rules must provide that the person conducting the course:~~

[~~(1) possess~~] a valid license for the preceding three years that has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle;

(3) [~~(2)~~]  has not been convicted of:

(A)  criminally negligent homicide; or

(B)  driving while intoxicated in the past seven years; and

(4) [~~(3)~~]  has not been convicted during the preceding three years of:

(A)  three or more moving violations described by Section 542.304, Transportation Code, including violations that resulted in an accident; or

(B)  two or more moving violations described by Section 542.304, Transportation Code, that resulted in an accident.

(c)  A person conducting a driver education course under this section may provide the classroom instruction portion, the behind-the-wheel training portion, or both portions.

(d) [~~(b)~~]  The department may [~~approve a course described by Subsection (a) if the department determines that the course materials are at least equal to those required in a course approved by the department, and the department may~~] not require for a course conducted under this section that:

(1)  the classroom instruction be provided in a room with particular characteristics or equipment; or

(2)  the vehicle used for the behind-the-wheel training [~~instruction~~] have equipment other than the equipment otherwise required by law for operation of the vehicle on a highway while the vehicle is not being used for driver training.

(e)  A parent-taught driver education provider [~~(c) The rules must provide a method by which:~~

[~~(1)  approval of a course is obtained;~~

[~~(2)  an applicant submits proof of completion of the course;~~

[~~(3)  approval for delivering course materials by an alternative method, including electronic means, is obtained;~~

[~~(4)  a provider of a course approved under this section~~] may administer to an applicant the highway sign and traffic law parts of the examination as provided by Section 521.1655(a-1), Transportation Code, through electronic means[~~; and~~

[~~(5)  an applicant submits proof of passage of an examination administered under Subdivision (4)~~].

(f) [~~(d)  Completion of a driver education course approved under this section has the same effect under this chapter as completion of a driver education course approved by the department.~~

[~~(e)~~] The department may not charge a fee for the submission of proof of:

(1)  completion of a [~~the~~] course conducted under this section; or

(2)  passage of an examination administered under Subsection (e) [~~(c)~~].

SECTION 4.19.  Sections 1001.151(b) and (c), Education Code, are amended to read as follows:

(b)  The commission by rule shall establish a fee for:

(1)  an initial in-person driver education provider [~~school~~] license and for each branch location;

(2)  an initial online driver education provider [~~driving safety school~~] license;

(3)  an initial parent-taught driver education [~~course~~] provider license[~~, except that the executive director may waive the fee~~];

(4)  an initial driving safety provider license;

(5)  the annual renewal for a [~~course provider,~~] driving safety provider [~~school~~], driver education provider [~~school~~], or branch location of an in-person driver education provider, except that the executive director may waive the fee if revenue generated by the issuance of course completion certificate numbers and driver education certificates is sufficient to cover the cost of administering this chapter and Article 45.0511, Code of Criminal Procedure;

(6) [~~(5)~~]  a change of address of a driver education provider [~~school, driving safety school,~~] or driving safety [~~course~~] provider; and

(7) [~~(6)~~]  a change of name of:

(A)  a driver education [~~school or course~~] provider or an owner of a driver education [~~school or course~~] provider; or

(B)  a driving safety provider [~~school~~] or an owner of a driving safety provider [~~school;~~

[~~(7)  each additional driver education or driving safety course at a driver training school; and~~

[~~(8)  an initial application for approval of a driving safety course that has not been evaluated by the department~~].

(c)  An application for an initial driver education [~~or driving safety~~] instructor license must be accompanied by a processing fee and an annual license fee, except that the department may not collect the processing fee from an applicant [~~for a driver education instructor license~~] who is currently teaching a driver education course in a public school in this state.

SECTION 4.20.  The heading to Subchapter E, Chapter 1001, Education Code, is amended to read as follows:

SUBCHAPTER E. LICENSING OF DRIVER TRAINING [~~SCHOOLS AND COURSE~~] PROVIDERS

SECTION 4.21.  Section 1001.201, Education Code, is amended to read as follows:

Sec. 1001.201.  LICENSE REQUIRED. A person may not provide:

(1)  [~~operate a school that provides~~] a driver education course:

(A)  in person unless the person holds an in-person [~~a~~] driver education provider [~~school~~] license; or

(B)  online unless the person holds an online driver education provider license;

(2)  driver education course materials to persons conducting parent-taught driver education under Section 1001.112 unless the person holds a parent-taught driver education provider license; or

(3)  [~~operate a school that provides~~] driving safety courses unless the person holds a driving safety provider [~~school~~] license[~~; or~~

[~~(3)  operate as a course provider unless the person holds a course provider license~~].

SECTION 4.22.  Section 1001.202, Education Code, is amended to read as follows:

Sec. 1001.202.  LOCATIONS FOR IN-PERSON DRIVER EDUCATION PROVIDERS. An in-person [~~(a) A~~] driver education provider [~~school~~] that teaches a driver education course at one or more branch locations must obtain a separate in-person driver education provider [~~school~~] license for its main business location and for each branch location. An in-person [~~A~~] driver education provider [~~school~~] may not operate a branch location of a branch location.

[~~(b)  A driving safety school may use multiple classroom locations to teach a driving safety course if each location is approved by the department.~~]

SECTION 4.23.  Section 1001.204, Education Code, is amended to read as follows:

Sec. 1001.204.  REQUIREMENTS FOR DRIVER EDUCATION PROVIDER [~~SCHOOL~~] LICENSE. (a) The commission by rule shall establish the criteria applicable to each [~~for a~~] driver education provider [~~school~~] license.

(b)  The department shall approve an application for a driver education provider [~~school~~] license if the application is submitted on a form approved by the department, the application is accompanied by the fee, and the department determines that the applicant [~~school~~]:

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

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

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

[~~(4)~~] provides to each student before enrollment or each person before contracting for driver education course materials, to the extent applicable:

(A)  a copy of:

(i)  the refund policy;

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

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

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

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

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

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

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

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

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

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

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

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

(11)  meets all requirements applicable to the license type under Section 1001.2041, 1001.2042, or 1001.2043; and

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

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

SECTION 4.24.  Subchapter E, Chapter 1001, Education Code, is amended by adding Sections 1001.2041, 1001.2042, and 1001.2043 to read as follows:

Sec. 1001.2041.  REQUIREMENTS FOR IN-PERSON DRIVER EDUCATION PROVIDER. Before an in-person driver education provider license may be issued, the department must determine that the applicant:

(1)  has adequate space, equipment, instructional material, and driver education instructors to provide training of good quality in the classroom and behind the wheel; and

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

Sec. 1001.2042.  REQUIREMENTS FOR ONLINE DRIVER EDUCATION PROVIDER. Before an online driver education provider license may be issued, the department must determine that the applicant has:

(1)  an adequate number of driver education instructors to provide training of good quality; and

(2)  adequate testing and security measures to validate a student's identity and active participation in a driver education course.

Sec. 1001.2043.  REQUIREMENTS FOR PARENT-TAUGHT DRIVER EDUCATION PROVIDER. (a) Before a parent-taught driver education provider license may be issued, the department must determine that the applicant has:

(1)  an adequate method by which a person completing a parent-taught driver education course under Section 1001.112 using the provider's course materials may submit proof of:

(A)  completion of the course; or

(B)  passage of an examination administered by the provider under Section 1001.112(e);

(2)  hired or contracted with only driver education instructors, if the provider elects to hire or contract with an instructor to assist with driver education; and

(3)  adequate testing and security measures to validate a student's active participation in a driver education course.

(b)  Except as specifically provided by this chapter, a parent-taught driver education provider that provides driver education course materials remotely through the Internet is not subject to any course or curriculum requirements established by the commission or department for online driver education providers.

SECTION 4.25.  Section 1001.206, Education Code, is amended to read as follows:

Sec. 1001.206.  REQUIREMENTS FOR DRIVING SAFETY [~~COURSE~~] PROVIDER LICENSE. (a) The commission by rule shall establish criteria for a driving safety [~~course~~] provider license.

(b)  The department shall approve an application for a driving safety [~~course~~] provider license if the application is submitted on a form approved by the executive director, includes the fee, and [~~on inspection of the premises of the school~~] the department determines that the applicant:

(1)  has driving safety courses, curricula, and instruction of a quality, content, and length that reasonably and adequately achieve the stated objective for which the courses, curricula, and instruction are offered [~~the course provider has an approved course that at least one licensed driving safety school is willing to offer~~];

(2)  provides [~~the course provider has adequate educational qualifications and experience;~~

[~~(3)  the course provider will:~~

[~~(A)  develop and provide~~] to each student before enrollment:

(A)  [~~driving safety school that offers the approved course~~] a copy of:

(i)  the refund policy; [~~and~~]

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

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

(B)  [~~provide to the driving safety school~~] the department's name, mailing address, telephone number, and Internet website address for the purpose of directing complaints to the department;

(3) [~~(4)  a copy of the information provided to each driving safety school under Subdivision (3) will be provided to each student by the school before enrollment;~~

[~~(5)~~] not later than the 15th working day after the date a person successfully completes the course, issues [~~the course provider will issue~~] and delivers [~~deliver~~] to the person by United States mail or commercial or electronic delivery a uniform certificate of course completion indicating the course name and successful completion;

(4) [~~(6)  the course provider~~] maintains adequate records as prescribed by the department to show attendance and progress or grades and enforces satisfactory standards relating to attendance, progress, and conduct;

(5) [~~(7)  the course provider~~] complies with all county, municipal, state, and federal laws, including assumed name registration and other applicable requirements;

(6) [~~(8)  the course provider~~] is financially sound and capable of fulfilling its commitments for training;

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

(8)  [~~(10)  the course provider~~] does not use erroneous or misleading advertising, either by actual statement, omission, or intimation, as determined by the department;

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

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

(11)  [~~(12)  the course provider~~] does not owe an administrative penalty for a violation of this chapter;

(12)  provides adequate testing and security measures for the provider's method of instruction to validate a student's identity and active participation in a driving safety course; and

(13)  [~~the course provider~~] meets any additional criteria required by the department.

SECTION 4.26.  Section 1001.207, Education Code, is amended to read as follows:

Sec. 1001.207.  BOND REQUIREMENTS: DRIVER EDUCATION PROVIDER [~~SCHOOL~~]. (a) Before a driver education provider [~~school~~] may be issued a license, the provider [~~school~~] must file a corporate surety bond with the department in the amount of:

(1)  $10,000 [~~for the primary location of the school~~]; and

(2)  for an in-person driver education provider, $5,000 for each branch location of the provider.

(b)  A bond issued under Subsection (a) must be:

(1)  issued in a form approved by the department;

(2)  issued by a company authorized to do business in this state;

(3)  payable to the department to be used only for payment of a refund due to a student or potential student;

(4)  conditioned on the compliance of the provider [~~school~~] and its officers, agents, and employees with this chapter and rules adopted under this chapter; and

(5)  issued for a period corresponding to the term of the license.

(c)  Posting of a bond in the amount required under Subsection (a) satisfies the requirements for financial stability for driver education providers [~~schools~~] under this chapter.

(d)  A driver education provider who files a bond under Subsection (a)(1) or provides an alternate form of security under Section 1001.210 to obtain one type of driver education provider license may not be required to file an additional bond under Subsection (a)(1) or provide an alternate form of security under Section 1001.210 for any other type of driver education provider license.

SECTION 4.27.  Section 1001.209, Education Code, is amended to read as follows:

Sec. 1001.209.  BOND REQUIREMENTS: DRIVING SAFETY [~~COURSE~~] PROVIDER. (a) Before a license may be issued to a driving safety [~~course~~] provider, the [~~course~~] provider must provide a corporate surety bond in the amount of $10,000.

(b)  A bond issued under Subsection (a) must be:

(1)  issued by a company authorized to do business in this state;

(2)  payable to the department to be used:

(A)  for payment of a refund due a student of the [~~course~~] provider's approved driving safety courses [~~course~~];

(B)  to cover the payment of unpaid fees or penalties assessed by the executive director or the commission; or

(C)  to recover any cost associated with providing course completion certificate numbers, including the cancellation of certificate numbers;

(3)  conditioned on the compliance of the [~~course~~] provider and its officers, agents, and employees with this chapter and rules adopted under this chapter; and

(4)  issued for a period corresponding to the term of the license.

SECTION 4.28.  Section 1001.210, Education Code, is amended to read as follows:

Sec. 1001.210.  ALTERNATE FORM OF SECURITY. Instead of the bond required by Section 1001.207 or 1001.209, a driver education provider [~~school~~] or driving safety [~~course~~] provider may provide another form of security that is:

(1)  approved by the department; and

(2)  in the amount required for a comparable bond under Section 1001.207 or 1001.209.

SECTION 4.29.  Sections 1001.211(b) and (c), Education Code, are amended to read as follows:

(b)  A license must be in a form determined by the department and must show in a clear and conspicuous manner:

(1)  the date of issuance, effective date, and term of the license;

(2)  the name and address of the driver training [~~school or course~~] provider;

(3)  the authority for and conditions of approval; and

(4)  any other fair and reasonable representation that is consistent with this chapter and that the department considers necessary.

(c)  An applicant may obtain both a driver education provider [~~school~~] license and a driving safety provider [~~school~~] license.

SECTION 4.30.  Sections 1001.213(b), (c), and (d), Education Code, are amended to read as follows:

(b)  If a change in ownership of a driver training [~~school or course~~] provider is proposed, a new owner shall apply for a new [~~school or course~~] provider license at least 30 days before the date of the change.

(c)  The commission by rule may establish fees for a new driver education [~~school or course~~] provider license under Subsection (b) and, if applicable, for each branch location of an in-person driver education provider if:

(1)  the new owner is substantially similar to the previous owner; and

(2)  there is no significant change in the management or control of the [~~driver education school or course~~] provider.

(d)  The department may inspect a driver training provider's main [~~school~~] or [~~a~~] branch location, as applicable, after a change of ownership.

SECTION 4.31.  Section 1001.214, Education Code, is amended to read as follows:

Sec. 1001.214.  DUPLICATE LICENSE. A duplicate license may be issued to a driver training [~~school or course~~] provider if:

(1)  the original license is lost or destroyed; and

(2)  an affidavit of that fact is filed with the department.

SECTION 4.32.  Section 1001.251(a), Education Code, is amended to read as follows:

(a)  Except as authorized under Section 1001.112, a [~~A~~] person may not teach or provide driver education[~~, either as an individual or in a driver education school,~~] or conduct any phase of driver education[~~,~~] unless the person holds a driver education instructor license issued by the executive director.

SECTION 4.33.  Section 1001.2511(e), Education Code, is amended to read as follows:

(e)  The commission may adopt rules to administer this section, including rules establishing:

(1)  deadlines for a person to submit fingerprints and photographs in compliance with this section;

(2)  sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of or refusal to issue a license described by Subsection (a); and

(3)  notification to a driver education provider [~~school~~] of relevant information obtained by the department under this section.

SECTION 4.34.  Section 1001.2512, Education Code, is amended to read as follows:

Sec. 1001.2512.  FEES FOR CRIMINAL HISTORY RECORD INFORMATION REVIEW. The commission by rule shall require a person submitting to a national criminal history record information review under Section 1001.2511 or the driver education provider [~~school~~] employing the person, as determined by the department, to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an application for certification under Subchapter B, Chapter 21, for a national criminal history record information review under Section 22.0837.

SECTION 4.35.  Section 1001.2513, Education Code, is amended to read as follows:

Sec. 1001.2513.  CONFIDENTIALITY OF INFORMATION. A social security number, driver's license number, other identification number, or fingerprint record collected for a person to comply with Section 1001.2511:

(1)  may not be released except:

(A)  to provide relevant information to driver education providers [~~schools~~] or otherwise to comply with Section 1001.2511;

(B)  by court order; or

(C)  with the consent of the person who is the subject of the information;

(2)  is not subject to disclosure as provided by Chapter 552, Government Code; and

(3)  shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

SECTION 4.36.  Sections 1001.2514(a) and (d), Education Code, are amended to read as follows:

(a)  A driver education provider [~~school~~] shall discharge or refuse to hire as an instructor an employee or applicant for employment if the department obtains information through a criminal history record information review that:

(1)  the employee or applicant has been convicted of:

(A)  a felony offense under Title 5, Penal Code;

(B)  an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(C)  an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and

(2)  at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(d)  A driver education provider [~~school~~] may discharge an employee who serves as an instructor if the provider [~~school~~] obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the provider [~~school~~] or the department. An employee discharged under this subsection is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

SECTION 4.37.  Section 1001.2531(b), Education Code, is amended to read as follows:

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

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

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

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

(A)  is at least 21 years of age; and

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

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

SECTION 4.38.  Sections 1001.255(a), (b), and (c), Education Code, are amended to read as follows:

(a)  The department shall regulate as a driver education provider of the type determined appropriate by the department [~~school~~] a driver education instructor who:

(1)  teaches driver education courses in a county having a population of 50,000 or less; and

(2)  does not teach more than 200 students annually.

(b)  An instructor described by Subsection (a) must submit to the department an application for an initial or renewal driver education provider [~~school~~] license, together with all required documentation and information.

(c)  The executive director may waive initial or renewal driver education provider [~~school~~] license fees.

SECTION 4.39.  Section 1001.301, Education Code, is amended to read as follows:

Sec. 1001.301.  EXPIRATION OF DRIVER TRAINING [~~SCHOOL OR COURSE~~] PROVIDER LICENSE. The term of a driver training [~~education school, driving safety school, or course~~] provider license may not exceed one year.

SECTION 4.40.  Section 1001.302, Education Code, is amended to read as follows:

Sec. 1001.302.  EXPIRATION OF DRIVER EDUCATION INSTRUCTOR LICENSE. The term of a driver education instructor [~~or driving safety instructor~~] license may not exceed one year.

SECTION 4.41.  Section 1001.351, Education Code, is amended to read as follows:

Sec. 1001.351.  DRIVING SAFETY [~~COURSE~~] PROVIDER RESPONSIBILITIES. (a) Not later than the 15th working day after the course completion date, a driving safety [~~course~~] provider or a person at the [~~course~~] provider's facilities shall issue and deliver by United States mail or commercial or electronic delivery a uniform certificate of course completion to a person who successfully completes an approved driving safety course.

(b)  A driving safety [~~course~~] provider shall electronically submit to the department in the manner established by the department data identified by the department relating to uniform certificates of course completion issued by the [~~course~~] provider.

[~~(c)  A course provider shall conduct driving safety instructor development courses for its approved driving safety courses.~~]

SECTION 4.42.  Section 1001.352, Education Code, is amended to read as follows:

Sec. 1001.352.  FEES FOR DRIVING SAFETY COURSE. A driving safety [~~course~~] provider shall charge each student:

(1)  at least $25 for a driving safety course; and

(2)  a fee of at least $3 for course materials and for supervising and administering the course.

SECTION 4.43.  Section 1001.353, Education Code, is amended to read as follows:

Sec. 1001.353.  DRIVER TRAINING COURSE AT PUBLIC OR PRIVATE SCHOOL. A driver training provider [~~school~~] may conduct a driver training course at a public or private school for students of the public or private school as provided by an agreement with the public or private school. The course is subject to any law applicable to a course conducted at the main business location of the driver training provider [~~school~~].

SECTION 4.44.  Section 1001.355, Education Code, is amended to read as follows:

Sec. 1001.355.  WITHHOLDING CERTAIN RECORDS. A driver training provider [~~school~~] may withhold a student's diploma or certificate of completion until the student fulfills the student's financial obligation to the provider [~~school~~].

SECTION 4.45.  Section 1001.356, Education Code, is amended to read as follows:

Sec. 1001.356.  REQUIREMENT TO CARRY LICENSE. A driver education instructor [~~or driving safety instructor~~] shall carry the person's instructor license at all times while instructing a driver education course [~~or driving safety course~~].

SECTION 4.46.  Section 1001.357, Education Code, is amended to read as follows:

Sec. 1001.357.  CONTRACT WITH UNLICENSED DRIVER TRAINING PROVIDER [~~SCHOOL~~]. A contract entered into with a person for a course of instruction by or on behalf of a person operating an unlicensed driver training provider [~~school~~] is unenforceable.

SECTION 4.47.  Section 1001.401, Education Code, is amended to read as follows:

Sec. 1001.401.  CANCELLATION AND SETTLEMENT POLICY. As a condition for obtaining a driver training [~~education school license or course~~] provider license, the [~~school or course~~] provider must maintain a cancellation and settlement policy that provides a full refund of all money paid by a student if:

(1)  the student cancels the enrollment contract before midnight of the third day, other than a Saturday, Sunday, or legal holiday, after the date the enrollment contract is signed by the student, unless the student successfully completes the course or receives a failing grade on the course examination; or

(2)  the enrollment of the student was procured as a result of a misrepresentation in:

(A)  advertising or promotional materials of the [~~school or course~~] provider; or

(B)  a representation made by an owner or employee of the [~~school or course~~] provider.

SECTION 4.48.  Section 1001.402, Education Code, is amended to read as follows:

Sec. 1001.402.  TERMINATION POLICY. (a) As a condition for obtaining a driver training provider [~~education school~~] license, the provider [~~school~~] must maintain a policy for the refund of the unused portion of tuition, fees, and other charges if a student, after expiration of the cancellation period described by Section 1001.401, does not enter the course or withdraws or is discontinued from the course at any time before completion.

(b)  The policy must provide that:

(1)  refunds are based on the period of enrollment computed on the basis of course time expressed in clock hours;

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

(A)  the last day of attendance, if the student's enrollment is terminated by the provider [~~school~~];

(B)  the date the provider [~~school~~] receives written notice from the student; or

(C)  the 10th school day after the last day of attendance;

(3)  if tuition is collected in advance of entrance and if a student does not enter the course [~~school~~], terminates enrollment, or withdraws, the provider [~~school~~]:

(A)  may retain not more than $50 as an administrative expense; and

(B)  shall refund that portion of the student's remaining classroom tuition and fees and behind-the-wheel tuition and fees that corresponds to services the student does not receive;

(4)  the provider [~~school~~] shall refund items of extra expense to the student, including instructional supplies, books, laboratory fees, service charges, rentals, deposits, and all other charges not later than the 30th day after the effective date of enrollment termination if:

(A)  the extra expenses are separately stated and shown in the information provided to the student before enrollment; and

(B)  the student returns to the provider [~~school~~] any provider [~~school~~] property in the student's possession; and

(5)  refunds shall be completed not later than the 30th day after the effective date of enrollment termination.

SECTION 4.49.  Section 1001.403, Education Code, is amended to read as follows:

Sec. 1001.403.  REFUND FOR DISCONTINUED COURSE. On the discontinuation of a course by a driver training [~~education school or a course~~] provider that prevents a student from completing the course, all tuition and fees paid become refundable.

SECTION 4.50.  Sections 1001.404(a) and (c), Education Code, are amended to read as follows:

(a)  If a refund is not timely made, the driver training [~~education school or course~~] provider shall pay interest on the amount of the refund. Interest begins to accrue on the first day after the expiration of the refund period and ends on the day preceding the date the refund is made.

(c)  The department may except a driver training [~~education school or course~~] provider from the payment of interest if the [~~school or course~~] provider makes a good-faith effort to refund tuition, fees, and other charges but is unable to locate the student to whom the refund is owed. On request of the department, the driver training [~~school or course~~] provider shall document the effort to locate a student.

SECTION 4.51.  Subchapter I, Chapter 1001, Education Code, is amended by adding Section 1001.405 to read as follows:

Sec. 1001.405.  APPLICABILITY TO PARENT-TAUGHT DRIVER EDUCATION PROVIDER. The commission shall adopt rules as necessary to ensure this subchapter applies as appropriate to a parent-taught driver education provider.

SECTION 4.52.  Section 1001.451, Education Code, is amended to read as follows:

Sec. 1001.451.  PROHIBITED PRACTICES. A person may not:

(1)  use advertising that is false, misleading, or deceptive;

(2)  fail to notify the department of the discontinuance of the operation of a driver training provider [~~school~~] before the 15th working day after the date of cessation of classes and make available accurate records as required by this chapter;

(3)  issue, sell, trade, or transfer:

(A)  a uniform certificate of course completion or driver education certificate to a person or driver training provider [~~school~~] not authorized to possess the certificate;

(B)  a uniform certificate of course completion to a person who has not successfully completed an approved[~~, six-hour~~] driving safety course; or

(C)  a driver education certificate to a person who has not successfully completed a department-approved driver education course;

(4)  negotiate a promissory instrument received as payment of tuition or another charge before the student completes 75 percent of the course, except that before that time the instrument may be assigned to a purchaser who becomes subject to any defense available against the provider [~~school~~] named as payee; or

(5)  conduct any part of an approved driver education course [~~or driving safety course~~] without having an instructor adequately available [~~physically present in appropriate proximity~~] to the student for the type of instruction being given.

SECTION 4.53.  Section 1001.452, Education Code, is amended to read as follows:

Sec. 1001.452.  COURSE OF INSTRUCTION OR PROVISION OF MATERIALS. A driver training provider [~~school~~] may not conduct a course of instruction or provide driver education course materials, as applicable, in this state before the date the provider [~~school~~] receives the necessary [~~a~~] driver training provider [~~school~~] license from the department.

SECTION 4.54.  The heading to Section 1001.453, Education Code, is amended to read as follows:

Sec. 1001.453.  DISTRIBUTION OF WRITTEN INFORMATION ON DRIVING SAFETY [~~COURSE~~] PROVIDER.

SECTION 4.55.  Sections 1001.453(a) and (b), Education Code, are amended to read as follows:

(a)  A person may not distribute within 500 feet of a court with jurisdiction over an offense to which Article 45.0511, Code of Criminal Procedure, applies written information that advertises a driving safety [~~course~~] provider.

(b)  The department may revoke the license of a driving safety [~~course~~] provider if the [~~course~~] provider or the [~~course~~] provider's agent, employee, or representative violates this section.

SECTION 4.56.  Section 1001.455, Education Code, is amended to read as follows:

Sec. 1001.455.  DENIAL, SUSPENSION, OR REVOCATION OF DRIVER EDUCATION INSTRUCTOR LICENSE. (a) The executive director or the commission may deny an application for a driver education [~~an~~] instructor license or suspend or revoke the license of a driver education [~~an~~] instructor if the instructor:

(1)  fails to meet a requirement for issuance of or holding a license under this chapter;

(2)  permits or engages in misrepresentation, fraud, or deceit in applying for or obtaining a certificate, license, or permit;

(3)  induces fraud or fraudulent practices on the part of an applicant for a driver's license or permit;

(4)  permits or engages in any other fraudulent practice in an action between the applicant or license holder and the public;

(5)  fails to comply with commission rules relating to driver instruction; or

(6)  fails to comply with this chapter.

SECTION 4.57.  Section 106.115(a), Alcoholic Beverage Code, is amended to read as follows:

(a)  On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Texas Department of Licensing and Regulation under this section or [~~,~~] a drug education program approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code[~~, or a drug and alcohol driving awareness program approved by the Texas Education Agency~~]. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend an alcohol awareness program or [~~,~~] a drug education program[~~, or a drug and alcohol driving awareness program~~] described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program or [~~,~~] a drug education program[~~, or a drug and alcohol driving awareness program~~] described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Texas Department of Licensing and Regulation or Texas Commission of Licensing and Regulation, as appropriate:

(1)  is responsible for the administration of the certification of approved alcohol awareness programs;

(2)  may charge a nonrefundable application fee for:

(A)  initial certification of the approval; or

(B)  renewal of the certification;

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

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

SECTION 4.58.  Article 45.051(b-1), Code of Criminal Procedure, is amended to read as follows:

(b-1)  If the defendant is younger than 25 years of age and the offense committed by the defendant is a traffic offense classified as a moving violation:

(1)  Subsection (b)(8) does not apply;

(2)  during the deferral period, the judge[~~:~~

[~~(A)~~]  shall require the defendant to complete a driving safety course approved under Chapter 1001, Education Code; and

[~~(B)  may require the defendant to complete an additional driving safety course designed for drivers younger than 25 years of age and approved under Section 1001.111, Education Code; and~~]

(3)  if the defendant holds a provisional license, during the deferral period the judge shall require that the defendant be examined by the Department of Public Safety as required by Section 521.161(b)(2), Transportation Code; a defendant is not exempt from the examination regardless of whether the defendant was examined previously.

SECTION 4.59.  Section 28.012(a)(3), Education Code, is amended to read as follows:

(3)  "Driver training provider [~~school~~]" has the meaning assigned by Section 1001.001.

SECTION 4.60.  Section 28.012(e), Education Code, is amended to read as follows:

(e)  Subject to rules adopted by the board, a school district or open-enrollment charter school may tailor the instruction developed under this section as appropriate for the district's or school's community. In tailoring the instruction, the district or school shall solicit input from local law enforcement agencies, driver training providers [~~schools~~], and the community.

SECTION 4.61.  Section 29.902(c), Education Code, is amended to read as follows:

(c)  A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

(1)  conduct the course and charge a fee for the course in the amount determined by the agency to be comparable to the fee charged by a driver education provider [~~school~~] that holds a license under Chapter 1001; or

(2)  contract with a driver education provider [~~school~~] that holds a license under Chapter 1001 to conduct the course.

SECTION 4.62.  Section 123.007, Government Code, is amended to read as follows:

Sec. 123.007.  USE OF OTHER DRUG AND ALCOHOL AWARENESS PROGRAMS. In addition to using a drug court program established under this chapter, the commissioners court of a county or a court may use other drug awareness [~~or drug and alcohol driving awareness~~] programs to treat persons convicted of drug or alcohol related offenses.

SECTION 4.63.  Section 521.165(e), Transportation Code, is amended to read as follows:

(e)  The department may authorize an entity described by Subsection (a), including a driver education provider [~~school~~] described by Section 521.1655, to administer the examination required by Section 521.161(b)(2).

SECTION 4.64.  Sections 521.1655(a) and (a-1), Transportation Code, are amended to read as follows:

(a)  An in-person [~~A~~] driver education provider or online driver education provider [~~school~~] licensed under Chapter 1001, Education Code, may administer to a student of that provider [~~school~~] the vision, highway sign, and traffic law parts of the examination required by Section 521.161.

(a-1)  A parent-taught driver education [~~course~~] provider licensed [~~approved~~] under Chapter 1001, Education Code, [~~Section 521.205~~] may administer to a student of that course the highway sign and traffic law parts of the examination required by Section 521.161.

SECTION 4.65.  Sections 521.206(a) and (b), Transportation Code, are amended to read as follows:

(a)  The department shall collect data regarding collisions of students taught by public schools, driver education providers [~~schools~~] licensed under Chapter 1001, Education Code, and other entities that offer driver education courses to students for which a uniform certificate of course completion is issued. The collision rate is computed by determining the number of an entity's students who complete a driver education course during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(b)  The department shall collect data regarding the collision rate of students taught by course instructors approved under Section 1001.112, Education Code. The collision rate is computed by determining the number of students who completed a course taught [~~approved~~] under that section [~~Section 1001.112, Education Code,~~] during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

SECTION 4.66.  Section 521.222(a), Transportation Code, is amended to read as follows:

(a)  The department may issue a learner license, including a Class A or Class B driver's learner license, to a person who:

(1)  is 15 years of age or older but under 18 years of age;

(2)  has satisfactorily completed and passed the classroom phase of an approved driver education course, which may be a course taught [~~approved~~] under Section 1001.112, Education Code;

(3)  meets the requirements imposed under Section 521.204(a)(3); and

(4)  has passed each examination required under Section 521.161 other than the driving test.

SECTION 4.67.  Section 542.304(a), Transportation Code, as added by Chapter 1094 (H.B. 2048), Acts of the 86th Legislature, Regular Session, 2019, is amended to conform to Section 4.40, Chapter 1352 (S.B. 346), Acts of the 86th Legislature, Regular Session, 2019, and is further amended to read as follows:

(a)  The department by rule shall designate the offenses involving the operation of a motor vehicle that constitute a moving violation of the traffic law for the purposes of:

(1)  [~~Article 102.022(a), Code of Criminal Procedure;~~

[~~(2)~~]  Section 1001.112(b)(4) [~~1001.112(a-2)~~], Education Code;

(2) [~~(3)~~]  Section 411.110(f), Government Code; and

(3) [~~(4)~~]  Sections 773.0614(b) and 773.06141(a), Health and Safety Code.

SECTION 4.68.  The following provisions are repealed:

(1)  Article 45.0511(u), Code of Criminal Procedure;

(2)  Sections 1001.001(4), (7), (10), (11), and (14), Education Code;

(3)  Section 1001.056(f), Education Code;

(4)  Section 1001.1015(c), Education Code;

(5)  Sections 1001.103 and 1001.111, Education Code;

(6)  Section 1001.151(e), Education Code;

(7)  Sections 1001.205 and 1001.208, Education Code;

(8)  Section 1001.251(b), Education Code;

(9)  Section 1001.2531(a), Education Code;

(10)  Sections 1001.2532, 1001.2533, 1001.2534, 1001.2535, 1001.303, 1001.304, 1001.354, 1001.3541, and 1001.3542, Education Code;

(11)  the heading to Subchapter K, Chapter 1001, Education Code;

(12)  Section 545.412(g), Transportation Code; and

(13)  Section 545.413(i), Transportation Code.

SECTION 4.69.  On December 1, 2021:

(1)  the terms of members serving on the driver training and traffic safety advisory committee under Section 1001.058, Education Code, immediately before that date expire; and

(2)  the presiding officer of the Texas Commission of Licensing and Regulation shall appoint members of the driver training and traffic safety advisory committee in accordance with Section 1001.058, Education Code, as amended by this article, with initial terms as follows:

(A)  three members to terms expiring February 1, 2023;

(B)  three members to terms expiring February 1, 2025; and

(C)  three members to terms expiring February 1, 2027.

SECTION 4.70.  Not later than January 1, 2022, the Texas Department of Licensing and Regulation and the Department of Public Safety of the State of Texas shall enter into the memorandum of understanding required by Section 1001.060, Education Code, as added by this article.

SECTION 4.71.  (a) Not later than January 1, 2023, the Texas Commission of Licensing and Regulation shall adopt rules necessary to implement the changes in law made by this article to Chapter 1001, Education Code.

(b)  A driver education school license, driving safety school license, or course provider license issued under Chapter 1001, Education Code, before the date the Texas Department of Licensing and Regulation implements the changes described in Subsection (a) of this section continues to be valid until the date the license expires. On expiration of that license, the license holder shall apply for a new license under Chapter 1001, Education Code, as amended by this article, to continue to provide services for which a license is required by that chapter.

SECTION 4.72.  The changes in law made by this article to Section 106.115, Alcoholic Beverage Code, and Article 45.051, Code of Criminal Procedure, with respect to participation in a court-ordered program or course, apply to a court order entered on or after the effective date of this Act. A court order entered before that date is governed by the law in effect on the date the order was entered, and the former law is continued in effect for that purpose.

SECTION 4.73.  To the extent of any conflict, this article prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

ARTICLE 5. EFFECTIVE DATE

SECTION 5.01.  This Act takes effect September 1, 2021.