

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 51.053, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other law, a person may be a member of the commission if the person or the person's spouse is registered, certified, or licensed by a regulatory agency in the field of health care.

SECTION 1.03. Section 51.054, Occupations Code, is amended

1 by amending Subsection (b) and adding Subsection (d) to read as
2 follows:

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

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

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

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

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

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

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

16 (5) [~~(7)~~] the requirements of:

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

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

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

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

27 (6) [~~(8)~~] any applicable ethics policies adopted by

1 the department or the Texas Ethics Commission.

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

9 SECTION 1.04. Section 51.209, Occupations Code, is amended
10 by adding Subsections (a-1) and (a-2) to read as follows:

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

13 (a-2) An advisory board may meet by telephone conference
14 call, videoconference, or other similar telecommunication method,
15 provided that each portion of the meeting that is required to be
16 open to the public shall be audible to the public and, in the case of
17 a meeting held by videoconference, visible to the public. If a
18 problem occurs that causes a meeting to no longer be visible or
19 audible to the public as required under this subsection, the
20 meeting must be recessed until the problem is resolved. If the
21 problem is not resolved in six hours or less, the meeting must be
22 adjourned. The face of each participant in a meeting held by
23 videoconference, while that participant is speaking, must be
24 clearly visible, and the participant's voice must be audible, to
25 each other participant and, during the open portion of the meeting,
26 to the members of the public. A meeting held by telephone
27 conference call, videoconference, or other similar

1 telecommunication method is not subject to the requirements of
2 Sections 551.127(a-3), (b), (c), (e), (f), (h), (i), and (j),
3 Government Code.

4 SECTION 1.05. Subchapter D, Chapter 51, Occupations Code,
5 is amended by adding Sections 51.2095 and 51.211 to read as follows:

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

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

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

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

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

25 SECTION 1.06. Section 51.251, Occupations Code, is amended
26 by adding Subsection (c) to read as follows:

27 (c) The executive director shall establish methods by which

1 consumers and service recipients are notified of the name, mailing
2 address, and telephone number of the department for the purpose of
3 directing complaints to the department.

4 SECTION 1.07. Section 51.252, Occupations Code, is amended
5 by amending Subsections (a) and (c) and adding Subsection (b-2) to
6 read as follows:

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

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

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

1 [~~undercover~~] investigation.

2 SECTION 1.08. Subchapter E, Chapter 51, Occupations Code,
3 is amended by adding Sections 51.2521 and 51.255 to read as follows:

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

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

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

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

20 (1) the number of license holders;

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

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

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

27 (B) the number of contested cases referred to and

1 heard by the State Office of Administrative Hearings;

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

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

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

11 (i) complaints opened for investigation;
12 and

13 (ii) cases that resulted in disciplinary
14 action; and

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

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

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

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

24 SECTION 1.09. Section 51.351, Occupations Code, is amended
25 by adding Subsection (e) to read as follows:

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

1 SECTION 1.10. Subchapter G, Chapter 51, Occupations Code,
2 is amended by adding Section 51.359 to read as follows:

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

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

12 SECTION 1.11. Section 51.4012(a), Occupations Code, is
13 amended to read as follows:

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

19 SECTION 1.12. Section 51.405, Occupations Code, is amended
20 to read as follows:

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

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

27 (1) establish a minimum number of hours of continuing

1 education required for license renewal;

2 (2) provide for the registration and renewal of
3 continuing education providers and the approval of continuing
4 education courses; and

5 (3) assess reasonable and necessary fees on continuing
6 education providers.

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

10 SECTION 1.13. Subchapter H, Chapter 51, Occupations Code,
11 is amended by adding Section 51.409 to read as follows:

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

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

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

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

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

24 and

25 (B) is not otherwise disclosed under Subdivision

26 (2);

27 (4) the total amount or percentage of the financial

1 investment made by each person described by Subdivision (2); and
2 (5) the name of each of the following persons
3 associated with the business, if the person is not otherwise
4 disclosed under Subdivision (2) or (3):

- 5 (A) a partner;
6 (B) an officer;
7 (C) a director;
8 (D) a managing employee;
9 (E) an owner or person who controls the owner;

10 and

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

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

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

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

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

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

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

10 SECTION 1.14. Section 202.505, Occupations Code, is amended
11 to read as follows:

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

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

19 (2) nonpayment of the license renewal fee.

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

22 (c) An apprentice permit holder shall work under the
23 supervision of a license holder for at least one year. [~~During the~~
24 ~~apprentice year, the apprentice permit holder shall complete 20~~
25 ~~hours of classroom continuing education as required by Section~~
26 ~~402.303 for a license holder.~~]

27 SECTION 1.16. Section 402.305, Occupations Code, is amended

1 to read as follows:

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

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

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

12 SECTION 1.17. Section 802.062(b), Occupations Code, is
13 amended to read as follows:

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

18 SECTION 1.18. Section 1151.1581, Occupations Code, is
19 amended to read as follows:

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

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

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

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

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

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

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

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

20 SECTION 1.19. Section 1152.106, Occupations Code, is
21 amended to read as follows:

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

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

27 SECTION 1.20. Section 1953.106, Occupations Code, is

1 amended to read as follows:

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

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

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

10 SECTION 1.21. Section 1958.104, Occupations Code, is
11 amended to read as follows:

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

16 (1) the type of license;

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

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

21 (4) liability insurance requirements for the license.

22 SECTION 1.22. Section 1958.106, Occupations Code, is
23 amended to read as follows:

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

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

- 4 (1) accreditation by the department;
- 5 (2) curriculum requirements; and
- 6 (3) qualifications.

7 SECTION 1.23. Section 2308.157, Occupations Code, is
8 amended to read as follows:

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

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

- 18 [~~(1) register with the department; and~~
- 19 [~~(2) comply with rules adopted by the commission~~
20 ~~relating to continuing education.~~

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

26 SECTION 1.24. Section 2308.159(c), Occupations Code, is
27 amended to read as follows:

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

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

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

8 (3) paying a renewal fee; and

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

11 SECTION 1.25. The following provisions are repealed:

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

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

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

15 (4) Section 754.0174, Health and Safety Code;

16 (5) Section 755.016, Health and Safety Code;

17 (6) Section 51.0021, Occupations Code;

18 (7) Section 51.252(d), Occupations Code;

19 (8) Section 202.305, Occupations Code;

20 (9) Section 202.5085, Occupations Code;

21 (10) Section 203.304, Occupations Code;

22 (11) Section 203.406, Occupations Code;

23 (12) Section 401.355, Occupations Code;

24 (13) Section 402.303, Occupations Code;

25 (14) Section 403.152, Occupations Code;

26 (15) Section 455.0571, Occupations Code;

27 (16) Section 506.105, Occupations Code;

- 1 (17) Section 605.261, Occupations Code;
- 2 (18) Section 701.303, Occupations Code;
- 3 (19) Section 701.512, Occupations Code;
- 4 (20) Section 802.065(e), Occupations Code;
- 5 (21) Section 1302.208(a), Occupations Code;
- 6 (22) Section 1305.055, Occupations Code;
- 7 (23) Section 1305.168, Occupations Code;
- 8 (24) Section 1901.107(a), Occupations Code;
- 9 (25) Section 1952.1051, Occupations Code;
- 10 (26) Section 1958.056(b), Occupations Code;
- 11 (27) Section 2303.056(b), Occupations Code;
- 12 (28) Section 2308.055, Occupations Code;
- 13 (29) Section 2309.056, Occupations Code; and
- 14 (30) Section 2309.106(a), Occupations Code.

15 SECTION 1.26. (a) Except as provided by Subsection (b) of
16 this section, Section 51.054, Occupations Code, as amended by this
17 article, applies to a member of the Texas Commission of Licensing
18 and Regulation appointed before, on, or after the effective date of
19 this Act.

20 (b) A member of the Texas Commission of Licensing and
21 Regulation who, before the effective date of this Act, completed
22 the training program required by Section 51.054, Occupations Code,
23 as that law existed before the effective date of this Act, is only
24 required to complete additional training on the subjects added by
25 this article to the training program required by Section 51.054,
26 Occupations Code. A member described by this subsection may not
27 vote, deliberate, or be counted as a member in attendance at a

1 meeting of the commission held on or after December 1, 2021, until
2 the member completes the additional training.

3 ARTICLE 2. DEREGULATION

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

- 6 (1) Chapter 1703; and
- 7 (2) Section 2052.002(11-a).

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

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

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

15 [~~(2) licensed as a polygraph examiner under Chapter~~
16 ~~1703, Occupations Code~~].

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

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

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

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

27 (d) The department and the polygraph examiner shall

1 maintain the confidentiality of the results of a polygraph
2 examination administered under this section, except that [+

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

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

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

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

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

16 ~~[(2) licensed as a polygraph examiner under Chapter~~
17 ~~1703, Occupations Code].~~

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

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

23 (1) professional contestant;

24 (2) manager of a professional contestant;

25 (3) referee; or

26 (4) judge [+

27 ~~[(5) second,]~~

1 ~~[(6) matchmaker, or~~
2 ~~[(7) event coordinator]~~.

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

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

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

14 SECTION 2.09. Not later than January 1, 2023, the Texas
15 Department of Licensing and Regulation, in consultation with the
16 Auctioneer Advisory Board, shall study the regulation of
17 auctioneering and prepare a report with any findings and
18 recommendations to improve public safety and the department's
19 processes and to eliminate inefficiencies, including any necessary
20 legislative changes. In conducting the study, the department may
21 consult with any interested organizations, associations, and
22 stakeholders. The department shall submit the report to the
23 standing legislative committees with jurisdiction over the
24 department.

25 ARTICLE 3. BARBERING AND COSMETOLOGY

26 SECTION 3.01. Section [1603.001](#), Occupations Code, is
27 amended to read as follows:

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

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

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

7 (3) ~~[(2)]~~ "Department" means the Texas Department of
8 Licensing and Regulation.

9 (4) "Establishment" means a place:

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

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

14 (5) ~~[(3)]~~ "Executive director" means the executive
15 director of the department.

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

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

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

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

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

27 SECTION 3.02. Subchapter A, Chapter 1603, Occupations Code,

1 is amended by adding Sections 1603.0011, 1603.0012, and 1603.0013
2 to read as follows:

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

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

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

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

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

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

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

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

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

27 (4) beautifying a person's face, neck, shoulders, or

1 arms using a cosmetic preparation, antiseptic, tonic, lotion,
2 powder, oil, clay, cream, or appliance;

3 (5) administering facial treatments;

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

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

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

10 (B) attaching false nails;

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

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

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

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

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

1 barbering or cosmetology.

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

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

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

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

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

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

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

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

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

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

26 (C) an inmate in the institutional division of
27 the Texas Department of Criminal Justice who performs barbering or

1 cosmetology during the person's incarceration;

2 (2) provides a service in an emergency;

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

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

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

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

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

20 (B) a television appearance; or

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

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

26 SECTION 3.03. Section [1603.002](#), Occupations Code, is
27 amended to read as follows:

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

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

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

11 ADVISORY BOARD

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

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

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

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

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

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

25 (4) one member who represents the public.

26 Sec. 1603.052. DUTIES OF ADVISORY BOARD. (a) The advisory
27 board [~~boards established under Chapters 1601 and 1602~~] shall

1 advise the commission and the department on:

2 (1) education and curricula for applicants;

3 (2) the content of examinations;

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

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

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

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

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

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

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

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

25 [~~(1)~~] the administration of this chapter and the
26 operations of the department in regulating barbering and
27 cosmetology[~~, and~~

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

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

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

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

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

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

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

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

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

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

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

1 the department [~~, and~~
2 [~~(2) file a complaint with the executive director~~].

3 SECTION 3.09. Section 1603.1045, Occupations Code, is
4 amended to read as follows:

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

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

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

- 16 (1) square footage of floor space;
17 (2) number of chairs; or
18 (3) number of sinks.

19 SECTION 3.11. Section 1603.151, Occupations Code, is
20 amended to read as follows:

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

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

4 (2) on a sign prominently displayed in the place of
5 business of each person regulated under this chapter[~~7~~ ~~Chapter~~
6 ~~1601, or Chapter 1602~~]; or

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

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

11 SUBCHAPTER E. GENERAL [~~CERTIFICATE~~] LICENSE[~~7~~] AND PERMIT
12 PROVISIONS [~~REQUIREMENTS~~]

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

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

16 (a) The commission by rule shall establish requirements for the
17 issuance of:

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

20 (2) a student permit.

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

24 (1) minimum age;

25 (2) education level; and

26 (3) completed hours of instruction.

27 (c) In establishing a requirement under this section for the

1 issuance of a license, the commission shall consider whether the
2 requirement is the least restrictive requirement possible to ensure
3 public safety without creating a barrier to entry into the licensed
4 occupation.

5 (d) Requirements established under this section:

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

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

11 (e) The commission shall establish standardized
12 requirements within license categories.

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

15 Sec. 1603.201. APPLICATION FORM. An application for a
16 [~~certificate~~] license[~~7~~] or permit under this chapter must be made
17 on a form prescribed [~~and provided~~] by the department.

18 Sec. 1603.202. DUPLICATE [~~CERTIFICATE~~] LICENSE[~~7~~] OR
19 PERMIT. The department shall issue a duplicate [~~certificate~~]
20 license[~~7~~] or permit to an applicant who:

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

23 (2) pays the required fee.

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

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

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

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

5 SECTION 3.16. Sections 1603.203 and 1603.204, Occupations
6 Code, are amended to read as follows:

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

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

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

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

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

1 (2) the provisional [~~certificate or~~] license holder
2 passes the part of the examination [~~under Chapter 1601 or Chapter~~
3 ~~1602~~] that relates to the applicant's knowledge and understanding
4 of the laws and rules relating to the practice of the profession in
5 this state and:

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

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

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

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

26 (b) The person must:

27 (1) submit an application for the license [~~,~~

1 ~~certificate, or permit~~] to the department; and

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

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

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

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

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

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

19 (A) prearranged through a digital network; and
20 (B) performed at a location other than an
21 establishment ~~[a place of business that is]~~ licensed ~~[or permitted]~~
22 under Subchapter E-2 ~~[Chapter 1601 or 1602 or this chapter]~~.

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

1 ~~or this chapter~~].

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

4 (c) Sections 1603.2108 and 1603.2109 [~~1601.453, 1601.455,~~
5 ~~1602.251(c), and 1602.407~~] do not apply to a digitally prearranged
6 remote service scheduled through a remote service business.

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

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

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

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

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

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

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

24 (C) a photograph of the person;

25 (2) the following information regarding the business:

26 (A) Internet website address; and

27 (B) telephone number; and

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

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

7 (1) the date the service was provided;

8 (2) a description of the service;

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

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

13 (5) the following information regarding the business:

14 (A) Internet website address; and

15 (B) telephone number; and

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

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

22 (1) this chapter; or

23 (2) a rule adopted under this chapter ~~[
24~~

~~(3) Chapter 1601 or 1602, or~~

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

26 SECTION 3.19. Subchapter E, Chapter 1603, Occupations Code,
27 is amended by adding Section 1603.209 to read as follows:

1 Sec. 1603.209. INFECTIOUS AND CONTAGIOUS DISEASES. (a) A
2 person holding a license or permit issued under Subchapter E-1 may
3 not perform any practice of barbering or cosmetology if the person
4 knows the person is suffering from an infectious or contagious
5 disease for which the person is not entitled to protection under the
6 federal Americans with Disabilities Act of 1990 (42 U.S.C. Section
7 12101 et seq.).

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

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

17 SUBCHAPTER E-1. INDIVIDUAL PRACTITIONER LICENSES; STUDENT PERMIT;
18 PRACTICE

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

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

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

1 benefit:

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

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

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

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

9 (1) meets the applicable eligibility requirements;

10 (2) passes the applicable examination;

11 (3) pays the required fee;

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

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

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

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

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

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

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

26 (5) a manicurist/esthetician license may perform any
27 service described by Section 1603.0011(a)(3), (4), (5), (6), (7),

1 or (8) or (c);

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

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

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

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

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

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

15 Sec. 1603.2104. WAIVER OF CERTAIN LICENSE REQUIREMENTS.

16 (a) The department may waive any requirement for a license issued
17 under this subchapter for an applicant holding a license from
18 another jurisdiction that has license requirements substantially
19 equivalent to those of this state.

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

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

24 (2) pays the application fee; and

25 (3) provides proof that the applicant holds a current
26 license to engage in the same or a similar activity issued by
27 another jurisdiction that has license requirements substantially

1 equivalent to those of this state.

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

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

6 Sec. 1603.2105. STUDENT PERMIT. (a) A student enrolled in
7 a school licensed under Subchapter E-3 must hold a permit stating
8 the student's name and the name of the school.

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

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

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

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

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

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

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

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

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

8 Sec. 1603.2108. LOCATION OF PRACTICE. A person holding a
9 license or permit issued under this subchapter may practice
10 barbering or cosmetology only at a licensed establishment or
11 school.

12 Sec. 1603.2109. SERVICE AT UNLICENSED LOCATION. (a) In
13 this section, "licensed facility" means:

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

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

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

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

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

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

26 SUBCHAPTER E-2. ESTABLISHMENT LICENSES; OPERATION

27 Sec. 1603.2201. LICENSE REQUIRED. (a) A person may not

1 own, operate, or manage an establishment in which an act of
2 barbering or cosmetology is practiced unless the person holds a
3 license issued under this subchapter to operate the establishment.

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

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

11 (1) the applicant:

12 (A) owns or rents the establishment;

13 (B) verifies the application;

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

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

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

20 (2) the establishment:

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

23 (B) complies with all commission rules.

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

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

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

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

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

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

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

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

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

17 (b) In this section:

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

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

27 Sec. 1603.2204. TRANSFER OF LICENSE PROHIBITED. A license

1 issued under this subchapter is not transferable.

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

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

9 SUBCHAPTER E-3. SCHOOL LICENSES; OPERATION

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

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

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

19 (2) pays the required fee;

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

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

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

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

27 (a) The holder of a public secondary school license, public

1 postsecondary school license, or private postsecondary school
2 license:

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

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

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

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

13 (a) If a licensed school changes ownership:

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

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

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

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

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

1 (2) a manner prescribed by the department.

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

5 (1) a course outline;

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

7 (3) the school's refund policy required under Section
8 1603.3602;

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

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

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

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

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

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

26 (c) Before issuing or renewing a license under this
27 subchapter, the department must require the school to account for

1 each course length and curriculum content.

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

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

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

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

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

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

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

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

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

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

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

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

7 (1) maintain a sanitary premises;

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

10 (3) hold examinations before issuing diplomas; and

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

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

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

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

26 (d) On evaluation and approval, the department shall
27 certify in writing to the student and to the school to which the

1 student seeks a transfer that:

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

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

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

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

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

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

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

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

23 Sec. 1603.253. WRITTEN EXAMINATION. The department
24 [~~commission~~] shall select an examination for each written
25 examination required under this chapter [~~Chapter 1601, or Chapter~~
26 ~~1602~~]. The written examination must be:

27 (1) validated by an independent testing professional;

1 or

2 (2) purchased from a national testing service.

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

7 ~~[(1) 1,000 hours for a student seeking a Class A barber~~
8 ~~certificate in a private barber school;~~

9 ~~[(2) 900 hours for a student seeking an operator~~
10 ~~license in a private cosmetology school; or~~

11 ~~[(3) 900 hours for a student seeking a Class A barber~~
12 ~~certificate or operator license in a publicly funded barber or~~
13 ~~cosmetology school].~~

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

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

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

21 (1) the department;

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

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

(4) the Windham School District.

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

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

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

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

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

(b) The commission may establish separate requirements for:

(1) the initial renewal of a license; and

(2) subsequent renewals of a license.

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

(1) identifying and assisting trafficked persons; and

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

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

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

(2) any renewal fee.

Sec. 1603.3004. RENEWAL WHILE IN ARMED FORCES. (a) The

1 department may not require the holder of a license issued under
2 Subchapter E-1 who is serving on active duty in the United States
3 armed forces to renew the person's license.

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

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

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

16 (2) the person has requested a hearing under Section
17 51.304, but the person's time to pay has not expired under Section
18 51.307; or

19 (3) the penalty is stayed.

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

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

24 SECTION 3.26. Section 1603.351, Occupations Code, is
25 amended to read as follows:

26 Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE
27 EDUCATION. (a) The commission shall prescribe the minimum

1 curriculum, including the subjects and the number of hours in each
2 subject, taught by a licensed school [~~licensed under this chapter,~~
3 ~~Chapter 1601, or Chapter 1602~~].

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

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

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

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

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

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

22 (a) A person who holds a license[~~, certificate,~~] or permit
23 issued under this chapter[~~, Chapter 1601, or Chapter 1602~~] and who
24 performs a [~~barbering service described by Section 1601.002(1)(E)~~
25 ~~or (F) or a cosmetology~~] service described by Section
26 1603.0011(a)(7) or (8) [~~1602.002(a)(8) or (9)~~] shall, before
27 performing the service, clean, disinfect, and sterilize with an

1 autoclave or dry heat sterilizer or sanitize with an ultraviolet
2 sanitizer, in accordance with the sterilizer or sanitizer
3 manufacturer's instructions, each metal instrument, including
4 metal nail clippers, cuticle pushers, cuticle nippers, and other
5 metal instruments, used to perform the service.

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

13 SECTION 3.28. Subchapter H, Chapter 1603, Occupations Code,
14 is amended by adding Sections 1603.353, 1603.354, 1603.355,
15 1603.356, 1603.357, and 1603.358 to read as follows:

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

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

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

1 the premises to comply with this chapter.

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

5 Sec. 1603.356. DISPLAY OF HUMAN TRAFFICKING INFORMATION.

6 (a) A licensed school or establishment shall display a sign
7 approved by or acceptable to the commission or the department
8 concerning services and assistance available to victims of human
9 trafficking.

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

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

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

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

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

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

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

1 SUBCHAPTER H-1. FINANCIAL PROVISIONS APPLICABLE TO PRIVATE

2 POSTSECONDARY SCHOOLS

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

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

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

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

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

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

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

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

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

25 (b) The refund policy must provide that:

26 (1) the refund is based on the period of the student's
27 enrollment, computed on the basis of course time expressed in

1 scheduled hours, as specified by an enrollment agreement, contract,
2 or other document acceptable to the department;

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

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

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

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

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

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

14 (B) the student does not begin the course of
15 training before the cancellation period established under Section
16 1603.3601 expires.

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

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

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

26 (b) If a student at a private postsecondary school begins a
27 course of training that is scheduled to run not more than 12 months

1 and, before the last 50 percent of the course, withdraws from the
2 course or is terminated by the school, the school shall refund:

3 (1) 90 percent of any outstanding tuition for a
4 withdrawal or termination that occurs during the first week or
5 first 10 percent of the course, whichever period is shorter;

6 (2) 80 percent of any outstanding tuition for a
7 withdrawal or termination that occurs after the first week or first
8 10 percent of the course, whichever period is shorter, but within
9 the first three weeks of the course;

10 (3) 75 percent of any outstanding tuition for a
11 withdrawal or termination that occurs after the first three weeks
12 of the course but not later than the completion of the first 25
13 percent of the course; and

14 (4) 50 percent of any outstanding tuition for a
15 withdrawal or termination that occurs not later than the completion
16 of the first 50 percent of the course.

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

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

26 (b) If tuition is refunded to a lending institution, the
27 interest shall be paid to that institution and applied against the

1 student's loan.

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

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

10 Sec. 1603.3605. REENTRY OF STUDENT AFTER WITHDRAWAL. If a
11 student voluntarily withdraws or is terminated after completing 50
12 percent of the course at a private postsecondary school, the school
13 shall allow the student to reenter at any time during the 48-month
14 period following the date of withdrawal or termination unless the
15 student presents a danger to the other students or staff of the
16 school.

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

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

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

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

1 payment of additional tuition.

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

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

12 (c) If a student from a closed private postsecondary school
13 cannot be placed in another private postsecondary school, the
14 student's tuition and fees shall be refunded as provided by Section
15 1603.3602. If a student from a closed private postsecondary school
16 does not accept a place that is available and reasonable in another
17 private postsecondary school, the student's tuition and fees shall
18 be refunded as provided by Section 1603.3603. A refund under this
19 subsection shall be paid from the barbering and cosmetology school
20 tuition protection account. The amount of the refund may not exceed
21 \$35,000.

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

27 Sec. 1603.3608. BARBERING AND COSMETOLOGY SCHOOL TUITION

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

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

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

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

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

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

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

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

20 SECTION 3.30. Section **1603.401**, Occupations Code, is
21 amended to read as follows:

22 Sec. 1603.401. DENIAL, SUSPENSION, OR REVOCATION. The
23 department may [~~shall~~] deny an application for issuance or renewal
24 of, or may [~~shall~~] suspend or revoke, a [~~certificate,~~] license[~~7~~]
25 or permit if the applicant or person holding the [~~certificate,~~]
26 license[~~7~~] or permit:

27 (1) engages in gross malpractice;

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

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

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

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

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

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

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

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

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

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

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

26 (1) Chapters 1601 and 1602;

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

- 1 (3) Section 1603.205;
- 2 (4) Section 1603.206;
- 3 (5) Section 1603.207;
- 4 (6) Section 1603.254;
- 5 (7) Section 1603.451;
- 6 (8) Section 1603.452;
- 7 (9) Section 1603.455; and
- 8 (10) Section 1603.456.

9 SECTION 3.34. (a) To ensure that licensed schools offering
10 instruction in barbering and cosmetology maintain accreditation
11 and that students of those schools continue to qualify for federal
12 aid, the Texas Commission of Licensing and Regulation shall, as
13 soon as practicable after September 1, 2021, adopt any rules
14 necessary for the orderly implementation of the changes in law made
15 by this article to the licensing system and curricula requirements
16 and standards for schools offering instruction in barbering and
17 cosmetology.

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

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

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

26 SECTION 3.35. Notwithstanding the repeal by this article of
27 Chapters 1601 and 1602, and Sections 1603.205, 1603.206, and

1 1603.207, Occupations Code, the Texas Department of Licensing and
2 Regulation may continue to issue until September 1, 2023, a
3 certificate, license, or permit under those provisions as they
4 existed immediately before September 1, 2021, and those provisions
5 are continued in effect for that purpose.

6 SECTION 3.36. Notwithstanding the repeal by this article of
7 Chapters 1601 and 1602, Occupations Code, until the Texas
8 Commission of Licensing and Regulation adopts rules regarding
9 written and practical examination requirements for the issuance of
10 licenses under Chapter 1603, Occupations Code, as amended by this
11 article, the Texas Department of Licensing and Regulation shall
12 continue to operate under the requirements regarding written and
13 practical examinations in former Chapters 1601 and 1602,
14 Occupations Code, as those chapters were in effect immediately
15 before September 1, 2021, and those provisions are continued in
16 effect for that purpose.

17 SECTION 3.37. (a) A certificate, license, or permit issued
18 under former Chapter 1601 or 1602, Occupations Code, or under
19 former Section 1603.205, 1603.206, or 1603.207, Occupations Code,
20 before September 1, 2023, continues to be valid until the
21 certificate, license, or permit expires, and those chapters and
22 sections are continued in effect for that purpose.

23 (b) A person who on September 1, 2021, holds a certificate,
24 license, or permit issued under former Chapter 1601 or 1602,
25 Occupations Code, or under former Section 1603.205, 1603.206, or
26 1603.207, Occupations Code, is entitled on expiration of that
27 certificate, license, or permit to issuance of a comparable license

1 or permit under the applicable provision of Chapter 1603,
2 Occupations Code, as amended by this article, if the person
3 otherwise meets the requirements for the license or permit.

4 (c) A person who on September 1, 2021, holds an instructor
5 license issued under former Chapter 1601 or 1602, Occupations Code,
6 is entitled on expiration of that license to issuance of a license
7 under the applicable provision of Chapter 1603, Occupations Code,
8 as amended by this article, that is comparable to the individual
9 practitioner license required for the issuance of the instructor
10 license if the person otherwise meets the requirements for the
11 license under Chapter 1603.

12 SECTION 3.38. Notwithstanding any other law, on September
13 1, 2021, a person holding a permit under former Subchapter G,
14 Chapter 1601, Occupations Code, a facility license under former
15 Subchapter G, Chapter 1602, Occupations Code, or a license or
16 permit under former Section 1603.205, 1603.206, or 1603.207,
17 Occupations Code, before September 1, 2021, may employ or contract
18 with any qualified individual practitioner holding a certificate,
19 license, or permit issued under Chapter 1601 or 1602, Occupations
20 Code, before September 1, 2021, without regard to the chapter under
21 which the practitioner was issued the certificate, license, or
22 permit.

23 SECTION 3.39. Notwithstanding any other law, on September
24 1, 2021, the holder of a license issued under former Section
25 1601.256, 1601.262, or 1601.263, Occupations Code, before that date
26 may perform the services described by Sections 1603.0011(a)(6) and
27 (c), Occupations Code, as added by this Act.

1 SECTION 3.40. (a) Not later than December 1, 2021, the
2 presiding officer of the Texas Commission of Licensing and
3 Regulation shall appoint members to the Barbering and Cosmetology
4 Advisory Board in accordance with Section 1603.051, Occupations
5 Code, as amended by this article.

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

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

15 SECTION 3.41. As soon as practicable after September 1,
16 2021, the comptroller of public accounts shall transfer to the
17 barbering and cosmetology school tuition protection account the
18 unexpended and unencumbered balance of the barber school tuition
19 protection account and the unexpended and unencumbered balance of
20 the private beauty culture school tuition protection account.

21 SECTION 3.42. (a) The changes in law made by this article
22 do not affect the validity of a disciplinary action or other
23 proceeding that was initiated before September 1, 2021, and that is
24 pending on September 1, 2021. A disciplinary action that is pending
25 on September 1, 2021, is governed by the law in effect immediately
26 before September 1, 2021, and the former law is continued in effect
27 for that purpose.

1 (b) The repeal of a law by this article does not entitle a
2 person to a refund of a certificate, license, or permit fee paid by
3 the person before September 1, 2021.

4 ARTICLE 4. RESIDENTIAL SERVICE CONTRACTS

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

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

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

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

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

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

26 (C) provide compensation to the buyer of a
27 vehicle on the total constructive loss under a depreciation benefit

1 optional member program; or

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

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

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

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

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

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

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

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

27 (2) the repair or replacement of a product for damage

1 resulting from a power surge or for accidental damage incurred in
2 handling the product;

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

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

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

9 (b) This chapter does not apply to:

10 (1) a warranty;

11 (2) a maintenance agreement;

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

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

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

19 (5) ~~(6)]~~ a service contract sold by a motor vehicle
20 dealer on a motor vehicle sold by that dealer, if the dealer:

21 (A) is the provider;

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

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

26 (6) ~~(7)]~~ a contract offered by a local exchange
27 telephone company that provides for the repair of inside telephone

1 wiring, if:

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

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

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

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

11 (1) a performance guarantee offered by:

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

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

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

17 (3) a guarantee or warranty that is:

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

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

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

26 (A) is sold, offered for sale, or issued by a
27 manufacturer or merchant who manufactures or sells a product or

1 part of a product, including a structural component, an appliance,
2 or an electrical, plumbing, heating, cooling, or air-conditioning
3 system of a building or residence; and

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

7 (5) home warranty insurance as defined by Section
8 2005.001, Insurance Code.

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

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

- 14 (1) [~~Chapter 1303,~~
15 [~~2~~] Chapter 722, Transportation Code; and
16 (2) [~~3~~] the Insurance Code and other laws of this
17 state regulating the business of insurance.

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

21 (b) If the provider ensures its obligations under
22 Subsection (a)(2), the amount maintained in the reserve account may
23 not be less than an amount equal to 40 percent of the gross
24 consideration the provider received from consumers from the sale of
25 all service contracts issued and outstanding in this state, minus
26 any claims paid. The executive director may review and examine the
27 reserve account. Except as provided by Subsections [~~Subsection~~]

1 (b-1) and (b-4), the amount of the security deposit may not be less
2 than \$250,000. The provider must submit to the executive director
3 on request a copy of the provider's financial statements that must
4 be prepared in accordance with generally accepted accounting
5 principles, be without qualification as to the going concern status
6 of the provider, and be audited by an independent certified public
7 accountant. The commission by rule may require the provider to
8 submit additional financial reports.

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

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

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

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

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

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

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

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

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

18 (c) Notwithstanding Section 1304.151(a)(1), a provider of a
19 residential service contract may use a reimbursement insurance
20 policy issued by a captive insurance company as defined by Section
21 964.001, Insurance Code, to insure the provider's residential
22 service contracts if the provider maintains a funded reserve equal
23 to not less than 25 percent of the gross consideration the provider
24 received from consumers from the sale of all the provider's service
25 contracts issued and outstanding in this state, minus any claims
26 paid. A reimbursement insurance policy issued to a residential
27 service contract provider in accordance with this subsection:

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

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

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

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

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

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

23 (c) Not later than September 1, 2022, a residential service
24 company described by Subsection (a) of this section that is
25 operating as a residential service contract provider licensed under
26 Chapter 1304, Occupations Code, as amended by this article, shall
27 update the company's financial security documents to:

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

3 (2) replace each reference to the Texas Real Estate
4 Commission with a reference to the Texas Department of Licensing
5 and Regulation.

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

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

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

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

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

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

26 (1) all money, contracts, leases, property, software
27 source code and documentation, records, and obligations of the

1 Texas Real Estate Commission relating to a program or activity
2 transferred to the department under this article are transferred to
3 the department; and

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

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

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

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

22 ARTICLE 5. DRIVER TRAINING

23 SECTION 5.01. Section 1001.001, Education Code, is amended
24 by amending Subdivisions (2), (8), (9), (13), and (14) and adding
25 Subdivisions (6-a), (6-b), (14-b), and (14-c) to read as follows:

26 (2) "Classroom instruction" includes instruction
27 provided in a traditional classroom setting or through other

1 physical means or remotely through the Internet [~~"Approved driving~~
2 ~~safety course" means a driving safety course approved by the~~
3 ~~department~~].

4 (6-a) "Driver education instructor" means an
5 individual who holds a license to teach or provide driver education
6 issued under Section 1001.251.

7 (6-b) "Driver education provider" means an in-person
8 driver education provider, an online driver education provider, or
9 a parent-taught driver education provider.

10 (8) "Driver training" means:

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

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

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

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

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

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

24 (14) "In-person driver education provider
25 [~~Instructor~~]" means a business that provides driver education
26 courses in person, including behind-the-wheel instruction,
27 observation instruction, or driver's license examinations [~~an~~

1 ~~individual who holds a license for the type of instruction being~~
2 ~~given].~~

3 (14-b) "Online driver education provider" means a
4 business that provides driver education courses to students
5 remotely through the Internet.

6 (14-c) "Parent-taught driver education provider"
7 means a business that provides driver education course materials
8 through physical means or remotely through the Internet to persons
9 who conduct parent-taught driver education under Section 1001.112.

10 SECTION 5.02. Section 1001.003, Education Code, is amended
11 to read as follows:

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

17 SECTION 5.03. Section 1001.004(b), Education Code, is
18 amended to read as follows:

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

23 SECTION 5.04. Subchapter A, Chapter 1001, Education Code,
24 is amended by adding Section 1001.005 to read as follows:

25 Sec. 1001.005. REFERENCE IN RULES AND AGENCY MATERIALS.
26 Notwithstanding any other law, the commission or the department may
27 refer to driver education providers and driver safety providers as

1 schools in rules, forms, records, licenses, and other commission or
2 department documents.

3 SECTION 5.05. Section 1001.051, Education Code, is amended
4 to read as follows:

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

8 SECTION 5.06. Sections 1001.053(a) and (b), Education Code,
9 are amended to read as follows:

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

- 12 (1) administer this chapter;
- 13 (2) enforce minimum standards for driver training
14 providers [~~schools~~] under this chapter;
- 15 (3) enforce rules adopted by the commission that are
16 necessary to administer this chapter; and
- 17 (4) inspect a driver training provider [~~school or~~
18 ~~course provider~~] and reinspect the [~~school or course~~] provider for
19 compliance with this chapter.

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

23 SECTION 5.07. Section 1001.054, Education Code, is amended
24 to read as follows:

25 Sec. 1001.054. RULES RESTRICTING ADVERTISING. [~~(c)~~] The
26 commission by rule may restrict advertising by a branch location of
27 an in-person [~~a~~] driver education provider [~~training school~~] so

1 that the location adequately identifies the main business [~~primary~~]
2 location of the provider [~~school~~] in a solicitation.

3 SECTION 5.08. Sections 1001.055(a), (a-1), and (a-2),
4 Education Code, are amended to read as follows:

5 (a) The department shall provide to each licensed driver
6 education provider or exempt driver education school [~~and to each~~
7 ~~parent-taught course provider approved under this chapter~~] driver
8 education certificates or certificate numbers to enable the [~~school~~
9 ~~or approved parent-taught course~~] provider or school to issue
10 department-approved driver education certificates to certify
11 completion of an approved driver education course and satisfy the
12 requirements of Sections 521.204(a)(2), Transportation Code,
13 521.1601, Transportation Code, as added by Chapter 1253 (H.B. 339),
14 Acts of the 81st Legislature, Regular Session, 2009, and 521.1601,
15 Transportation Code, as added by Chapter 1413 (S.B. 1317), Acts of
16 the 81st Legislature, Regular Session, 2009.

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

20 (1) be in a form required by the department; and
21 (2) include an identifying certificate number
22 provided by the department that may be used to verify the
23 authenticity of the certificate with the [~~driver education school~~
24 ~~or approved parent-taught course~~] provider.

25 (a-2) A driver education [~~school or parent-taught course~~]
26 provider licensed [~~approved~~] under this chapter that purchases
27 driver education certificate numbers shall issue original and

1 duplicate certificates in a manner that, to the greatest extent
2 possible, prevents the unauthorized production or the misuse of the
3 certificates. The ~~[driver education school or approved~~
4 ~~parent-taught course]~~ provider shall electronically submit to the
5 department in the manner established by the department data
6 identified by the department relating to issuance of
7 department-approved driver education certificates with the
8 certificate numbers.

9 SECTION 5.09. Sections 1001.056(b), (c-1), (d), (e), and
10 (g), Education Code, are amended to read as follows:

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

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

19 (d) A certificate under this section must:

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

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

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

1 ~~for the certificate number.]~~

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

7 SECTION 5.10. Section 1001.058(b), Education Code, is
8 amended to read as follows:

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

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

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

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

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

26 ~~[(5) one member representing a driving safety course~~
27 ~~provider approved for a traditional classroom course or for an~~

1 ~~alternative method of instruction;~~

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

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

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

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

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

12 SECTION 5.11. Section [1001.059\(b\)](#), Education Code, is
13 amended to read as follows:

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

17 SECTION 5.12. Subchapter [B](#), Chapter [1001](#), Education Code,
18 is amended by adding Section 1001.060 to read as follows:

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

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

25 (2) any other matter the agencies consider
26 appropriate.

27 (b) The memorandum of understanding must authorize the

1 Department of Public Safety to share with the department any
2 relevant information, including information related to examination
3 results.

4 SECTION 5.13. The heading to Subchapter C, Chapter 1001,
5 Education Code, is amended to read as follows:

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

8 SECTION 5.14. Section 1001.101, Education Code, is amended
9 to read as follows:

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

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

22 [~~(1) 7 hours of behind-the-wheel instruction in the~~
23 ~~presence of a person who holds a driver education instructor~~
24 ~~license or who meets the requirements for a driver education course~~
25 ~~conducted by a parent or other individual under Section 1001.112,~~

26 [(2) 7 hours of observation instruction in the
27 presence of a person who holds a driver education instructor

1 ~~license or who meets the requirements for a driver education course~~
2 ~~conducted by a parent or other individual under Section 1001.112,~~
3 ~~and~~

4 ~~[(3) 30 hours of behind-the-wheel instruction,~~
5 ~~including at least 10 hours of instruction that takes place at~~
6 ~~night, in the presence of an adult who meets the requirements of~~
7 ~~Section 521.222(d)(2), Transportation Code].~~

8 SECTION 5.15. Sections 1001.1015(b) and (d), Education
9 Code, are amended to read as follows:

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

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

14 (2) include instruction in:

15 (A) alcohol and drug awareness;

16 (B) the traffic laws of this state;

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

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

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

27 SECTION 5.16. Sections 1001.1016(b) and (c), Education

1 Code, are amended to read as follows:

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

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

11 (2) provide to the department the provider's
12 [~~school's~~] plan for complying with the rules adopted under this
13 section as a condition of obtaining a license under Section
14 [1001.211](#) or renewing a license [~~under Section [1001.303](#)~~].

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

21 SECTION 5.17. Subchapter C, Chapter [1001](#), Education Code,
22 is amended by adding Section 1001.1017 to read as follows:

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

1 SECTION 5.18. Section 1001.112, Education Code, is amended
2 to read as follows:

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

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

15 (1) is either:

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

18 (B) [(2)] an individual who:

19 (i) [(A)] has been designated on a form
20 prescribed by the department for purposes of this section by a
21 parent or [(7-a)] legal guardian of the other person [(7)] or by a judge
22 of a court with jurisdiction over the other person [~~on a form~~
23 ~~prescribed by the department~~];

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

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

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

3 (2) has possessed ~~[and~~
4 [~~(E)~~ otherwise qualifies to conduct a course
5 under Subsection (a-1)].

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

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

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

15 (3) [~~(2)~~] has not been convicted of:
16 (A) criminally negligent homicide; or
17 (B) driving while intoxicated in the past seven
18 years; and

19 (4) [~~(3)~~] has not been convicted during the preceding
20 three years of:

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

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

26 (c) A person conducting a driver education course under this
27 section may provide the classroom instruction portion, the

1 behind-the-wheel instruction portion, or both portions.

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

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

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

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

15 [~~(1) approval of a course is obtained,~~

16 [~~(2) an applicant submits proof of completion of the~~
17 ~~course,~~

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

20 [~~(4) a provider of a course approved under this~~
21 ~~section]~~ may administer to an applicant the highway sign and
22 traffic law parts of the examination as provided by Section
23 521.1655(a-1), Transportation Code, through electronic means[~~, and~~

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

26 (f) [~~(d) Completion of a driver education course approved~~
27 ~~under this section has the same effect under this chapter as~~

1 ~~completion of a driver education course approved by the department.~~

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

4 (1) completion of a ~~the~~ course conducted under this
5 section; or

6 (2) passage of an examination administered under
7 Subsection e ~~(e)~~.

8 SECTION 5.19. Sections 1001.151(b) and (c), Education Code,
9 are amended to read as follows:

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

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

13 (2) an initial online driver education provider
14 ~~driving safety school~~ license;

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

18 (4) an initial driving safety provider license;

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

27 (6) ~~(5)~~ a change of address of a driver education

1 provider [~~school, driving safety school,~~] or driving safety
2 [~~course~~] provider; and

3 (7) [~~(6)~~] a change of name of:

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

7 (B) a driving safety provider [~~school~~] or an
8 owner of a driving safety provider [~~school,~~

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

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

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

19 SECTION 5.20. The heading to Subchapter E, Chapter 1001,
20 Education Code, is amended to read as follows:

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

22 PROVIDERS

23 SECTION 5.21. Section 1001.201, Education Code, is amended
24 to read as follows:

25 Sec. 1001.201. LICENSE REQUIRED. (a) A person may not
26 provide:

27 (1) [~~operate a school that provides~~] a driver

1 education course:

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

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

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

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

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

15 (b) The commission by rule shall provide for the issuance of
16 a single license to a person who meets the requirements for and
17 seeks to provide driver education courses or driver education
18 course materials under more than one driver education provider
19 license.

20 SECTION 5.22. Section 1001.202, Education Code, is amended
21 to read as follows:

22 Sec. 1001.202. LOCATIONS FOR IN-PERSON DRIVER EDUCATION
23 PROVIDERS. An in-person [~~(a) A~~] driver education provider [~~school~~]
24 that teaches a driver education course at one or more branch
25 locations must obtain a separate in-person driver education
26 provider [~~school~~] license for its main business location and for
27 each branch location. An in-person [~~A~~] driver education provider

1 ~~[school]~~ may not operate a branch location of a branch location.

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

5 SECTION 5.23. Section [1001.204](#), Education Code, is amended
6 to read as follows:

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

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

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

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

23 ~~[(3) has instructors who have adequate educational~~
24 ~~qualifications and experience,~~

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

1 (A) a copy of:
2 (i) the refund policy;
3 (ii) the schedule of tuition, fees, and
4 other charges; and

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

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

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

14 (4) [~~(6)~~] on completion of training, issues each
15 student a certificate indicating the course name and satisfactory
16 completion;

17 (5) [~~(7)~~] complies with all county, municipal, state,
18 and federal laws [~~regulations~~], including [~~fire, building, and~~
19 ~~sanitation codes and~~] assumed name registration and other [~~, if~~
20 applicable requirements];

21 (6) [~~(8)~~] is financially sound and capable of
22 fulfilling its commitments for training;

23 (7) [~~(9)~~] maintains and publishes as part of its
24 student enrollment contract or materials contract, as applicable,
25 the proper policy for the refund of the unused portion of tuition,
26 fees, and other charges if a student fails to take the course or
27 withdraws or is discontinued from the provider [~~school~~] at any time

1 before completion;

2 (8) [~~(10)~~] does not use erroneous or misleading
3 advertising, either by actual statement, omission, or intimation,
4 as determined by the department;

5 (9) [~~(11)~~] does not use a name similar to the name of
6 another existing driver education provider [~~school~~] or
7 tax-supported educational institution in this state, unless
8 specifically approved in writing by the executive director;

9 (10) [~~(12)~~] submits to the department for approval the
10 applicable course hour lengths and curriculum content for each
11 course offered by the provider [~~school~~];

12 (11) [~~(13)~~] does not owe an administrative penalty for
13 a violation of this chapter;

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

16 (13) [~~(14)~~] meets any additional criteria required by
17 the department, including any applicable inspection requirements[
18 ~~and~~

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

21 SECTION 5.24. Subchapter E, Chapter 1001, Education Code,
22 is amended by adding Sections 1001.2041, 1001.2042, and 1001.2043
23 to read as follows:

24 Sec. 1001.2041. REQUIREMENTS FOR IN-PERSON DRIVER
25 EDUCATION PROVIDER. Before an in-person driver education provider
26 license may be issued, the department must determine that the
27 applicant has adequate space, equipment, instructional material,

1 and driver education instructors to provide training of good
2 quality in the classroom and behind the wheel.

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

6 (1) adequate driver education instructors to provide
7 training of good quality; and

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

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

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

18 (A) completion of the course; or

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

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

24 (3) adequate testing and security measures to validate
25 a student's active participation in a driver education course
26 conducted using course materials provided remotely through the
27 Internet.

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

6 SECTION 5.25. Section 1001.206, Education Code, is amended
7 to read as follows:

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

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

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

22 (2) provides [~~the course provider has adequate~~
23 ~~educational qualifications and experience,~~

24 [~~(3) the course provider will:~~

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

27 (A) [~~driving safety school that offers the~~

1 ~~approved course]~~ a copy of:

2 (i) the refund policy; ~~and]~~

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

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

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

11 (3) ~~[(4) a copy of the information provided to each~~
12 ~~driving safety school under Subdivision (3) will be provided to~~
13 ~~each student by the school before enrollment;~~

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

20 (4) ~~[(6) the course provider]~~ maintains adequate
21 records as prescribed by the department to show attendance and
22 progress or grades and enforces satisfactory standards relating to
23 attendance, progress, and conduct;

24 (5) ~~[(7) the course provider]~~ complies with all
25 county, municipal, state, and federal laws, including assumed name
26 registration and other applicable requirements;

27 (6) ~~[(8) the course provider]~~ is financially sound and

1 capable of fulfilling its commitments for training;

2 (7) [~~(9) the course provider~~] maintains and publishes
3 as a part of its student enrollment contract the proper policy for
4 the refund of the unused portion of tuition, fees, and other charges
5 if a student fails to take the course or withdraws or is
6 discontinued from the provider [~~school~~] at any time before
7 completion;

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

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

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

18 (11) [~~(12) the course provider~~] does not owe an
19 administrative penalty for a violation of this chapter;

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

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

25 SECTION 5.26. Section 1001.207, Education Code, is amended
26 to read as follows:

27 Sec. 1001.207. BOND REQUIREMENTS: DRIVER EDUCATION

1 PROVIDER [~~SCHOOL~~]. (a) Before a driver education provider
2 [~~school~~] may be issued a license, the provider [~~school~~] must file a
3 corporate surety bond with the department in the amount of:

4 (1) \$10,000 [~~for the primary location of the school~~];
5 and

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

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

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

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

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

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

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

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

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

1 license.

2 SECTION 5.27. Section 1001.209, Education Code, is amended
3 to read as follows:

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

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

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

11 (2) payable to the department to be used:

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

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

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

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

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

24 SECTION 5.28. Section 1001.210, Education Code, is amended
25 to read as follows:

26 Sec. 1001.210. ALTERNATE FORM OF SECURITY. Instead of the
27 bond required by Section 1001.207 or 1001.209, a driver education

1 provider [~~school~~] or driving safety [~~course~~] provider may provide
2 another form of security that is:

- 3 (1) approved by the department; and
4 (2) in the amount required for a comparable bond under
5 Section 1001.207 or 1001.209.

6 SECTION 5.29. Sections 1001.211(b) and (c), Education Code,
7 are amended to read as follows:

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

- 10 (1) the date of issuance, effective date, and term of
11 the license;
12 (2) the name and address of the driver training
13 [~~school or course~~] provider;
14 (3) the authority for and conditions of approval; and
15 (4) any other fair and reasonable representation that
16 is consistent with this chapter and that the department considers
17 necessary.

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

20 SECTION 5.30. Sections 1001.213(b), (c), and (d), Education
21 Code, are amended to read as follows:

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

26 (c) The commission by rule may establish fees for a new
27 driver training [~~education school or course~~] provider license under

1 Subsection (b) and, if applicable, for each branch location of an
2 in-person driver education provider if:

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

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

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

10 SECTION 5.31. Section 1001.214, Education Code, is amended
11 to read as follows:

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

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

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

17 SECTION 5.32. Section 1001.251(a), Education Code, is
18 amended to read as follows:

19 (a) Except as authorized under Section 1001.112, a [A]
20 person may not teach or provide driver education[~~either as an~~
21 ~~individual or in a driver education school,~~] or conduct any phase of
22 driver education[~~7~~] unless the person holds a driver education
23 instructor license issued by the executive director.

24 SECTION 5.33. Section 1001.2511(e), Education Code, is
25 amended to read as follows:

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

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

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

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

9 SECTION 5.34. Section 1001.2512, Education Code, is amended
10 to read as follows:

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

20 SECTION 5.35. Section 1001.2513, Education Code, is amended
21 to read as follows:

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

26 (1) may not be released except:

27 (A) to provide relevant information to driver

1 education providers [~~schools~~] or otherwise to comply with Section
2 1001.2511;

3 (B) by court order; or

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

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

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

11 SECTION 5.36. Sections 1001.2514(a) and (d), Education
12 Code, are amended to read as follows:

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

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

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

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

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

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

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

9 SECTION 5.37. Section 1001.2531(b), Education Code, is
10 amended to read as follows:

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

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

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

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

19 (A) is at least 21 years of age; and

20 (B) [~~holds a high school diploma or high school~~
21 ~~equivalency certificate, and~~

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

24 SECTION 5.38. Sections 1001.255(a), (b), and (c), Education
25 Code, are amended to read as follows:

26 (a) The department shall regulate as a driver education
27 provider of the type determined appropriate by the department

1 ~~[school]~~ a driver education instructor who:

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

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

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

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

11 SECTION 5.39. Section [1001.301](#), Education Code, is amended
12 to read as follows:

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

17 SECTION 5.40. Section [1001.302](#), Education Code, is amended
18 to read as follows:

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

22 SECTION 5.41. Section [1001.351](#), Education Code, is amended
23 to read as follows:

24 Sec. 1001.351. DRIVING SAFETY ~~[COURSE]~~ PROVIDER
25 RESPONSIBILITIES. (a) Not later than the 15th working day after
26 the course completion date, a driving safety ~~[course]~~ provider or a
27 person at the ~~[course]~~ provider's facilities shall issue and

1 deliver by United States mail or commercial or electronic delivery
2 a uniform certificate of course completion to a person who
3 successfully completes an approved driving safety course.

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

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

11 SECTION 5.42. Section [1001.352](#), Education Code, is amended
12 to read as follows:

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

- 15 (1) at least \$25 for a driving safety course; and
16 (2) a fee of at least \$3 for course materials and for
17 supervising and administering the course.

18 SECTION 5.43. Section [1001.353](#), Education Code, is amended
19 to read as follows:

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

27 SECTION 5.44. Section [1001.355](#), Education Code, is amended

1 to read as follows:

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

6 SECTION 5.45. Section 1001.356, Education Code, is amended
7 to read as follows:

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

12 SECTION 5.46. Section 1001.357, Education Code, is amended
13 to read as follows:

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

18 SECTION 5.47. Section 1001.401, Education Code, is amended
19 to read as follows:

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

25 (1) the student cancels the enrollment contract before
26 midnight of the third day, other than a Saturday, Sunday, or legal
27 holiday, after the date the enrollment contract is signed by the

1 student, unless the student successfully completes the course or
2 receives a failing grade on the course examination; or

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

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

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

9 SECTION 5.48. Section 1001.402, Education Code, is amended
10 to read as follows:

11 Sec. 1001.402. TERMINATION POLICY. (a) As a condition for
12 obtaining a driver training provider [~~education school~~] license,
13 the provider [~~school~~] must maintain a policy for the refund of the
14 unused portion of tuition, fees, and other charges if a student,
15 after expiration of the cancellation period described by Section
16 1001.401, does not enter the course or withdraws or is discontinued
17 from the course at any time before completion.

18 (b) The policy must provide that:

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

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

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

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

27 (C) the 10th school day after the last day of

1 attendance;

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

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

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

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

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

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

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

22 SECTION 5.49. Section 1001.403, Education Code, is amended
23 to read as follows:

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

1 SECTION 5.50. Sections 1001.404(a) and (c), Education Code,
2 are amended to read as follows:

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

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

15 SECTION 5.51. Subchapter I, Chapter 1001, Education Code,
16 is amended by adding Section 1001.405 to read as follows:

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

21 SECTION 5.52. Section 1001.451, Education Code, is amended
22 to read as follows:

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

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

26 (2) fail to notify the department of the
27 discontinuance of the operation of a driver training provider

1 ~~[school]~~ before the 15th working day after the date of cessation of
2 classes and make available accurate records as required by this
3 chapter;

4 (3) issue, sell, trade, or transfer:

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

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

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

14 (4) negotiate a promissory instrument received as
15 payment of tuition or another charge before the student completes
16 75 percent of the course, except that before that time the
17 instrument may be assigned to a purchaser who becomes subject to any
18 defense available against the provider ~~[school]~~ named as payee; or

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

23 SECTION 5.53. Section [1001.452](#), Education Code, is amended
24 to read as follows:

25 Sec. 1001.452. COURSE OF INSTRUCTION OR PROVISION OF
26 MATERIALS. A driver training provider ~~[school]~~ may not conduct a
27 course of instruction or provide driver education course materials,

1 as applicable, in this state before the date the provider [~~school~~]
2 receives the necessary [~~a~~] driver training provider [~~school~~]
3 license from the department.

4 SECTION 5.54. The heading to Section 1001.453, Education
5 Code, is amended to read as follows:

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

8 SECTION 5.55. Sections 1001.453(a) and (b), Education Code,
9 are amended to read as follows:

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

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

18 SECTION 5.56. Section 1001.455, Education Code, is amended
19 to read as follows:

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

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

27 (2) permits or engages in misrepresentation, fraud, or

1 deceit in applying for or obtaining a certificate, license, or
2 permit;

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

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

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

10 (6) fails to comply with this chapter.

11 SECTION 5.57. Section 106.115(a), Alcoholic Beverage Code,
12 is amended to read as follows:

13 (a) On the placement of a minor on deferred disposition for
14 an offense under Section 49.02, Penal Code, or under Section
15 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court
16 shall require the defendant to attend an alcohol awareness program
17 approved by the Texas Department of Licensing and Regulation under
18 this section or [7] a drug education program approved by the
19 Department of State Health Services in accordance with Section
20 521.374, Transportation Code[~~7 or a drug and alcohol driving~~
21 ~~awareness program approved by the Texas Education Agency~~]. On
22 conviction of a minor of an offense under one or more of those
23 sections, the court, in addition to assessing a fine as provided by
24 those sections, shall require a defendant who has not been
25 previously convicted of an offense under one of those sections to
26 attend an alcohol awareness program or[7] a drug education
27 program[~~7 or a drug and alcohol driving awareness program~~]

1 described by this subsection. If the defendant has been previously
2 convicted once or more of an offense under one or more of those
3 sections, the court may require the defendant to attend an alcohol
4 awareness program or [~~7~~] a drug education program [~~7, or a drug and~~
5 ~~alcohol driving awareness program~~] described by this subsection. If
6 the defendant is younger than 18 years of age, the court may require
7 the parent or guardian of the defendant to attend the program with
8 the defendant. The Texas Department of Licensing and Regulation or
9 Texas Commission of Licensing and Regulation, as appropriate:

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

12 (2) may charge a nonrefundable application fee for:

13 (A) initial certification of the approval; or

14 (B) renewal of the certification;

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

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

19 SECTION 5.58. Article 45.051(b-1), Code of Criminal
20 Procedure, is amended to read as follows:

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

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

25 (2) during the deferral period, the judge[+]

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

1 and

2 [~~(B) may require the defendant to complete an~~
3 ~~additional driving safety course designed for drivers younger than~~
4 ~~25 years of age and approved under Section 1001.111, Education~~
5 ~~Code; and]~~

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

12 SECTION 5.59. Section 28.012(a)(3), Education Code, is
13 amended to read as follows:

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

16 SECTION 5.60. Section 28.012(e), Education Code, is amended
17 to read as follows:

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

24 SECTION 5.61. Section 29.902(c), Education Code, is amended
25 to read as follows:

26 (c) A school district shall consider offering a driver
27 education and traffic safety course during each school year. If the

1 district offers the course, the district may:

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

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

8 SECTION 5.62. Section 123.007, Government Code, is amended
9 to read as follows:

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

16 SECTION 5.63. Section 521.165(e), Transportation Code, is
17 amended to read as follows:

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

22 SECTION 5.64. Sections 521.1655(a) and (a-1),
23 Transportation Code, are amended to read as follows:

24 (a) An in-person [~~A~~] driver education provider or online
25 driver education provider [~~school~~] licensed under Chapter 1001,
26 Education Code, may administer to a student of that provider
27 [~~school~~] the vision, highway sign, and traffic law parts of the

1 examination required by Section 521.161.

2 (a-1) A parent-taught driver education [~~course~~] provider
3 licensed [~~approved~~] under Chapter 1001, Education Code, [~~Section~~
4 ~~521.205~~] may administer to a student of that course the highway sign
5 and traffic law parts of the examination required by Section
6 521.161.

7 SECTION 5.65. Sections 521.206(a) and (b), Transportation
8 Code, are amended to read as follows:

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

20 (b) The department shall collect data regarding the
21 collision rate of students taught by course instructors approved
22 under Section 1001.112, Education Code. The collision rate is
23 computed by determining the number of students who completed a
24 course taught [~~approved~~] under that section [~~Section 1001.112,~~
25 ~~Education Code,~~] during a state fiscal year, dividing that number
26 by the number of collisions that involved students who completed
27 such a course and that occurred in the 12-month period following

1 their licensure, and expressing the quotient as a percentage.

2 SECTION 5.66. Section 521.222(a), Transportation Code, is
3 amended to read as follows:

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

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

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

12 (3) meets the requirements imposed under Section
13 521.204(a)(3); and

14 (4) has passed each examination required under Section
15 521.161 other than the driving test.

16 SECTION 5.67. Section 542.304(a), Transportation Code, as
17 added by Chapter 1094 (H.B. 2048), Acts of the 86th Legislature,
18 Regular Session, 2019, is amended to conform to Section 4.40,
19 Chapter 1352 (S.B. 346), Acts of the 86th Legislature, Regular
20 Session, 2019, and is further amended to read as follows:

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

24 (1) [~~Article 102.022(a), Code of Criminal Procedure,~~
25 [~~2~~] Section 1001.112(b)(4) [~~1001.112(a-2)~~],
26 Education Code;

27 (2) [~~3~~] Section 411.110(f), Government Code; and

1 (3) [~~4~~] Sections 773.0614(b) and 773.06141(a),
2 Health and Safety Code.

3 SECTION 5.68. The following provisions are repealed:

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

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

7 (3) Sections 1001.056(a) and (f), Education Code;

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

9 (5) Sections 1001.103 and 1001.111, Education Code;

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

11 (7) Sections 1001.205 and 1001.208, Education Code;

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

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

14 (10) Sections 1001.2532, 1001.2533, 1001.2534,
15 1001.2535, 1001.303, 1001.304, 1001.354, 1001.3541, and 1001.3542,
16 Education Code;

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

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

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

21 SECTION 5.69. On December 1, 2021:

22 (1) the terms of members serving on the driver
23 training and traffic safety advisory committee under Section
24 1001.058, Education Code, immediately before that date expire; and

25 (2) the presiding officer of the Texas Commission of
26 Licensing and Regulation shall appoint members of the driver
27 training and traffic safety advisory committee having

1 qualifications that correspond as closely as possible to the
2 qualifications provided under the changes in law made by this Act to
3 Section 1001.058, Education Code, with initial terms as follows:

4 (A) three members to terms expiring February 1,
5 2023;

6 (B) three members to terms expiring February 1,
7 2025; and

8 (C) three members to terms expiring February 1,
9 2027.

10 SECTION 5.70. Not later than June 1, 2023, the Texas
11 Department of Licensing and Regulation and the Department of Public
12 Safety of the State of Texas shall enter into the memorandum of
13 understanding required by Section 1001.060, Education Code, as
14 added by this article.

15 SECTION 5.71. (a) Not later than June 1, 2023, the Texas
16 Commission of Licensing and Regulation shall adopt rules necessary
17 to implement the changes in law made by this article to Chapter
18 1001, Education Code.

19 (b) A driver education school license, driving safety
20 school license, or course provider license issued under Chapter
21 1001, Education Code, before the date the Texas Department of
22 Licensing and Regulation implements the changes described in
23 Subsection (a) of this section continues to be valid until the date
24 the license expires. On expiration of that license, the license
25 holder shall apply for a new license under Chapter 1001, Education
26 Code, as amended by this article, to continue to provide services
27 for which a license is required by that chapter.

1 (c) Notwithstanding Chapter 1001, Education Code, as
2 amended by this article, a person who provides driver education
3 course materials to persons conducting parent-taught driver
4 education under Section 1001.112, Education Code, as amended by
5 this article, is not required to hold a parent-taught driver
6 education provider license under Chapter 1001, Education Code,
7 before November 1, 2023.

8 SECTION 5.72. (a) The changes in law made by this article
9 to Section 106.115, Alcoholic Beverage Code, and Article 45.051,
10 Code of Criminal Procedure, with respect to participation in a
11 court-ordered program or course, apply to a court order entered on
12 or after June 1, 2023. A court order entered before that date is
13 governed by the law in effect on the date the order was entered, and
14 the former law is continued in effect for that purpose.

15 (b) Notwithstanding Section 5.67 of this article, the Texas
16 Department of Licensing and Regulation by rule shall provide for
17 the continuance of each program or course under Article 45.0511(u),
18 Code of Criminal Procedure, Section 1001.103 or 1001.111, Education
19 Code, or Section 545.412(g) or 545.413(i), Transportation Code, as
20 repealed by this article, until the date on which the department
21 determines that every person subject to a court order entered
22 before June 1, 2023, requiring participation in a program or course
23 under those provisions has had adequate time to complete the
24 program or course in compliance with the court order.

25 SECTION 5.73. The repeal by this article of Article
26 45.0511(u), Code of Criminal Procedure, Sections 1001.103 and
27 1001.111, Education Code, and Sections 545.412(g) and 545.413(i),

1 Transportation Code, takes effect June 1, 2023.

2 SECTION 5.74. To the extent of any conflict, this article
3 prevails over another Act of the 87th Legislature, Regular Session,
4 2021, relating to nonsubstantive additions to and corrections in
5 enacted codes.

6 ARTICLE 6. TRANSITION AND EFFECTIVE DATE

7 SECTION 6.01. The repeal of a statute by this Act controls
8 over an amendment, revision, or reenactment of the statute by
9 another Act of the 87th Legislature, Regular Session, 2021,
10 regardless of relative dates of enactment and the amendment,
11 revision, or reenactment of the repealed statute has no effect.

12 SECTION 6.02. Except as otherwise provided by this Act,
13 this Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 1560 was passed by the House on April 30, 2021, by the following vote: Yeas 130, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1560 on May 27, 2021, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1560 on May 30, 2021, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1560

I certify that H.B. No. 1560 was passed by the Senate, with amendments, on May 24, 2021, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1560 on May 30, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor