

By: Goldman

H.B. No. 1560

A BILL TO BE ENTITLED

AN ACT

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

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

ARTICLE 1. GENERAL POWERS AND DUTIES

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

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

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

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

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

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

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

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

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

7           ~~[(5) the current budget for the department,~~

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

10          (5) ~~[(7)]~~ the requirements of:

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

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

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

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

21          (6) ~~[(8)]~~ any applicable ethics policies adopted by  
22 the department or the Texas Ethics Commission.

23          (d) The executive director of the department shall create a  
24 training manual that includes the information required by  
25 Subsection (b). The executive director shall distribute a copy of  
26 the training manual annually to each member of the commission. Each  
27 member of the commission shall sign and submit to the executive

1 director a statement acknowledging that the member received and has  
2 reviewed the training manual.

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

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

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

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

27 Sec. 51.2095. INTERDISCIPLINARY ADVISORY BOARDS. The

1 executive director or the presiding officer of the commission may  
2 appoint interdisciplinary advisory boards consisting of members  
3 from various businesses, industries, general trades, or  
4 occupations to provide expertise related to a program regulated by  
5 the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (1) the number of license holders;

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

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

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

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

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

25 (D) the number of complaints resulting in  
26 disciplinary action, the disciplinary action taken, and whether the  
27 disciplinary action was imposed by an agreed settlement or default

1 order issued by the executive director or a final order issued by  
2 the commission;

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

5 (i) complaints opened for investigation;  
6 and

7 (ii) cases that resulted in disciplinary  
8 action; and

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

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

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

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

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

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

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

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

1 administrative penalty or sanction.

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

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

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

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

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

20 (b) Notwithstanding other law, the commission by rule may:

21 (1) establish a minimum number of hours of continuing  
22 education required for license renewal;

23 (2) provide for the registration and renewal of  
24 continuing education providers and the approval of continuing  
25 education courses; and

26 (3) assess reasonable and necessary fees on continuing  
27 education providers.

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

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

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

12               (1) the name of the applicable business entity;

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

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

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

18 and

19                       (B) is not otherwise disclosed under Subdivision  
20 (2);

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

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

26                       (A) a partner;

27                       (B) an officer;

1           (C) a director;

2           (D) a managing employee;

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

4 and

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

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

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

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

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

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

27                   (2) discloses a relationship for which disclosure is

1 required by rules adopted under this section with a person who has  
2 failed to comply with an order of the commission or executive  
3 director.

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

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

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

13 (2) nonpayment of the license renewal fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (1) at least half of the required hours in a program

1 devoted to one or more of the topics listed in Section 1151.164(b);  
2 and

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

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

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

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

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

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

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

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

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

26 Sec. 1958.104. RULES REGARDING LICENSE APPLICATION. The  
27 commission shall adopt rules regarding a license application. The

1 commission shall adopt rules that establish minimum requirements  
2 for a license, including:

- 3 (1) the type of license;
- 4 (2) the qualifications for the license, including any  
5 previous training required under Section 1958.106;
- 6 (3) renewal requirements for the license [~~, including~~  
7 ~~ongoing continuing education required under Section 1958.106~~]; and
- 8 (4) liability insurance requirements for the license.

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

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

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

- 18 (1) accreditation by the department;
- 19 (2) curriculum requirements; and
- 20 (3) qualifications.

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

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

1 ~~continuing education program before the license holder may renew~~  
2 ~~the license holder's license.~~

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

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

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

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

13 SECTION 1.22. Section [2308.159\(c\)](#), Occupations Code, is  
14 amended to read as follows:

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

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

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

22 (3) paying a renewal fee; and

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

25 SECTION 1.23. The following provisions are repealed:

26 (1) Section [1001.058\(h\)](#), Education Code;

27 (2) Section [469.053\(e\)](#), Government Code;

- 1 (3) Section 754.012(d), Health and Safety Code;
- 2 (4) Section 754.0174, Health and Safety Code;
- 3 (5) Section 755.016, Health and Safety Code;
- 4 (6) Section 51.0021, Occupations Code;
- 5 (7) Section 51.252(d), Occupations Code;
- 6 (8) Section 202.305, Occupations Code;
- 7 (9) Section 202.5085, Occupations Code;
- 8 (10) Section 203.304, Occupations Code;
- 9 (11) Section 203.406, Occupations Code;
- 10 (12) Section 401.355, Occupations Code;
- 11 (13) Section 403.152, Occupations Code;
- 12 (14) Section 455.0571, Occupations Code;
- 13 (15) Section 506.105, Occupations Code;
- 14 (16) Section 605.261, Occupations Code;
- 15 (17) Section 701.303, Occupations Code;
- 16 (18) Section 701.512, Occupations Code;
- 17 (19) Section 802.065(e), Occupations Code;
- 18 (20) Section 1302.208(a), Occupations Code;
- 19 (21) Section 1305.055, Occupations Code;
- 20 (22) Section 1901.107(a), Occupations Code;
- 21 (23) Section 1952.1051, Occupations Code;
- 22 (24) Section 1958.056(b), Occupations Code;
- 23 (25) Section 2303.056(b), Occupations Code;
- 24 (26) Section 2308.055, Occupations Code;
- 25 (27) Section 2309.056, Occupations Code; and
- 26 (28) Section 2309.106(a), Occupations Code.

27 SECTION 1.24. (a) Except as provided by Subsection (b) of

1 this section, Section 51.054, Occupations Code, as amended by this  
2 article, applies to a member of the Texas Commission of Licensing  
3 and Regulation appointed before, on, or after the effective date of  
4 this Act.

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

15 ARTICLE 2. DEREGULATION

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

- 18 (1) Chapter 1703; and  
19 (2) Section 2052.002(11-a).

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

22 (d) A polygraph examination required as a condition of  
23 probation under Subsection (a) must be administered by an  
24 individual who is [+

25 [~~1~~] specified by the local juvenile probation  
26 department supervising the child [~~+~~ and

27 [~~2~~] licensed as a polygraph examiner under Chapter

1 ~~1703, Occupations Code~~].

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

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

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

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

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

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

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

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

24 (d) A polygraph examination required as a condition of  
25 release under Subsection (a) must be administered by an individual  
26 who is [+

27 ~~(1)]~~ specified by the department [~~, and~~

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

3           SECTION 2.05. Section [2052.107](#), Occupations Code, is  
4 amended to read as follows:

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

- 8           (1) professional contestant;
- 9           (2) manager of a professional contestant;
- 10          (3) referee; or
- 11          (4) judge [~~+~~
- 12          ~~[(5) second,~~
- 13          ~~[(6) matchmaker, or~~
- 14          ~~[(7) event coordinator].~~

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

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

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

26          SECTION 2.09. Not later than January 1, 2023, the Texas  
27 Department of Licensing and Regulation, in consultation with the

1 Auctioneer Advisory Board and the advisory committee established  
2 under Section 1001.058, Education Code, shall study the regulation  
3 of auctioneering and driver training and prepare a report with any  
4 findings and recommendations to improve public safety and the  
5 department's processes and to eliminate inefficiencies, including  
6 any necessary legislative changes. In conducting the study, the  
7 department may consult with any interested organizations,  
8 associations, and stakeholders. The department shall submit the  
9 report to the standing legislative committees with jurisdiction  
10 over the department.

11 ARTICLE 3. BARBERING AND COSMETOLOGY

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

14 Sec. 1603.001. GENERAL DEFINITIONS. [~~a~~] In this  
15 chapter:

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

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

20 (3) [~~2~~] "Department" means the Texas Department of  
21 Licensing and Regulation.

22 (4) "Establishment" means a place:

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

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

27 (5) [~~3~~] "Executive director" means the executive

1 director of the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16           (5) administering facial treatments;

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

20           (7) treating a person's nails by:

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

23           (B) attaching false nails;

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

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

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

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

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

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

- 18               (1) prevent the razor from cutting too deeply; and  
19               (2) reduce the risk and incidence of accidental cuts.

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

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

26               (2) servicing a person's wig, toupee, or artificial  
27 hairpiece on a person's head or on a block after the initial retail

1 sale in any manner described by Section 1603.0011(a)(1).

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

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

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

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

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

15 (2) provides a service in an emergency;

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

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

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

26 (6) provides an incidental cosmetic service, or owns,  
27 operates, or manages the location where that service is provided,

1 if the primary purpose of the service is to enable or assist the  
2 recipient of the service to participate as the subject of:

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

6 (B) a television appearance; or

7 (C) the filming of a motion picture; or

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

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

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

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

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

24 ADVISORY BOARD

25 Sec. 1603.051. ADVISORY BOARD; MEMBERSHIP. The Barbering  
26 and Cosmetology Advisory Board consists of nine members appointed  
27 by the presiding officer of the commission, with the commission's

1 approval, as follows:

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

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

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

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

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

11 (4) one member who represents the public.

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

15 (1) education and curricula for applicants;

16 (2) the content of examinations;

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

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

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

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

27 (b) If a vacancy occurs during a member's term, the

1 presiding officer of the commission, with the commission's  
2 approval, shall appoint a replacement to fill the unexpired term.

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

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

9 Sec. 1603.101. RULES. The commission shall adopt rules  
10 consistent with this chapter for[+]

11 [~~(1)~~] the administration of this chapter and the  
12 operations of the department in regulating barbering and  
13 cosmetology[+ and

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

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

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

22 SECTION 3.07. The heading to Section 1603.104, Occupations  
23 Code, is amended to read as follows:

24 Sec. 1603.104. [~~PERIODIC~~] INSPECTIONS.

25 SECTION 3.08. Sections 1603.104(a) and (d), Occupations  
26 Code, are amended to read as follows:

27 (a) The department may enter and inspect at any time during

1 business hours:

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

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

9 (d) An inspector who discovers a violation of this chapter [~~Chapter~~  
10 ~~1601, or Chapter 1602~~] or of a rule or order of the  
11 commission or executive director shall[~~+~~

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

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

16 SECTION 3.09. Section 1603.1045, Occupations Code, is  
17 amended to read as follows:

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

22 SECTION 3.10. Subchapter C, Chapter 1603, Occupations Code,  
23 is amended by adding Section 1603.106 to read as follows:

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

1 have a specific:

2 (1) square footage of floor space;

3 (2) number of chairs; or

4 (3) number of sinks.

5 SECTION 3.11. Section 1603.151, Occupations Code, is  
6 amended to read as follows:

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

14 (1) on each registration form, application, or written  
15 contract for services of a person regulated under this chapter[~~7~~  
16 ~~Chapter 1601, or Chapter 1602~~];

17 (2) on a sign prominently displayed in the place of  
18 business of each person regulated under this chapter[~~7~~ ~~Chapter~~  
19 ~~1601, or Chapter 1602~~]; or

20 (3) in a bill for service provided by a person  
21 regulated under this chapter[~~7~~ ~~Chapter 1601, or Chapter 1602~~].

22 SECTION 3.12. The heading to Subchapter E, Chapter 1603,  
23 Occupations Code, is amended to read as follows:

24 SUBCHAPTER E. GENERAL [~~CERTIFICATE~~] LICENSE[~~7~~] AND PERMIT  
25 PROVISIONS [~~REQUIREMENTS~~]

26 SECTION 3.13. Subchapter E, Chapter 1603, Occupations Code,  
27 is amended by adding Section 1603.2001 to read as follows:

1        Sec. 1603.2001. RULES FOR ISSUANCE OF LICENSE OR PERMIT.

2        (a) The commission by rule shall establish requirements for the  
3 issuance of:

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

6                (2) a student permit.

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

10                (1) minimum age;

11                (2) education level; and

12                (3) completed hours of instruction.

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

18        (d) Requirements established under this section:

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

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

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

26        SECTION 3.14. Sections 1603.201 and 1603.202, Occupations  
27 Code, are amended to read as follows:

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

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

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

9                   (2) pays the required fee.

10           SECTION 3.15. Subchapter **E**, Chapter **1603**, Occupations Code,  
11 is amended by adding Section 1603.2025 to read as follows:

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

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

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

18           SECTION 3.16. Sections **1603.203** and **1603.204**, Occupations  
19 Code, are amended to read as follows:

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

24                   (1) has been licensed in good standing in the  
25 profession for which the person seeks the ~~[certificate or]~~ license  
26 for at least two years in another jurisdiction, including a foreign  
27 country, that has requirements substantially equivalent to the

1 requirements of this chapter [~~Chapter 1601, or Chapter 1602, as~~  
2 ~~appropriate~~]; and

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

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

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

14 (2) the provisional [~~certificate or~~] license holder  
15 passes the part of the examination [~~under Chapter 1601 or Chapter~~  
16 ~~1602~~] that relates to the applicant's knowledge and understanding  
17 of the laws and rules relating to the practice of the profession in  
18 this state and:

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

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

24 (c) The department must approve or deny a provisional  
25 [~~certificate or~~] license holder's application for a [~~certificate~~  
26 ~~or~~] license not later than the 180th day after the date the  
27 provisional [~~certificate or~~] license is issued. The department may

1 extend the 180-day period if the results of an examination have not  
2 been received by the department before the end of that period.

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

12       (b) The person must:

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

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

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

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

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

26       SECTION 3.17. Sections 1603.208(a)(2) and (3), Occupations  
27 Code, are amended to read as follows:

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

5                   (A) prearranged through a digital network; and

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

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

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

17           (c) Sections 1603.2110 and 1603.2111 [~~1601.453, 1601.455,~~  
18 ~~1602.251(c), and 1602.407~~] do not apply to a digitally prearranged  
19 remote service scheduled through a remote service business.

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

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

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

27           (f) Before a person licensed~~[, registered, or permitted]~~ to

1 practice barbering or cosmetology performs a digitally prearranged  
2 remote service for a client requesting the service, a remote  
3 service business must [~~shall~~] provide through the entity's digital  
4 network:

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

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

8 (B) the [~~number of the~~] person's license number [~~7~~  
9 ~~certificate of registration, or permit, as applicable~~]; and

10 (C) a photograph of the person;

11 (2) the following information regarding the business:

12 (A) Internet website address; and

13 (B) telephone number; and

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

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

20 (1) the date the service was provided;

21 (2) a description of the service;

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

24 (4) the [~~number of the~~] person's license number [~~7~~  
25 ~~certificate of registration, or permit, as applicable~~];

26 (5) the following information regarding the business:

27 (A) Internet website address; and

- 1 (B) telephone number; and
- 2 (6) the department's Internet website address and
- 3 telephone number and notice that the client may contact the
- 4 department to file a complaint against the business or person.
- 5 (i) A remote service business shall terminate a person's
- 6 access to the business's digital network if the business or
- 7 department determines the person violated:
- 8 (1) this chapter; or
- 9 (2) a rule adopted under this chapter[+]
- 10 [~~(3) Chapter 1601 or 1602; or~~
- 11 [~~(4) a rule adopted under Chapter 1601 or 1602~~].

12 SECTION 3.19. Subchapter E, Chapter 1603, Occupations Code,

13 is amended by adding Section 1603.209 to read as follows:

14 Sec. 1603.209. INFECTIOUS AND CONTAGIOUS DISEASES. (a) A

15 person holding a license or permit issued under Subchapter E-1 may

16 not perform any practice of barbering or cosmetology if the person

17 knows the person is suffering from an infectious or contagious

18 disease for which the person is not entitled to protection under the

19 federal Americans with Disabilities Act of 1990 (42 U.S.C. Section

20 12101 et seq.).

21 (b) A person holding an establishment or school license may

22 not employ a person to perform any practice of barbering or

23 cosmetology or to instruct in the practice of barbering or

24 cosmetology if the license holder knows that the person is

25 suffering from an infectious or contagious disease for which the

26 person is not entitled to protection under the federal Americans

27 with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

1 SECTION 3.20. Chapter 1603, Occupations Code, is amended by  
2 adding Subchapters E-1, E-2, and E-3 to read as follows:

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

5 Sec. 1603.2101. INDIVIDUAL PRACTITIONER LICENSE OR STUDENT  
6 PERMIT REQUIRED; USE OF CERTAIN TERMS WITHOUT LICENSE PROHIBITED.

7 (a) A person may not perform or offer or attempt to perform any act  
8 of barbering or cosmetology unless the person holds a license or  
9 permit issued under this subchapter to perform that act.

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

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

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

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

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

22 (1) meets the applicable eligibility requirements;

23 (2) passes the applicable examination;

24 (3) pays the required fee;

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

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

1 department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11           (1) meets the applicable eligibility requirements;

12           (2) has completed:

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

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

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

22                           (ii) has completed 15 semester hours in  
23 education courses from an accredited college or university in the  
24 10-year period preceding the date of the application; or

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

27           (3) passes the applicable examination;

1           (4) pays the required fee;

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

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

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

9           Sec. 1603.2106. WAIVER OF CERTAIN LICENSE REQUIREMENTS.

10          (a) The department may waive any requirement for a license issued  
11 under this subchapter for an applicant holding a license from  
12 another jurisdiction that has license requirements substantially  
13 equivalent to those of this state.

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

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

18                 (2) pays the application fee; and

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

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

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

27          Sec. 1603.2107. STUDENT PERMIT. (a) A student enrolled in

1 a school licensed under Subchapter E-3 must hold a permit stating  
2 the student's name and the name of the school.

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

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

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

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

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

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

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

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

26 (b) The holder of a student permit issued under this  
27 subchapter shall display the permit in a reasonable manner at the

1 school in which the permit holder is enrolled.

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

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

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

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

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

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

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

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

20 SUBCHAPTER E-2. ESTABLISHMENT LICENSES; OPERATION

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

25 (b) A person may not lease space on the premises of a  
26 licensed establishment to engage in the practice of barbering or  
27 cosmetology as an independent contractor unless the person holds a

1 license issued under Subchapter E-1.

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

5 (1) the applicant:

6 (A) owns or rents the establishment;

7 (B) verifies the application;

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

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

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

14 (2) the establishment:

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

17 (B) complies with all commission rules.

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

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

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

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

27 (4) a manicurist/esthetician specialty establishment

1 may provide any service described by Section 1603.0011(a)(3), (4),  
2 (5), (6), (7), or (8) or (c);

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

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

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

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

11 (b) In this section:

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

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

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

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

27 (b) A person may not perform an act for which a license is

1 required in a room in an establishment that is used as sleeping  
2 quarters.

3 SUBCHAPTER E-3. SCHOOL LICENSES; OPERATION

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

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

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

13 (2) pays the required fee;

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

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

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

20 Sec. 1603.2303. SCHOOL LICENSES; INSTRUCTORS; ENFORCEMENT.

21 (a) The holder of a public secondary school license, public  
22 postsecondary school license, or private postsecondary school  
23 license:

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

27 (2) may only employ to provide the instruction

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

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

6 Sec. 1603.2304. CHANGE OF SCHOOL OWNERSHIP OR LOCATION.

7 (a) If a licensed school changes ownership:

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

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

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

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

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

22 (2) a manner prescribed by the department.

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

26 (1) a course outline;

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

1           (3) the school's refund policy required under Section  
2 1603.3602;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           (1) maintain a sanitary premises;
- 2           (2) establish regular class and instruction hours and  
3 grades;
- 4           (3) hold examinations before issuing diplomas; and
- 5           (4) maintain a copy of the school's curriculum in a  
6 conspicuous place and verify that the curriculum is being followed.

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

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

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

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

- 23           (1) the stated courses and hours have been  
24 successfully completed; and
- 25           (2) the student is not required to repeat the hours of  
26 instruction.

27           Sec. 1603.2314. IDENTIFICATION OF AND WORK PERFORMED BY

1 STUDENT. (a) Each licensed school shall maintain in a conspicuous  
2 place a list of the names and identifying pictures of the students  
3 who are enrolled in the school's courses.

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

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

9 SECTION 3.21. Section 1603.252(b), Occupations Code, is  
10 amended to read as follows:

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

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

17 Sec. 1603.253. WRITTEN EXAMINATION. The department  
18 [~~commission~~] shall select an examination for each written  
19 examination required under this chapter [~~, Chapter 1601, or Chapter~~  
20 ~~1602~~]. The written examination must be:

21 (1) validated by an independent testing professional;

22 or

23 (2) purchased from a national testing service.

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

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

3           ~~[(2) 900 hours for a student seeking an operator~~  
4 ~~license in a private cosmetology school, or~~

5           ~~[(3) 900 hours for a student seeking a Class A barber~~  
6 ~~certificate or operator license in a publicly funded barber or~~  
7 ~~cosmetology school].~~

8           SECTION 3.23. Sections 1603.256(a) and (c), Occupations  
9 Code, are amended to read as follows:

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

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

15                 (1) the department;

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

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

22                 (4) the Windham School District.

23           SECTION 3.24. Subchapter G, Chapter 1603, Occupations Code,  
24 is amended to read as follows:

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

26                 Sec. 1603.3001. LICENSE TERMS. (a) Except as provided by  
27 Subsection (b), a license other than a temporary license expires on

1 the second anniversary of the date the license is issued.

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

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

7 (b) The commission may establish separate requirements for:

8 (1) the initial renewal of a license; and

9 (2) subsequent renewals of a license.

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

13 (1) identifying and assisting trafficked persons; and

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

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

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

20 (2) any renewal fee.

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

25 (b) The department shall issue a renewal license on  
26 application and payment of the required renewal fee not later than  
27 the 90th day after the date the person is released or discharged

1 from active duty in the United States armed forces.

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

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

10                   (2) the person has requested a hearing under Section  
11 51.304, but the person's time to pay has not expired under Section  
12 51.307; or

13                   (3) the penalty is stayed.

14           SECTION 3.25. The heading to Subchapter H, Chapter 1603,  
15 Occupations Code, is amended to read as follows:

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

18           SECTION 3.26. Section 1603.351, Occupations Code, is  
19 amended to read as follows:

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

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

27                           (1) authorize a licensed school [~~licensed under this~~

1 ~~chapter, Chapter 1601, or Chapter 1602]~~ to account for any hours of  
2 instruction completed under this chapter [~~those chapters~~] on the  
3 basis of clock hours or credit hours; and

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

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

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

14 SECTION 3.27. Sections 1603.352(a) and (b), Occupations  
15 Code, are amended to read as follows:

16 (a) A person who holds a license [~~, certificate,~~] or permit  
17 issued under this chapter [~~, Chapter 1601, or Chapter 1602~~] and who  
18 performs a [~~barbering service described by Section 1601.002(1)(E)~~  
19 ~~or (F) or a cosmetology~~] service described by Section  
20 1603.0011(a)(7) or (8) [~~1602.002(a)(8) or (9)~~] shall, before  
21 performing the service, clean, disinfect, and sterilize with an  
22 autoclave or dry heat sterilizer or sanitize with an ultraviolet  
23 sanitizer, in accordance with the sterilizer or sanitizer  
24 manufacturer's instructions, each metal instrument, including  
25 metal nail clippers, cuticle pushers, cuticle nippers, and other  
26 metal instruments, used to perform the service.

27 (b) The owner or manager of a licensed establishment or

1 ~~[barber shop, barber] school[, beauty shop, specialty shop, beauty~~  
2 ~~culture school, or other facility licensed under this chapter,~~  
3 ~~Chapter 1601, or Chapter 1602,]~~ is responsible for providing an  
4 autoclave, a dry heat sterilizer, or an ultraviolet sanitizer for  
5 use in the establishment ~~[shop]~~ or school as required by Subsection  
6 (a).

7 SECTION 3.28. Subchapter H, Chapter 1603, Occupations Code,  
8 is amended by adding Sections 1603.353, 1603.354, 1603.355,  
9 1603.356, 1603.357, and 1603.358 to read as follows:

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

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

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

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

26 Sec. 1603.356. DISPLAY OF HUMAN TRAFFICKING INFORMATION.  
27 (a) A licensed school or establishment shall display a sign

1 approved by or acceptable to the commission or the department  
2 concerning services and assistance available to victims of human  
3 trafficking.

4 (b) The sign required by this section must:

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

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

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

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

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

20 SECTION 3.29. Chapter 1603, Occupations Code, is amended by  
21 adding Subchapter H-1 to read as follows:

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

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

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

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

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

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

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

15           (1) fails to enter the course of training;

16           (2) withdraws from the course of training; or

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

19          (b) The refund policy must provide that:

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

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

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

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

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

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

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

8           (B) the student does not begin the course of  
9 training before the cancellation period established under Section  
10 1603.3601 expires.

11           Sec. 1603.3603. WITHDRAWAL OR TERMINATION OF STUDENT. (a)

12 If a student at a private postsecondary school begins a course of  
13 training that is scheduled to run not more than 12 months and,  
14 during the last 50 percent of the course, withdraws from the course  
15 or is terminated by the school, the school:

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

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

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

24           (1) 90 percent of any outstanding tuition for a  
25 withdrawal or termination that occurs during the first week or  
26 first 10 percent of the course, whichever period is shorter;

27           (2) 80 percent of any outstanding tuition for a

1 withdrawal or termination that occurs after the first week or first  
2 10 percent of the course, whichever period is shorter, but within  
3 the first three weeks of the course;

4 (3) 75 percent of any outstanding tuition for a  
5 withdrawal or termination that occurs after the first three weeks  
6 of the course but not later than the completion of the first 25  
7 percent of the course; and

8 (4) 50 percent of any outstanding tuition for a  
9 withdrawal or termination that occurs not later than the completion  
10 of the first 50 percent of the course.

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

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

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

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

26 (d) The department may exempt a school from the payment of  
27 interest if the school makes a good faith effort to refund the

1 tuition but is unable to locate the student. The school shall  
2 provide to the department on request documentation of the effort to  
3 locate the student.

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

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

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

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

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

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

25 (b) If a student from a closed school is placed in another  
26 private postsecondary school, the expense incurred by the school in  
27 providing training directly related to educating the student,

1 including the applicable tuition for the period for which the  
2 student paid tuition, shall be paid from the barbering and  
3 cosmetology school tuition protection account.

4 (c) If a student from a closed private postsecondary school  
5 cannot be placed in another private postsecondary school, the  
6 student's tuition and fees shall be refunded as provided by Section  
7 1603.3602. If a student from a closed private postsecondary school  
8 does not accept a place that is available and reasonable in another  
9 private postsecondary school, the student's tuition and fees shall  
10 be refunded as provided by Section 1603.3603. A refund under this  
11 subsection shall be paid from the barbering and cosmetology school  
12 tuition protection account. The amount of the refund may not exceed  
13 \$35,000.

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

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

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

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

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

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

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

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

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

12        SECTION 3.30. Section 1603.401, Occupations Code, is  
13 amended to read as follows:

14        Sec. 1603.401. DENIAL, SUSPENSION, OR REVOCATION. The  
15 department may [~~shall~~] deny an application for issuance or renewal  
16 of, or may [~~shall~~] suspend or revoke, a [~~certificate,~~] license[~~7~~]  
17 or permit if the applicant or person holding the [~~certificate,~~]  
18 license[~~7~~] or permit:

19                (1) engages in gross malpractice;

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

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

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

26                (5) engages in fraud or deceit in obtaining a  
27 [~~certificate,~~] license[~~7~~] or permit; or

1           (6) engages in an act that violates this chapter or [~~7~~]  
2 Chapter 51 [~~7, Chapter 1601, or Chapter 1602~~] or a rule or order  
3 adopted or issued under this chapter or Chapter 51 [~~these~~  
4 ~~chapters~~].

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

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

8           SECTION 3.32. Sections 1603.453 and 1603.454, Occupations  
9 Code, are amended to read as follows:

10          Sec. 1603.453. APPEAL BOND NOT REQUIRED. The department is  
11 not required to give an appeal bond in a cause arising under this  
12 chapter [~~7, Chapter 1601, or Chapter 1602~~].

13          Sec. 1603.454. ENFORCEMENT BY ATTORNEY GENERAL. The  
14 attorney general shall represent the department in an action to  
15 enforce this chapter [~~7, Chapter 1601, or Chapter 1602~~].

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

- 18           (1) Chapters 1601 and 1602;
- 19           (2) Sections 1603.104(b), (c), and (c-1);
- 20           (3) Section 1603.205;
- 21           (4) Section 1603.206;
- 22           (5) Section 1603.207;
- 23           (6) Section 1603.254;
- 24           (7) Section 1603.451;
- 25           (8) Section 1603.452;
- 26           (9) Section 1603.455; and
- 27           (10) Section 1603.456.

1           SECTION 3.34. (a) To ensure that licensed schools offering  
2 instruction in barbering and cosmetology maintain accreditation  
3 and that students of those schools continue to qualify for federal  
4 aid, the Texas Commission of Licensing and Regulation shall, as  
5 soon as practicable after the effective date of this Act, adopt any  
6 rules necessary for the orderly implementation of the changes in  
7 law made by this article to the licensing system and curricula  
8 requirements and standards for schools offering instruction in  
9 barbering and cosmetology.

10           (b) Not later than September 1, 2023:

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

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

18           SECTION 3.35. Notwithstanding the repeal by this article of  
19 Chapters 1601 and 1602, and Sections 1603.205, 1603.206, and  
20 1603.207, Occupations Code, the Texas Department of Licensing and  
21 Regulation may continue to issue until September 1, 2023, a  
22 certificate, license, or permit under those provisions as they  
23 existed immediately before the effective date of this Act, and  
24 those provisions are continued in effect for that purpose.

25           SECTION 3.36. Notwithstanding the repeal by this article of  
26 Chapters 1601 and 1602, Occupations Code, until the Texas  
27 Commission of Licensing and Regulation adopts rules regarding

1 written and practical examination requirements for the issuance of  
2 licenses under Chapter 1603, Occupations Code, as amended by this  
3 article, the Texas Department of Licensing and Regulation shall  
4 continue to operate under the requirements regarding written and  
5 practical examinations in former Chapters 1601 and 1602,  
6 Occupations Code, as those chapters were in effect immediately  
7 before the effective date of this Act, and those provisions are  
8 continued in effect for that purpose.

9 SECTION 3.37. (a) A certificate, license, or permit issued  
10 under former Chapter 1601 or 1602, Occupations Code, or under  
11 former Section 1603.205, 1603.206, or 1603.207, Occupations Code,  
12 before September 1, 2023, continues to be valid until the  
13 certificate, license, or permit expires, and those chapters and  
14 sections are continued in effect for that purpose.

15 (b) A person who on the effective date of this Act holds a  
16 certificate, license, or permit issued under former Chapter 1601 or  
17 1602, Occupations Code, or under former Section 1603.205, 1603.206,  
18 or 1603.207, Occupations Code, is entitled on expiration of that  
19 certificate, license, or permit to issuance of a comparable license  
20 or permit under the applicable provision of Chapter 1603,  
21 Occupations Code, as amended by this article, if the person  
22 otherwise meets the requirements for the license or permit.

23 SECTION 3.38. Notwithstanding any other law, on the  
24 effective date of this Act, the holder of a license issued under  
25 former Section 1601.256, 1601.262, or 1601.263, Occupations Code,  
26 before the effective date of this Act may perform the services  
27 described by Sections 1603.0011(a)(6) and (c), Occupations Code, as

1 added by this Act.

2 SECTION 3.39. (a) Not later than December 1, 2021, the  
3 presiding officer of the Texas Commission of Licensing and  
4 Regulation shall appoint members to the Barbering and Cosmetology  
5 Advisory Board in accordance with Section 1603.051, Occupations  
6 Code, as amended by this article.

7 (b) On December 1, 2021, the Advisory Board on Barbering and  
8 the Advisory Board on Cosmetology are abolished.

9 (c) Notwithstanding Section 1603.053, Occupations Code, as  
10 added by this article, in making the initial appointments to the  
11 Barbering and Cosmetology Advisory Board, the presiding officer of  
12 the Texas Commission of Licensing and Regulation shall designate  
13 three members of the advisory board to serve terms expiring January  
14 31, 2023, three members to serve terms expiring January 31, 2025,  
15 and three members to serve terms expiring January 31, 2027.

16 SECTION 3.40. As soon as practicable after the effective  
17 date of this Act, the comptroller of public accounts shall transfer  
18 to the barbering and cosmetology school tuition protection account  
19 the unexpended and unencumbered balance of the barber school  
20 tuition protection account and the unexpended and unencumbered  
21 balance of the private beauty culture school tuition protection  
22 account.

23 SECTION 3.41. (a) The changes in law made by this article  
24 do not affect the validity of a disciplinary action or other  
25 proceeding that was initiated before the effective date of this Act  
26 and that is pending on the effective date of this Act. A  
27 disciplinary action that is pending on the effective date of this

1 Act is governed by the law in effect immediately before the  
2 effective date of this Act, and the former law is continued in  
3 effect for that purpose.

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

7 ARTICLE 4. RESIDENTIAL SERVICE CONTRACTS

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

10 Sec. 1101.006. APPLICATION OF SUNSET ACT. The Texas Real  
11 Estate Commission is subject to Chapter 325, Government Code (Texas  
12 Sunset Act). Unless continued in existence as provided by that  
13 chapter, the commission is abolished and this chapter and [7]  
14 Chapter 1102 [~~, and Chapter 1303~~] of this code and Chapter 221,  
15 Property Code, expire September 1, 2025.

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

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

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

27 (B) provide identity recovery, if the service

1 contract is financed under Chapter 348 or 353, Finance Code; ~~[or]~~

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

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

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

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

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

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

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

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

27 (1) incidental payment or indemnity under limited

1 circumstances, including towing, rental, and emergency road  
2 service;

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

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

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

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

12 (b) This chapter does not apply to:

13 (1) a warranty;

14 (2) a maintenance agreement;

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

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

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

22 (5) ~~[(6)]~~ a service contract sold by a motor vehicle  
23 dealer on a motor vehicle sold by that dealer, if the dealer:

24 (A) is the provider;

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

27 (C) covers its obligations under the service

1 contract with a reimbursement insurance policy; or

2 (6) [~~(7)~~] a contract offered by a local exchange  
3 telephone company that provides for the repair of inside telephone  
4 wiring, if:

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

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

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

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

14 (1) a performance guarantee offered by:

15 (A) the builder of a residential property; or

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

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

20 (3) a guarantee or warranty that is:

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

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

27 (4) a service or maintenance agreement or a warranty

1 that:

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

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

10 (5) home warranty insurance as defined by Section  
11 2005.001, Insurance Code.

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

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

- 17 (1) [~~Chapter 1303,~~  
18 [~~2~~] Chapter 722, Transportation Code; and  
19 (2) [~~3~~] the Insurance Code and other laws of this  
20 state regulating the business of insurance.

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

24 (b) If the provider ensures its obligations under  
25 Subsection (a)(2), the amount maintained in the reserve account may  
26 not be less than an amount equal to 40 percent of the gross  
27 consideration the provider received from consumers from the sale of

1 all service contracts issued and outstanding in this state, minus  
2 any claims paid. The executive director may review and examine the  
3 reserve account. Except as provided by Subsections [~~Subsection~~  
4 (b-1) and (b-4)], the amount of the security deposit may not be less  
5 than \$250,000. The provider must submit to the executive director  
6 on request a copy of the provider's financial statements that must  
7 be prepared in accordance with generally accepted accounting  
8 principles, be without qualification as to the going concern status  
9 of the provider, and be audited by an independent certified public  
10 accountant. The commission by rule may require the provider to  
11 submit additional financial reports.

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

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

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

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

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

27 (1) employed by a provider or administrator of a

1 residential service contract who is licensed under this chapter; or  
2 (2) licensed as a real estate sales agent, real estate  
3 broker, mobile home dealer, or insurance agent in this state.

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

18 (1) directs and controls the person's performance; and  
19 (2) is responsible for representations made by the  
20 person when acting within the scope of the person's employment.

21 (c) Notwithstanding Section 1304.151(a)(1), a provider of a  
22 residential service contract may use a reimbursement insurance  
23 policy issued by a captive insurance company as defined by Section  
24 964.001, Insurance Code, to insure the provider's residential  
25 service contracts if the provider maintains a funded reserve equal  
26 to not less than 25 percent of the gross consideration the provider  
27 received from consumers from the sale of all the provider's service

1 contracts issued and outstanding in this state, minus any claims  
2 paid. A reimbursement insurance policy issued to a residential  
3 service contract provider in accordance with this subsection:

4 (1) is not subject to Section 1304.152; and

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

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

8 SECTION 4.11. Not later than June 1, 2022, the Texas  
9 Commission of Licensing and Regulation shall adopt rules necessary  
10 to implement the changes in law made by this article to Chapter  
11 1304, Occupations Code.

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

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

26 (c) Not later than September 1, 2022, a residential service  
27 company described by Subsection (a) of this section that is

1 operating as a residential service contract provider licensed under  
2 Chapter 1304, Occupations Code, as amended by this article, shall  
3 update the company's financial security documents to:

4 (1) list the Texas Department of Licensing and  
5 Regulation as a party to the financial security document; and

6 (2) replace each reference to the Texas Real Estate  
7 Commission with a reference to the Texas Department of Licensing  
8 and Regulation.

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

11 (b) On the effective date of this Act:

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

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

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

1 (c) On the effective date of this Act:

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

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

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

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

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

25 ARTICLE 5. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

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

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

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

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

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

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

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

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

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

