A BILL TO BE ENTITLED

AN ACT

relating to the elimination of certain regulations waived during
the coronavirus disease (COVID-19) pandemic.

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

ARTICLE 1. ALCOHOLIC BEVERAGE CODE

SECTION 1.01. Chapter 1, Alcoholic Beverage Code, is
amended by adding Section 1.021 to read as follows:

Sec. 1.021. CONSTRUCTION OF CODE: DELIVERY OF CERTAIN
MERCHANDISE. Notwithstanding any other law, a provision of this
code may not be construed to prohibit the delivery of food and other
merchandise to a grocery store using a vehicle owned or operated by
a person holding a permit or license under this code.

SECTION 1.02. Section 6.04(a), Alcoholic Beverage Code, is
amended to read as follows:

(a) Notwithstanding any other provision of this code, for
the holder of a license or permit issued under this code that
expires after March 1, 2020, the holder of the license or permit may
renew the license or permit rather than reapply for an original
license or permit if, anytime [not later than the 30th day] after
the date of the expiration of the license or permit, the holder
files a renewal application and the required license or permit fee
with the commission [and pays a late fee] as provided by rules of
the commission. The commission may not charge a late fee for a
renewal application filed in accordance with this subsection.
SECTION 1.03. The heading to Section 28.1001, Alcoholic Beverage Code, is amended to read as follows:

Sec. 28.1001. PICKUP AND [OFF-PREMISES] DELIVERY OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION.

SECTION 1.04. Section 28.1001, Alcoholic Beverage Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (a-1), (a-2), and (e) to read as follows:

(a) In this section:

(1) "Passenger area of a motor vehicle" has the meaning assigned by Section 49.031, Penal Code.

(2) "Tamper-proof container" means a closed cup or similar container that is sealed with tape and placed into a bag that has been sealed with a zip tie.

(a-1) Notwithstanding any other provision of this code, the holder of a mixed beverage permit may deliver, or have delivered by a third party, including an independent contractor acting under Chapter 57, an alcoholic beverage from the permitted premises to an ultimate consumer located off-premises and in an area where the sale of the beverage is legal if:

(1) [the holder of the mixed beverage permit holds a food and beverage certificate for the permitted premises;]

(2) [the delivery of the alcoholic beverage is made as part of the delivery of food prepared at the permitted premises;]

[412] [the alcoholic beverage is:

(A) a malt beverage [beer, ale,] or wine delivered in an original container sealed by the manufacturer; or

(B) an alcoholic beverage other than a malt
beverage [beer, ale] or wine that:

(i) is delivered in an original, single-serving container sealed by the manufacturer and not larger than 375 milliliters; or

(ii) the permit holder mixes with other beverages and stores in a tamper-proof container that is clearly labeled with the permit holder’s business name and the words “alcoholic beverage”; and

(2) [44] the delivery is not made to another [a] premises that is permitted or licensed under this code.

(a-2) Notwithstanding any other provision of this code, the holder of a mixed beverage permit may allow an ultimate consumer to pick up an alcoholic beverage described by Subsection (a-1)(1) and remove the beverage from the permitted premises.

(c) An alcoholic beverage picked up or [may be] delivered under this section may be provided only to a person who is 21 years of age or older after the person picking up the alcoholic beverage or accepting the delivery presents valid proof of identity and age and:

(1) the person picking up the alcoholic beverage or accepting the delivery personally signs a receipt, which may be electronic, acknowledging the pickup or delivery; or

(2) the person providing the beverage for pickup or making the delivery acknowledges the completion of the pickup or delivery through a software application.

(d) This section does not authorize the holder of a brewpub license who also holds a wine and malt beverage [beer] retailer's
permit to deliver alcoholic beverages directly to ultimate consumers for off-premise consumption at a location other than the licensed premises.

(e) A person who picks up or delivers an alcoholic beverage described by Subsection (a-1)(1)(B)(ii) may not transport the alcoholic beverage in the passenger area of a motor vehicle.

ARTICLE 2. EDUCATION CODE

SECTION 2.01. Section 18.006(b), Education Code, is amended to read as follows:

(b) In addition to other factors determined to be appropriate by the commissioner, the accountability system must include consideration of:

(1) student performance on the [end-of-course] assessment instruments administered under [required by] Section 39.023(c); and

(2) dropout rates, including dropout rates and diploma program completion rates for the grade levels served by the diploma program.

SECTION 2.02. Section 25.005(b), Education Code, is amended to read as follows:

(b) A reciprocity agreement must:

(1) address procedures for:

(A) transferring student records;

(B) awarding credit for completed course work;

and

(C) permitting a student to satisfy the requirements of Section 39.025 through successful performance on
comparable [end-of-course or other exit-level] assessment instruments administered in another state; and

(2) include appropriate criteria developed by the agency.

SECTION 2.03. Section 28.014(a), Education Code, is amended to read as follows:

(a) Each school district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

(1) for students at the 12th grade level whose performance on:

(A) an [end-of-course] assessment instrument administered [required] under Section 39.023(c) does not meet college readiness standards; or

(B) coursework, a college entrance examination, or an assessment instrument designated under Section 51.334 indicates that the student is not ready to perform entry-level college coursework; and

(2) to prepare students for success in entry-level college courses.

SECTION 2.04. Section 28.0211(o), Education Code, is amended to read as follows:

(o) This section does not require the administration of a fifth [or eighth] grade assessment instrument in a subject under Section 39.023(a) to a student enrolled in the fifth [or eighth] grade [as applicable] if the student[...]

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is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Section 39.023(a) that aligns with the curriculum for the course in which the student is enrolled[; or

is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Section 39.023(c) for the course].

SECTION 2.05. Section 28.023(c), Education Code, is amended to read as follows:

(c) A school district shall give a student in grade level six or above credit for a subject on the basis of an examination for credit in the subject approved by the board of trustees under Subsection (a) if the student scores in the 80th percentile or above on the examination or if the student achieves a score as provided by Subsection (c-1). If a student is given credit in a subject on the basis of an examination, the district shall enter the examination score on the student's transcript [and the student is not required to take an end-of-course assessment instrument adopted under Section 39.023(c) for that subject].

SECTION 2.06. Sections 28.025(b-4) and (c-8), Education Code, are amended to read as follows:

(b-4) A school district may offer the curriculum described in Subsections (b-1)(1) through (4) in an applied manner. Courses delivered in an applied manner must cover the essential knowledge and skills[, and the student shall be administered the applicable
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1. end-of-course assessment instrument as provided by Sections 39.023(c) and 39.025.

c-8 For purposes of Subsection (c-7), the admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether the student is required to achieve satisfactory performance on an [end-of-course] assessment instrument administered under Section 39.023(c) to earn an endorsement on the student's transcript.

SECTION 2.07. Section 28.0255, Education Code, is amended by amending Subsections (g) and (h) and adding Subsection (g-1) to read as follows:

(g) A student entering the ninth grade for the first time beginning with the 2021-2022 school year is entitled to a high school diploma if the student:

1. successfully complies with the curriculum requirements specified under Subsection (e); and

2. performs satisfactorily, as determined by the commissioner under Subsection (h), on each [end-of-course] assessment instrument selected [instruments listed] under Section 39.023(c) by the school district [for courses] in which the student is [was] enrolled.

(g-1) A student other than a student described by Subsection (g) is entitled to a high school diploma if the student:

1. successfully complies with the curriculum requirements specified under Subsection (e); and

2. performs satisfactorily, as determined by the commissioner under Subsection (h), on:
(A) each assessment instrument selected under Section 39.023(c) by the school district in which the student is enrolled; or

(B) assessment instruments listed under Section 39.023(c), as that section existed before amendment by H.B. 2662, Acts of the 87th Legislature, Regular Session, 2021, for courses in which the student was enrolled.

(h) For purposes of Subsections (g)(2) and (g-1)(2), the commissioner shall determine the level of satisfactory performance on applicable end-of-course assessment instruments administered to a student.

SECTION 2.08. Section 28.0258, Education Code, is amended by amending Subsections (a), (b), (f), (h), (j), and (k) and adding Subsections (m) and (n) to read as follows:

(a) This section applies only to an 11th or 12th grade student who has failed to comply with the end-of-course assessment instrument performance requirements under Section 39.025 for not more than two subjects identified under Section 39.023(c) courses.

(b) For each student to whom this section applies, the school district that the student attends shall establish an individual graduation committee at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate as provided by this section. A student may not qualify to graduate under this section before the student's 12th grade year. The committee shall be composed of:

(1) the principal or principal's designee;
(2) for each subject identified under Section 39.023(c) for [end-of-course assessment instrument on which the student failed to perform satisfactorily on the appropriate corresponding required assessment instrument, a teacher of the student in that subject, designated by the principal;] the department chair or lead teacher supervising the teacher described by Subdivision (2); and

(4) as applicable:

(A) the student's parent or person standing in parental relation to the student;

(B) a designated advocate described by Subsection (c) if the person described by Paragraph (A) is unable to serve; or

(C) the student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

(f) Notwithstanding any other law, a student's individual graduation committee established under this section shall recommend additional requirements by which the student may qualify to graduate, including:

(1) additional remediation; and

(2) for each [end-of-course] assessment instrument required under Section 39.023(c) on which the student failed to perform satisfactorily:

(A) the completion of a project related to the subject area [of the course] that demonstrates proficiency in the subject area; or

(B) the preparation of a portfolio of work
samples in the subject area [of the course], including work samples [from the course] that demonstrate proficiency in the subject area.

(h) In determining whether a student for whom an individual graduation committee is established is qualified to graduate, the committee shall consider:

(1) the recommendation of the student's teacher in each course of the subject for which the student failed to perform satisfactorily on an [end-of-course] assessment instrument;

(2) the student's grade in each course of the subject for which the student failed to perform satisfactorily on an [end-of-course] assessment instrument;

(3) the student's score on each [end-of-course] assessment instrument required under Section 39.023(c) on which the student failed to perform satisfactorily;

(4) the student's performance on any additional requirements recommended by the committee under Subsection (f);

(5) the number of hours of remediation that the student has attended, including:

[(A)] attendance in a college preparatory course required under Section 39.025(b-2), if applicable; or

[(B)] attendance in and successful completion of a transitional college course in reading or mathematics;

(6) the student's school attendance rate;

(7) the student's satisfaction of any of the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board;

(8) the student's successful completion of a dual
credit course in English, mathematics, science, or social studies;
(9) the student's successful completion of a high
school pre-advanced placement, advanced placement, or
international baccalaureate program course in English, math
ematics, science, or social studies;
(10) the student's rating of advanced high on the most
recent high school administration of the Texas English Language
Proficiency Assessment System;
(11) the student's score of 50 or greater on a
College-Level Examination Program examination;
(12) the student's score on:
(A) the ACT or the SAT, if not otherwise
considered under Subdivision (3); or
(B) the Armed Services Vocational Aptitude
Battery test;
(13) the student's completion of a sequence of courses
under a career and technical education program required to attain
an industry-recognized credential or certificate;
(14) the student's overall preparedness for
postsecondary success; and
(15) any other academic information designated for
consideration by the board of trustees of the school district.
(j) Notwithstanding any action taken by an individual
graduation committee under this section, a school district shall
administer an [end-of-course] assessment instrument required under
Section 39.023(c) to any student who fails to perform
satisfactorily on an [end-of-course] assessment instrument
required under Section 39.023(c) as provided by Section 39.025(b).
For purposes of Section 39.053(c)(1), an assessment instrument administered as provided by this subsection is considered an assessment instrument required for graduation retaken by a student.

(k) The commissioner shall adopt rules as necessary to administer [implement] this section [not later than the 2015-2016 school year].

(m) For a student subject to Section 39.025(f-3)(1):

(1) for purposes of Subsection (a), this section applies only to an 11th or 12th grade student who has failed to comply with the end-of-course assessment instrument performance requirements under Section 39.025, as that section existed before amendment by __.B. ___, Acts of the 87th Legislature, Regular Session, 2021, for not more than two courses listed in Section 39.023(c), as that section existed before amendment by _.B. ___, Acts of the 87th Legislature, Regular Session, 2021;

(2) for purposes of the composition of an individual graduation committee under Subsection (b)(2), the committee shall include the teacher of the course for each end-of-course assessment instrument described by Subdivision (1) for which the student failed to perform satisfactorily;

(3) for purposes of Subsection (h)(1), an individual graduation committee shall consider the recommendation of the teacher described by Subdivision (2); and

(4) for purposes of Subsection (h)(2), an individual graduation committee shall consider the student's grade in each course described by Subdivision (2).
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(n) Subsection (m) and this subsection expire September 1, 2025.

SECTION 2.09. Sections 29.081(b) and (b-1), Education Code, are amended to read as follows:

(b) Each district shall provide accelerated instruction to a student enrolled in the district who has taken an [end-of-course] assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument or who is at risk of dropping out of school.

(b-1) Each school district shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an [end-of-course] assessment instrument required for graduation.

SECTION 2.10. Section 29.087(f), Education Code, is amended to read as follows:

(f) A student participating in a program authorized by this section, other than a student ordered to participate under Subsection (d)(1), must have taken any [the] appropriate [end-of-course] assessment instrument [instruments] specified by Section 39.023(c) that is administered before the student enters the program and must take any [each] appropriate [end-of-course] assessment instrument that is administered during the period in which the student is enrolled in the program. Except for a student ordered to participate under Subsection (d)(1), a student participating in the program may not take the high school
equivalency examination unless the student has taken the assessment instruments required by this subsection.

SECTION 2.11. Section 29.402(b), Education Code, is amended to read as follows:

(b) A person who is under 26 years of age is eligible to enroll in a dropout recovery program under this subchapter if the person:

(1) must complete not more than three course credits to complete the curriculum requirements for the foundation high school program for high school graduation; or

(2) has failed to perform satisfactorily on, as applicable:

(A) an [end-of-course] assessment instrument administered under Section 39.023(c); or

(B) an assessment instrument administered under Section 39.023(c) as that section existed before amendment by H.B. 35, Acts of the 87th Legislature, Regular Session, 2021; or

(C) an assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. 1031), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 2.12. Section 39.023(a), Education Code, as effective until September 1, 2021, is amended to read as follows:

(a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, [writing,] mathematics, [social studies,] and science. Except as provided by Subsection
(a-2), all students, other than students assessed under Subsection (b) or (1) or exempted under Section 39.027, shall be assessed in:

1. mathematics, annually in grades three through eight;
2. reading, annually in grades three through eight;
and
3. writing, including spelling and grammar, in grades four and seven;
4. social studies, in grade eight;
5. science, in grades five and eight;
6. any other subject and grade required by federal law.

SECTION 2.13. Section 39.023(a), Education Code, as effective September 1, 2021, is amended to read as follows:

(a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (1) or exempted under Section 39.027, shall be assessed in:

1. mathematics, annually in grades three through eight;
2. reading, annually in grades three through eight;
and
3. social studies, in grade eight;
4. science, in grades five and eight;
5. any other subject and grade required by federal law.
SECTION 2.14. Section 39.023, Education Code, is amended by amending Subsections (a-2), (b-1), (c), (c-3), (c-5), (c-8), (e), (g), (h), (i), and (p) and adding Subsections (h-1) and (q) to read as follows:

(a-2) Except as required by federal law, a student is not required to be assessed in a subject otherwise assessed at the student’s grade level under Subsection (a) if the student:

(1) is enrolled in a course in the subject intended for students above the student’s grade level and will be administered an assessment instrument adopted or developed under Subsection (a) that aligns with the curriculum for the course in which the student is enrolled;

(2) is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument adopted under Subsection (c) for the course.

(b-1) The agency, in conjunction with appropriate interested persons, shall redevelop assessment instruments adopted or developed under Subsection (b) for administration to significantly cognitively disabled students in a manner consistent with federal law. An assessment instrument under this subsection may not require a teacher to prepare tasks or materials for a student who will be administered such an assessment instrument. [A classroom portfolio method used to assess writing performance may require a teacher to prepare tasks and materials.]

(c) The agency shall also provide for [adopt end-of-course]
assessment instruments for each federally required secondary-level subject, including English language arts, mathematics, and science. The commissioner shall identify a procedure for a school district to select the Texas Success Initiative (TSI) diagnostic assessment or the SAT, the ACT, the PSAT, or the ACT-Plan or any other nationally recognized, norm-referenced secondary-level assessment instrument designated by the commissioner for the assessment of students under this subsection. Each school district shall select one or more assessment instruments for purposes of this subsection. A school district that selects more than one assessment instrument must uniformly administer to students in the district the same assessment instrument to satisfy the requirement for the same subject [courses in Algebra I, biology, English I, English II, and United States history. The Algebra I end-of-course assessment instrument must be administered with the aid of technology, but may include one or more parts that prohibit the use of technology]. An [The English I and English II end-of-course] assessment instrument designated under this section [instruments] must [each] assess essential knowledge and skills in the appropriate subject [both reading and writing and must provide a single score]. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments under [listed in] this subsection. If a student is in a special education program under Subchapter A, Chapter 29, the student’s admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required
under this subsection. [The State Board of Education shall administer the assessment instruments. An end-of-course assessment instrument may be administered in multiple parts over more than one day. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).]

(c-3) In [Except as provided by Subsection (c-7), in] adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall ensure that assessment instruments administered under Subsection (a) or (c) are not administered on the first instructional day of a week.

(c-5) A student's performance on an [end-of-course] assessment instrument administered [required] under Subsection (c) must be included in the student's academic achievement record.

(c-8) Beginning with the 2022-2023 school year, an assessment instrument developed under Subsection (a) [or (c)] may not present more than 75 percent of the questions in a multiple choice format.

(e) Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), [(c), (d)], or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a
question that is being field-tested and was not used to compute the 
student's score on the instrument. The agency shall also release, 
under board rule, each question that is no longer being 
field-tested and that was not used to compute a student's score. 
[During the 2014-2015 and 2015-2016 school years, the agency shall 
release the questions and answer keys to assessment instruments as 
described by this subsection each year.] 

(g) An [The State Board of Education may adopt one 
appropriate, nationally recognized, norm-referenced] assessment 
instrument administered under Subsection (c) [in reading and 
mathematics to be administered to a selected sample of students in 
the spring. If adopted, a norm-referenced assessment instrument] 
must be a secured test. The commissioner shall contract with a 
vendor to administer the assessment instrument, complete the 
scoring of the assessment instrument, and distribute within a 
reasonable period the results to the agency and the relevant 
results to each school district. As soon as practicable after the 
district receives the results from the vendor under this 
subsection, the district shall: 

(1) distribute the relevant results to each district 
campus; and 

(2) provide written notice to the student and the 
person standing in parental relation to the student that states the 
student's results and whether the student performed satisfactorily 
on the assessment instrument [The state may pay the costs of 
purchasing and scoring the adopted assessment instrument and of 
distributing the results of the adopted instrument to the school
districts. A district that administers the norm-referenced test adopted under this subsection shall report the results to the agency in a manner prescribed by the commissioner].

(h) Except as provided by Subsection (g), the [The] agency shall notify school districts and campuses of the results of assessment instruments administered under this section not later than the 21st day after the date the assessment instrument is administered.

(h-1) A [The] school district shall disclose to each district teacher the results of assessment instruments administered to students taught by the teacher in the subject for the school year in which the assessment instrument is administered.

(i) The provisions of this section[, except Subsection (d)], are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted or designated under those rules [and each assessment instrument required under Subsection (d)] must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.

(p) On or before September 1 of each year, the commissioner shall make the following information available on the agency’s Internet website for each assessment instrument administered under Subsection (a)[, (c),] or (l) and for the Texas Success Initiative (TSI) diagnostic assessment:

(1) the number of questions on the assessment instrument;

(2) the number of questions that must be answered
correctly to achieve satisfactory performance as determined by the commissioner under Section 39.0241(a);

(3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section 39.0241; and

(4) the corresponding scale scores.

(q) Notwithstanding any provision of this section or other law, if changes made to the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) reduce the number or frequency of assessment instruments required to be administered to students, the State Board of Education shall adopt rules reducing the number or frequency of assessment instruments administered to students under state law, and the commissioner shall ensure that students are not assessed in subject areas or in grades that are no longer required to meet the minimum requirements of that Act.

SECTION 2.15. The heading to Section 39.0232, Education Code, is amended to read as follows:

Sec. 39.0232. USE OF [END-OF-COURSE] ASSESSMENT INSTRUMENT AS PLACEMENT INSTRUMENT; CERTAIN USES PROHIBITED.

SECTION 2.16. Sections 39.0232(a), (b), and (c), Education Code, are amended to read as follows:

(a) To the extent practicable, the agency shall ensure that any high school [end-of-course] assessment instrument designated under Section 39.023(c) [developed by the agency is developed in such a manner that the assessment instrument] may be used to determine the appropriate placement of a student in a course of the same subject matter at an institution of higher education.
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(b) A student’s performance on an assessment instrument administered under Section 39.023(c) may not
be used:

(1) in determining the student’s class ranking for any purpose, including entitlement to automatic college admission under Section 51.803 or 51.804; or

(2) as a sole criterion in the determination of whether to admit the student to a general academic teaching institution in this state.

(c) Subsection (b)(2) does not prohibit a general academic teaching institution from implementing an admission policy that takes into consideration a student’s performance on an assessment instrument administered under Section 39.023(c) in addition to other criteria.

SECTION 2.17. Section 39.0234, Education Code, is amended to read as follows:

Sec. 39.0234. ELECTRONIC ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) Except as provided by Subsection (b), the agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered electronically.

(b) Subsection (a) does not apply to a nationally recognized, norm-referenced assessment instrument under Section 39.023(c).

SECTION 2.18. Section 39.0241, Education Code, is amended by amending Subsection (a-1) and adding Subsection (a-2) to read as follows:

(a-1) The commissioner of education, in collaboration with
the commissioner of higher education, shall determine the level of performance necessary to indicate college readiness, as defined by Section 39.024(a).

(a-2) In this section, "college readiness" means the level of preparation a student must attain in English language arts and mathematics courses to enroll and succeed, without remediation, in an entry-level general education course for credit in that same content area for a baccalaureate degree or associate degree program at:

(1) a general academic teaching institution, as defined by Section 61.003, other than a research institution, as categorized under the Texas Higher Education Coordinating Board's accountability system; or

(2) a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

SECTION 2.19. Section 39.025, Education Code, is amended by amending Subsections (a), (a-4), (b), and (b-1) and adding Subsection (f-3) to read as follows:

(a) The commissioner shall adopt rules requiring a student in the foundation high school program under Section 28.025 to be administered each [an end-of-course] assessment instrument selected under [listed in] Section 39.023(c) by the school district [only for a course] in which the student is enrolled [and for which an end-of-course assessment instrument is administered]. A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner under Section
39.0241(a), on each [end-of-course] assessment instrument administered to the student. For each scale score required under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. A student may not receive a high school diploma until the student has performed satisfactorily on each [end-of-course] assessment instrument in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

(a-4) The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on [end-of-course] assessment instruments administered under Section 39.023(c).

(b) Each time an [end-of-course] assessment instrument [adopted] under Section 39.023(c) is administered, a student who failed to achieve a score requirement under Subsection (a) may retake the assessment instrument. [A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.]

(b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) on an [end-of-course] assessment instrument
administered under Section 39.023(c) with accelerated instruction in the subject assessed by the assessment instrument.

(f-3) The commissioner shall by rule adopt a transition plan to implement the amendments made by __.B. ____, Acts of the 87th Legislature, Regular Session, 2021, replacing end-of-course assessment instruments with one or more assessment instruments selected by a school district under Section 39.023(c). The rules must provide for each assessment instrument selected by a school district under Section 39.023(c) to be administered beginning with students enrolled in the ninth grade for the first time during the 2021-2022 school year. During the period under which the transition from end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2021-2022 school year or students repeating ninth grade during the 2021-2022 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the end-of-course assessment instruments required by Section 39.023(c), as that section existed before amendment by __.B. ____, Acts of the 87th Legislature, Regular Session, 2021; and

(2) a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on:

(A) each required end-of-course assessment instrument administered under Section 39.023(c), as that section existed before amendment by __.B. ____, Acts of the 87th Legislature, Regular Session, 2021; or
(B) each assessment instrument selected under Section 39.023(c) by the district in which the student is enrolled.

SECTION 2.20. Section 39.034(d), Education Code, is amended to read as follows:

(d) The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on, as applicable:

(1) the grade five assessment instruments;

(2) the grade eight assessment instruments; and

(3) the [end-of-course] assessment instruments required under this subchapter for graduation.

SECTION 2.21. Section 39.035(a), Education Code, is amended to read as follows:

(a) Subject to Subsection (b), the agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), [(c), (d),] or (l) that is separate from the administration of the assessment instrument not more frequently than every other school year.

SECTION 2.22. Section 39.203(c), Education Code, is amended to read as follows:

(c) In addition to the distinction designations described by Subsections (a) and (b), a campus that satisfies the criteria developed under Section 39.204 shall be awarded a distinction designation by the commissioner for outstanding performance in academic achievement in English language arts, mathematics, or science[, or social studies].

SECTION 2.23. Section 51.338(c), Education Code, is amended
to read as follows:

(c) A student who has achieved scores set by the board on the
questions developed for end-of-course assessment instruments under
Section 39.0233(a), as that section existed before repeal by
B. _____, Acts of the 87th Legislature, Regular Session, 2021, is
exempt from the requirements of this subchapter. The exemption is
effective for the three-year period following the date a student
takes the last assessment instrument for purposes of this
subchapter and achieves the standard set by the board. This
subsection does not apply during any period for which the board
designates the questions developed for end-of-course assessment
instruments under Section 39.0233(a), as that section existed
before repeal by B. _____, Acts of the 87th Legislature, Regular
Session, 2021, as the primary assessment instrument under this
subchapter, except that the three-year period described by this
subsection remains in effect for students who qualify for an
exemption under this subsection before that period.

SECTION 2.24. Section 61.06641(i), Education Code, is
amended to read as follows:

(i) Notwithstanding Chapter 551, Government Code, or any
other law, the advisory council may meet by telephone conference
call, videoconference, or other similar telecommunication method.
A meeting held by telephone conference call, videoconference, or
other similar telecommunication method is subject to the
requirements of Sections 551.125(c), (d), (f), and (g)
551.125(c)-(f), Government Code.

SECTION 2.25. The following provisions of the Education
Code are repealed:

1. Sections 39.023(a-15), (c-2), (c-4), (c-6), and (d);
2. Section 39.023(c-7), as added by Chapter 1282 (H.B. 1244), Acts of the 86th Legislature, Regular Session, 2019;
3. Section 39.023(c-7), as added by Chapter 1315 (H.B. 3906), Acts of the 86th Legislature, Regular Session, 2019;
4. Section 39.0233;
5. Section 39.024;
6. Sections 39.025(a-1), (a-2), (a-3), (a-5), and (e-1);
7. Section 39.053(d-1); and
8. Section 39.203(d).

SECTION 2.26. As soon as practicable after the effective date of this Act, each school district shall provide notice to an eighth grade student under Section 39.025(g), Education Code, informing the student of the specific requirements applicable to the student under Sections 39.023(c) and 39.025(a), Education Code, as amended by this Act.

SECTION 2.27. A change in law made by this Act to a provision of Title 2, Education Code, applies beginning with the 2021-2022 school year.

ARTICLE 3. ESTATES CODE

SECTION 3.01. Subtitle F, Title 2, Estates Code, is amended by adding Chapter 259 to read as follows:

CHAPTER 259. ELECTRONIC WILLS

Sec. 259.001. SHORT TITLE. This chapter may be cited as the
Sec. 259.002. DEFINITIONS. In this chapter:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Electronic notarial certificate" has the meaning assigned by Section 406.101, Government Code.

(3) "Electronic will" means a will executed in compliance with Section 259.005.

(4) "Online notary public" has the meaning assigned by Section 406.101, Government Code.

(5) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to affix to or logically associate with the record an electronic symbol, sound, or process.

Sec. 259.0025. ELECTRONIC PRESENCE. For purposes of this chapter, two individuals are in each other's "electronic presence" if the individuals are in different physical locations but able to communicate simultaneously by sight and sound, with accommodation for a testator or witness who has limited ability in sight or hearing.

Sec. 259.003. COMMON LAW AND PRINCIPLES OF EQUITY. The common law and principles of equity supplement this chapter except...
to the extent modified by this chapter or state law other than this chapter.

Sec. 259.004. WHO MAY MAKE AN ELECTRONIC WILL. An individual who may make a will under the law of this state other than this chapter may make an electronic will.

Sec. 259.005. EXECUTION OF ELECTRONIC WILL. (a) An electronic will must be in a record perceivable as text that is:

(1) signed, with the intent that the record be the testator's electronic will, by:

(A) the testator; or

(B) another individual in the testator's name, in the testator's conscious physical or electronic presence, and at the testator's direction; and

(2) signed by at least two credible individuals who are at least 14 years of age, each of whom signed in the physical or electronic presence of the testator.

(b) Intent of a testator that a record be the testator's electronic will may be established by extrinsic evidence.

Sec. 259.006. ELECTRONIC WILL MADE SELF-PROVING IF ALL WITNESSES PHYSICALLY PRESENT. (a) An electronic will with all attesting witnesses physically present in the same location as the testator may be made self-proving by acknowledgment of the testator and affidavits of the witnesses.

(b) An acknowledgment and the affidavits under Subsection (a) must be:

(1) made before an officer authorized to administer oaths under law of the state in which execution occurs, who is
physically present in the same location as the testator and
attesting witnesses; and

(2) evidenced by the officer's certificate under
official seal logically associated with the electronic will.

(c) The acknowledgment and affidavits under Subsection (a)
must be in substantially the following form:

Before me, the undersigned authority, on this day personally
appeared _____________, _____________, and _____________, known to
me to be the testator and witnesses, respectively, who signed their
names to this record in their respective capacities, and all of said
persons being by me duly sworn, the said _____________, testator,
declared to me and to the said witnesses in my presence that this
record is [his/her] electronic will, and that [he/she] had
willingly made and executed it as [his/her] free act and deed; and
the said witnesses, each on [his/her] oath stated to me, in the
physical presence and hearing of the said testator, that the said
testator had declared to them that this record is [his/her]
electronic will, and that [he/she] executed same as such and wanted
each of them to sign it as a witness; and upon their oaths each
witness stated further that they did sign the same as witnesses in
the presence of the said testator and at [his/her] request; that
[he/she] was at that time eighteen years of age or over (or being
under such age, was or had been lawfully married, or was then a
member of the armed forces of the United States, or an auxiliary of
the armed forces of the United States, or the United States Maritime
Service) and was of sound mind; and that each of said witnesses was
then at least fourteen years of age.
Testator
___________________________
Witness
___________________________
Witness
Subscribed and sworn to before me by the said ________,
testator, and by the said ________ and ____________,
witnesses, this _____ day of __________, 20___.
(SEAL)
(Signed) ___________________
(Official Capacity of Officer)

Sec. 259.007. ELECTRONIC WILL MADE SELF-PROVING WHERE ALL
WITNESSES NOT PHYSICALLY PRESENT. (a) In this section,
"authorized person" means:
(1) an individual licensed to practice law in the
United States; or
(2) a court clerk.
(b) An electronic will without all attesting witnesses
physically present in the same location as the testator may be made
self-proving by:
(1) acknowledgment of the testator and affidavits of
the witnesses:
(A) made before an online notary public; and
(B) evidenced by the online notary public’s
electronic notarial certificate; or
(2) an authorized person’s certification in writing

H.B. No. 2662

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under Subsection (e) that:

(A) the person is an authorized person;

(B) the testator declared that the record is the testator's electronic will and that the testator understands the will's contents;

(C) the testator signed the electronic will in the electronic or physical presence of each individual who signed the record as a witness;

(D) the authorized person is satisfied as to the identity of the testator and the witnesses; and

(E) to the best of the authorized person's knowledge the testator:

   (i) was, at the time of the signing of the electronic will, 18 years of age or older or, being under such age, was or had been lawfully married or was then a member of the armed forces of the United States, or an auxiliary of the armed forces of the United States, or the United States Maritime Service;

   (ii) was of sound mind; and

   (iii) willingly made and executed the electronic will as the testator's free act and deed.

(c) An heir of the testator or a beneficiary under an electronic will may not act as an authorized person under this section.

(d) An authorized person under this section submits to the jurisdiction of the court in the county in which the testator executes the electronic will.

(e) A certification made under Subsection (b)(2) must be in
substantially the following form:

I, ______________________, an authorized person, certify that on this ______ day of __________, 20____, at ______________, ________________(city, state), the testator declared the attached record to be the electronic will of the testator and declared that the testator understands the contents of the electronic will. I further certify that the testator, in the electronic or physical presence of each individual who signed the electronic will as a witness, signed the electronic will. I further certify that I am satisfied as to the identity of the testator and the witnesses and that to the best of my knowledge the testator was, at the time of the signing of the electronic will, eighteen years of age or over or, being under such age, was or had been lawfully married or was then a member of the armed forces of the United States, or an auxiliary of the armed forces of the United States, or the United States Maritime Service, was of sound mind, and willingly made and executed the electronic will as the testator's free act and deed.

_________________________
(Signed)

Sec. 259.008. ELECTRONIC WILL MADE SELF-PROVING AFTER EXECUTION. (a) An electronic will with all attesting witnesses physically present in the same location as the testator may be made self-proving at any time after its execution by the acknowledgment of the testator and the affidavits of the witnesses.

(b) An acknowledgment and affidavits under Subsection (a) must be:

(1) made before an officer authorized to administer
oaths under the law of the state in which the acknowledgment occurs; and

(2) evidenced by the officer's certificate under official seal, logically associated with the electronic will, in substantially the following form:

I, ______________________, the testator, and we, ______________________ and ______________________, witnesses, whose names are signed to the attached or preceding electronic will, being sworn, declare to the undersigned officer that the testator signed the record as the testator's electronic will, the testator willingly made and executed it as the testator's free act and deed, each of the witnesses, in the physical presence and hearing of the testator, signed the electronic will as witnesses to the testator's signing, to the best of each witness's knowledge the testator was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States, or an auxiliary of the armed forces of the United States, or the United States Maritime Service) and was of sound mind, and each of the witnesses was then at least fourteen years of age.

___________________________  
Testator

___________________________  
Witness

___________________________  
Witness

State of __________________
County of _________________
Subscribed and sworn to before me by the said _________, testator, and by the said _____________ and _____________, witnesses, this _____ day of __________, 20____.

(SEAL)
(Signed) __________________
(Official Capacity of Officer)

Sec. 259.009. PROOF OF ELECTRONIC WILL. A signature physically or electronically affixed to an affidavit attached to an electronic will under this chapter is considered a signature affixed to the electronic will if necessary to prove the will's execution.

Sec. 259.010. CHOICE OF LAW AS TO EXECUTION. An electronic will is validly executed if executed in compliance with the law of the place where:

(1) the testator is physically located at the time of execution; or

(2) at the time of execution or at the time of death, the testator is domiciled, resides, or is a citizen.

Sec. 259.011. REVOCATION. (a) An electronic will or part of an electronic will is revoked by:

(1) a subsequent will, including an electronic will, that revokes the previous will or part of the previous will expressly or by inconsistency; or

(2) a revocatory act, if it is established by clear and convincing evidence that:

(A) the testator performed the act with the
intent and for the purpose of revoking the will or part of the will;

or

(B) another individual performed the act in the testator's physical or electronic presence and by the testator's direction.

(b) An electronic will may revoke a will that is not an electronic will.

Sec. 259.012. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 259.013. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

SECTION 3.02. Section 305.054, Estates Code, is amended to read as follows:

Sec. 305.054. ADMINISTRATION OF OATH. An oath may be taken before any person authorized to administer oaths under the laws of this state, including an online notary public using two-way video and audio conference technology as provided by Subchapter C, Chapter 406, Government Code.

SECTION 3.03. Subchapter A, Chapter 751, Estates Code, is
amended by adding Section 751.00221 to read as follows:

Sec. 751.00221. ELECTRONIC SIGNATURE; ONLINE NOTARIZATION.

(a) An adult principal may sign a durable power of attorney or a revocation of a durable power of attorney using an electronic signature that:

(1) is capable of verification;

(2) is under the sole control of the principal using it;

(3) is linked to data in a manner that invalidates the electronic signature if the data is changed; and

(4) persists with the instrument and not by association in separate files.

(b) A durable power of attorney in which the principal signs the instrument using an electronic signature that complies with the requirements of this section may be acknowledged before an online notary public using two-way video and audio conference technology as provided by Subchapter C, Chapter 406, Government Code.

SECTION 3.04. Section 1105.052, Estates Code, is amended to read as follows:

Sec. 1105.052. ADMINISTRATION OF OATH. An oath may be taken before any person authorized to administer oaths under the laws of this state, including an online notary public using two-way video and audio conference technology as provided by Subchapter C, Chapter 406, Government Code.

SECTION 3.05. Chapter 259, Estates Code, as added by this Act, applies to the will of a decedent whose death occurs on or after the effective date of this Act.
ARTICLE 4. GOVERNMENT CODE

SECTION 4.01. Section 551.125, Government Code, is amended to read as follows:

Sec. 551.125. MEETING FROM REMOTE LOCATIONS BY TELEPHONE CONFERENCE CALL [OTHER GOVERNMENTAL BODY]. (a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting from one or more remote locations by telephone conference call.

(b) A meeting held by telephone conference call may be held only if:

(1) [an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and

(2) the convening at one location of a quorum of the governmental body is difficult or impossible; or

(3) the meeting is held by an advisory board.

(c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings except as otherwise provided by Subsection (d).

(d) The notice of the telephone conference call meeting must:

(1) include the statement "Telephone conference call under Section 551.125, Government Code" in lieu of the place of the meeting;

(2) list each physical location where members of the public may listen to or participate in the meeting, including:

(A) any location that is open to the public where a member of the governmental body intends to participate in the
meeting; and

(B) any facility provided by the governmental body for members of the public to listen to the meeting or provide testimony;

(3) include access information for an audio feed of the meeting; and

(4) if applicable, include instructions for members of the public to provide testimony to the governmental body [specify as the location of the meeting where meetings of the governmental body are usually held].

(e) Any method of access that is provided to the public for listening to or participating in the telephone conference call meeting must be widely available at no cost to the public, including:

(1) a toll-free telephone number; or

(2) a free, widely available computer application that can be installed on:

(A) a mobile telephone;

(B) a computer;

(C) an Internet-connected television; or

(D) a similar, widely available electronic device.

(f) [(e)] Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public using the access information described by Subsection (d) [at the location specified in the notice of the meeting] and shall be recorded. The recording shall
be made available to the public.

(g) [4] The [location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the] identification of each party to the telephone conference shall be clearly stated prior to speaking.

(h) If the governmental body prepares an agenda packet that would have been distributed to members of the public at a face-to-face meeting, the governmental body shall make the packet available electronically so that members of the public listening remotely can follow along with the meeting.

SECTION 4.02. Section 551.127, Government Code, is amended to read as follows:

Sec. 551.127. MEETING FROM REMOTE LOCATIONS BY VIDEOCONFERENCE CALL. (a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting from one or more remote locations by videoconference call.

(b) [4-1] A member or employee of a governmental body may participate remotely in a meeting of the governmental body by means of a videoconference call if the [video and] audio feed and, if applicable, video feed of the member's or employee's participation[, as applicable, is broadcast live at the meeting and] complies with the provisions of this section.

(c) [4-2] A member of a governmental body who participates in a meeting as provided by Subsection (b) [(4-1)] shall be counted as present at the meeting for all purposes.
A member of a governmental body who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio [or video] communication with the member is lost or disconnected. The governmental body may continue the meeting only if members in a number sufficient to constitute a quorum of the body remain audible and visible to each other and, during the open portion of the meeting, to the public [remains present at the meeting location or, if applicable, continues to participate in a meeting conducted under Subsection (e)].

A meeting may be held by videoconference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).

A meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call only if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings except as otherwise provided by Subsection (f) [in addition to the notice requirements prescribed by this section].

The notice of a meeting to be held by videoconference call must:

(1) include the statement "Videoconference call under Section 551.127, Government Code" in lieu of the place of the
(2) list each physical location where members of the public may observe or participate in the meeting, including:

(A) any location that is open to the public where a member of the governmental body intends to participate in the meeting; and

(B) any facility provided by the governmental body for members of the public to observe the meeting or provide testimony;

(3) include access information for both audio-only and audiovisual feeds of the meeting; and

(4) if applicable, include instructions for members of the public to provide testimony to the governmental body [specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting].

(g) Any method of access that is provided to the public for the purpose of observing or participating in a meeting held under this section must be widely available at no cost to the public,
including:

(1) a toll-free telephone number; or

(2) a free, widely available computer application that can be installed on:

(A) a mobile telephone;

(B) a computer;

(C) an Internet-connected television; or

(D) a similar, widely available electronic device.

(h) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible and, if applicable, visible to the public using the access information described by Subsection (f) at the location specified under Subsection (e). If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

(i) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.

(j) The location specified under Subsection (e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call who is participating in the call using video communication, while that participant is speaking,
shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public, including [in attendance at the physical location described by Subsection (e) and] at any [other] location described by Subsection (f)(2) [of the meeting that is open to the public].

(k) A participant in the videoconference call using solely audio communication:

(1) shall, while the participant is speaking, be clearly audible to each other participant and, during the open portion of the meeting, to the members of the public, including at any location described by Subsection (f)(2); and

(2) must be clearly identified before speaking.

(l) [🙂] The Department of Information Resources by rule shall specify minimum technical quality standards for [audio and video signals at] a meeting held by videoconference call. [The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed these standards.]

(m) [🙂] The audio and video signals perceptible by members of the public using the access information described under Subsection (f) [at each location of the meeting described by Subsection (h)] must be of sufficient quality so that members of the public [at each location] can observe the demeanor or [and] hear the voice, as applicable, of each participant in the open portion of the meeting.

(n) [🙂] Without regard to whether a member of the governmental body is participating in a meeting from a remote
location by videoconference call, a governmental body may allow a 
member of the public to testify at a meeting from a remote location 
by videoconference call.

  (o) A governmental body that is holding a meeting by 
videoconference call where public testimony is taken shall allow a 
member of the public to testify from a remote location using video 
or audio communication.

  (p) If the governmental body prepares an agenda packet that 
would have been distributed to members of the public at a 
face-to-face meeting, the governmental body shall make the packet 
available electronically so that members of the public observing 
remotely can follow along with the meeting.

SECTION 4.03. Section 551.131(d), Government Code, is 
amended to read as follows:

(d) A meeting held by telephone conference call must 
otherwise comply with the procedures under Sections 551.125(c), 
(d), [e], and (f), and (g).

ARTICLE 5. HEALTH AND SAFETY CODE

SECTION 5.01. Section 81.406(b), Health and Safety Code, is 
amended to read as follows:

(b) The task force may meet telephonically in accordance 
with Section 551.125 [551.125(b)(3)], Government Code.

SECTION 5.02. Section 117.056(b), Health and Safety Code, 
is amended to read as follows:

(b) To ensure appropriate representation from all areas of 
this state, the committee may meet by videoconference or telephone 
conference call. A meeting held by videoconference or telephone
conference call under this subsection must comply with the requirements applicable to a telephone conference call under Sections 551.125(c), (d), [ (e), and ] (f), and (g), Government Code. Sections 551.125(b) and 551.127, Government Code, do not apply to the committee.

SECTION 5.03. Section 166.011, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding any conflicting provision of this chapter, an advance directive in which the declarant, witnesses, and notary public each sign the directive or a written revocation of the directive using an electronic signature that complies with the requirements of this section may be acknowledged before an online notary public using two-way video and audio conference technology as provided by Subchapter C, Chapter 406, Government Code.

SECTION 5.04. Section 251.011, Health and Safety Code, is amended to read as follows:

Sec. 251.011. LICENSE REQUIRED. Except as provided by Sections [Section] 251.012 and 251.0125, a person may not operate an end stage renal disease facility without a license issued under this chapter.

SECTION 5.05. Subchapter B, Chapter 251, Health and Safety Code, is amended by adding Section 251.0125 to read as follows:

Sec. 251.0125. ADDITIONAL EXEMPTIONS FROM LICENSING REQUIREMENT FOR CERTAIN OFF-SITE FACILITIES. An end stage renal disease facility licensed under this chapter may operate and provide outpatient end stage renal disease services to a patient at an off-site facility without obtaining a separate license for the
off-site facility if the off-site facility is:

(1) a mobile medical unit;

(2) a physician's office;

(3) an end stage renal disease facility that was licensed under this chapter and closed within the 36 months preceding the operation of or provision of services to a patient at the off-site facility;

(4) an ambulatory surgical center that was licensed under Chapter 243 and closed within the 36 months preceding the operation of or provision of services to a patient at the off-site facility; or

(5) a freestanding emergency medical care facility that was licensed under Chapter 254 and closed within the 36 months preceding the operation of or provision of services to a patient at the off-site facility.

SECTION 5.06. Chapter 437, Health and Safety Code, is amended by adding Section 437.026 to read as follows:

Sec. 437.026. SALE OF CERTAIN FOOD BY FOOD SERVICE ESTABLISHMENT. (a) Except as provided by Subsection (b), a food service establishment that holds a permit under this chapter may sell directly to an individual consumer food, other than prepared food, that:

(1) is in its original condition or original packaging as received by the establishment;

(2) is labeled, which may include a handwritten label, with the name and source of the food and the date the food is sold;

(3) for meat or poultry, bears an official mark of
inspection from the department or the United States Department of Agriculture;

(4) for a meat product or poultry product, is obtained from a source that is appropriately inspected and bears an official mark of inspection described by Subdivision (3);

(5) for a time and temperature control for safety food as defined by Section 437.0196, does not exceed the shelf life displayed on the food's packaging; and

(6) for food requiring refrigeration other than produce, is:

(A) maintained at or below 41 degrees Fahrenheit until the establishment sells or donates the food; and

(B) protected from contamination.

(b) A food service establishment described by Subsection (a) may not sell directly to an individual consumer food that is:

(1) in a package exhibiting damage or that is not labeled with the manufacturer's original labeling; or

(2) distressed because the food:

(A) has been subjected to fire, flooding, excessive heat, smoke, radiation, or another environmental contamination;

(B) is not held at the correct temperature for the food type; or

(C) is stored for a prolonged period.

SECTION 5.07. Section 773.050, Health and Safety Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) In adopting minimum standards under Subsection (e),

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the executive commissioner shall, during a state of disaster declared under Chapter 418, Government Code, provide to a first responder organization a grace period of not more than 30 days from the date the organization's license expires for submission of application materials and other information necessary to renew the license.

SECTION 5.08. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Sections 773.0552 and 773.0553 to read as follows:

Sec. 773.0552. PROVISION OF EMERGENCY MEDICAL SERVICES BY CERTAIN QUALIFIED PERSONS DURING DECLARED DISASTER. A medical director of an emergency medical services system may, during a state of disaster declared under Chapter 418, Government Code, authorize an individual who is not certified as any type of emergency medical services personnel but is otherwise qualified to provide emergency medical services to provide those services to patients treated or transported by an emergency medical services provider for the system.

Sec. 773.0553. TEMPORARY WAIVER OF SKILLS PROFICIENCY TESTING REQUIREMENTS FOR CERTAIN EMERGENCY MEDICAL SERVICES PERSONNEL. (a) The executive commissioner by rule shall authorize emergency medical services personnel and out-of-state advanced emergency medical technicians seeking reciprocity in this state to temporarily waive skills proficiency testing requirements if the personnel or technicians are unable to satisfy the testing requirements for a reason determined appropriate by the executive commissioner, including due to a state of disaster declared under
Chapter 418, Government Code.

(b) Emergency medical services personnel and out-of-state advanced emergency medical technicians who waive skills proficiency testing requirements under Subsection (a) must satisfy those testing requirements not later than six months from the date the testing requirements are waived.

SECTION 5.09. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement Section 437.026, Health and Safety Code, as added by this Act.

SECTION 5.10. Section 437.026, Health and Safety Code, as added by this Act, applies only to the sale of food by a food service establishment that occurs on or after the effective date of this Act. The sale of food by a food service establishment that occurs before the effective date of this Act is governed by the law in effect on the date the sale occurred, and the former law is continued in effect for that purpose.

ARTICLE 6. OCCUPATIONS CODE

SECTION 6.01. Subchapter H, Chapter 51, Occupations Code, is amended by adding Section 51.40101 to read as follows:

Sec. 51.40101. TEMPORARY EXTENSION OF LICENSE RENEWAL PERIOD AND WAIVER OF LICENSE RENEWAL LATE FEES DURING DISASTER DECLARATION. (a) In this section, "disaster declaration" means a declaration by the governor of a state of disaster under Section 418.014, Government Code.

(b) Notwithstanding Section 51.401 or any other law, the department:
(1) shall extend the period for renewing a license that expires while a disaster declaration is in effect provided the holder of the license files a renewal application and pays the required renewal fee in accordance with commission rules governing disaster renewals; and

(2) may not charge a late fee for a license renewal described by Subdivision (1).

SECTION 6.02. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 117 to read as follows:

CHAPTER 117. TEMPORARY LICENSE OR CERTIFICATE FOR CERTAIN HEALTH PROFESSIONS DURING DISASTER

Sec. 117.001. DEFINITION. In this chapter, "disaster declaration" means a declaration by the governor of a state of disaster under Section 418.014, Government Code.

Sec. 117.002. APPLICABILITY. This chapter applies only to an applicant for a license or certificate as a:

(1) medical physicist;
(2) perfusionist;
(3) physician assistant; or
(4) respiratory care practitioner.

Sec. 117.003. TEMPORARY LICENSE OR CERTIFICATE REQUIREMENTS. While a disaster declaration is in effect, the appropriate licensing authority may issue a temporary license or certificate to an applicant to whom this chapter applies if the applicant:

(1) currently has an active, pending application for the applicable license or certificate on file with the applicable
licensing authority;

(2) meets all the qualifications for the license or certificate except the applicant has not passed the final examination required for the license or certificate;

(3) has obtained a sponsoring physician licensed in this state; and

(4) submits an application for the temporary license or certificate in the form prescribed by the licensing authority.

Sec. 117.004. CRIMINAL BACKGROUND CHECK. (a) A licensing authority shall conduct a criminal background check of an applicant for a temporary license or certificate under this chapter.

(b) The licensing authority may use a name-based background check instead of a fingerprint-based check only if a fingerprint-based check is unavailable due to the disaster for which the disaster declaration is issued.

Sec. 117.005. SUPERVISION REQUIRED FOR PRACTICE. Notwithstanding any other law, a person who holds a temporary license or certificate issued under this chapter may practice as a medical physicist, perfusionist, physician assistant, or respiratory care practitioner, as applicable, only under the supervision of a physician licensed in this state.

Sec. 117.006. EXPIRATION OF TEMPORARY LICENSE OR CERTIFICATE. A temporary license or certificate issued under this chapter expires on the earlier of:

(1) the date the disaster declaration expires; or

(2) the date the appropriate licensing authority terminates a person's temporary license or certificate.
SECTION 6.03. Section 155.105(b), Occupations Code, is amended to read as follows:

(b) A physician-in-training permit does not authorize the performance of a medical act by the permit holder unless the act is performed as a part of the graduate medical education training program; and

under the supervision of a physician.

SECTION 6.04. Section 157.0512, Occupations Code, is amended by adding Subsection (q) to read as follows:

(q) Notwithstanding any other law, a prescriptive authority agreement between a physician and an advanced practice registered nurse or physician assistant may be entered into orally.

SECTION 6.05. Section 301.157, Occupations Code, is amended by adding Subsection (d-13) to read as follows:

(d-13) The board may allow a student in the final year of a nursing education program to satisfy the clinical practice requirements of a course of study through any amount of simulation activities if a state of disaster prevents the student from completing the requirements through direct patient care.

SECTION 6.06. Section 301.258, Occupations Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) The board may extend the expiration date of a permit issued under this section by not more than six months as necessary to mitigate a nursing workforce shortage caused by a state of disaster.

SECTION 6.07. Subchapter P, Chapter 301, Occupations Code,
Sec. 301.2581. TEMPORARY ADVANCED PRACTICE REGISTERED NURSE LICENSE. (a) The board shall issue a license to practice as an advanced practice registered nurse to an applicant pending the results of a national certification examination if the applicant meets all other requirements for obtaining the license.

(b) The board may not issue a license under this section to an applicant who previously failed an advanced practice registered nurse national certification examination.

(c) A license issued under Subsection (a) expires on the earlier of the date of receipt of:

(1) a permanent license; or

(2) notice from the board that the license holder has failed the examination.

(d) A person who holds a temporary license issued under this section is considered to be an advanced practice registered nurse for all purposes, except that the person does not have prescribing and ordering authority as provided by Subchapter B, Chapter 157.

(e) The board may extend the expiration date of a license issued under this section by not more than six months as necessary to mitigate an advanced practice registered nurse workforce shortage caused by a state of disaster.

SECTION 6.08. Section 301.261, Occupations Code, is amended by adding Subsections (d-1), (d-2), and (d-3) to read as follows:

(d-1) The board may waive a requirement that a person pay a fee or complete a continuing education program to remove the person's license from inactive status as necessary to mitigate a
nursing workforce shortage caused by a state of disaster.

(d-2) Except as provided by Subsection (d-3), the board may, as necessary to mitigate an advanced practice registered nurse workforce shortage caused by a state of disaster, waive a requirement that a person:

(1) whose license to practice as an advanced practice registered nurse has been inactive for at least two years but not more than four years pay a reactivation fee, complete continuing competency and current practice requirements, or meet the requirements for renewing the person's prescriptive authority to remove the person's license from inactive status; or

(2) whose license to practice as an advanced practice registered nurse has been inactive for at least four years pay a reactivation fee or complete continuing competency requirements to remove the person's license from inactive status.

(d-3) Subsection (d-2) does not apply to a person:

(1) whose license was suspended, revoked, surrendered, or otherwise placed on inactive status based on the terms of a prior disciplinary order; or

(2) who is currently under disciplinary monitoring or investigation.

SECTION 6.09. Section 301.301, Occupations Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The board may extend the expiration date of a license issued under this chapter, including the deadline to comply with any renewal requirement, by not more than six months as necessary to mitigate a nursing workforce shortage caused by a state of
disaster.

SECTION 6.10. Section 401.2022, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other law, in adopting a rule under this section, the commission:

(1) shall authorize:

(A) a license holder, including a licensed intern or licensed assistant, to provide services by telepractice through the use of any interactive audiovisual communication system, whether real-time or two-way, including a smart phone; and

(B) any supervision requirement for an applicant under this chapter to be fulfilled wholly or partly by use of telecommunications technology; and

(2) may not:

(A) require a license holder's initial professional contact with a client to be in-person; or

(B) impose any limitation on a license holder's selection of a facilitator to assist the license holder in providing services by telepractice.

SECTION 6.11. Section 402.1023, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other law, in adopting a rule under this section, the commission:

(1) shall authorize a license holder to provide services by telepractice through the use of any interactive audiovisual communication system, whether real-time or two-way, including a smart phone; and
may not:

(A) require a license holder’s initial professional contact with a client to be in-person; or

(B) impose any limitation on a license holder’s selection of a facilitator to assist the license holder in providing services by telepractice.

SECTION 6.12. Section 402.255(a), Occupations Code, is amended to read as follows:

(a) A supervisor of a temporary training permit holder must:

(1) be licensed to fit and dispense hearing instruments under this chapter or Chapter 401, other than Section 401.311 or 401.312; and

(2) [currently practice in an established place of business; and

[33] be responsible for the direct supervision and education of a temporary training permit holder.

SECTION 6.13. Section 403.151, Occupations Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), a licensed dyslexia practitioner may practice outside of an educational setting to the extent necessary to provide a service that would otherwise be provided in an educational setting that is not reasonably accessible to the licensed dyslexia practitioner or client.

SECTION 6.14. Subchapter D, Chapter 403, Occupations Code, is amended by adding Section 403.153 to read as follows:

Sec. 403.153. USE OF TELECOMMUNICATIONS TECHNOLOGY. Notwithstanding any other law, a license holder may provide a
service solely through the use of an interactive audiovisual communication system, whether real-time or two-way, including a smart phone.

SECTION 6.15. Section 506.003, Occupations Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) Notwithstanding Subsection (c)(1), applied behavior analysis interventions may be based on observation and measurement of behavior and environment through the use of telecommunications technology if approved by the certifying entity.

SECTION 6.16. Section 506.055, Occupations Code, is amended to read as follows:

Sec. 506.055. STUDENTS, INTERNS, AND FELLOWS. (a) This chapter does not apply to an applied behavior analysis activity or service of a college or university student, intern, or fellow if:

(1) the activity or service is part of a defined behavior analysis program of study, course, practicum, internship, or postdoctoral fellowship;

(2) the activity or service is directly supervised by a licensed behavior analyst or an instructor in a course sequence approved by the certifying entity; and

(3) the person is designated as a "student," "intern," "fellow," or "trainee."

(b) Notwithstanding Subsection (a)(2), a licensed behavior analyst or an instructor may supervise a behavior analysis activity or service through the use of telecommunications technology if approved by the applicable college or university and the certifying entity.
SECTION 6.17. Section 554.005, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) In implementing Subsection (a)(3)(C)(iv), the board by rule shall authorize a pharmacist to provide any required patient counseling by telephone.

SECTION 6.18. (a) The Texas Commission of Licensing and Regulation shall adopt rules under Section 51.40101, Occupations Code, as added by this Act, not later than January 1, 2022.

(b) Section 51.40101, Occupations Code, as added by this Act, applies to the renewal of a license or other authorization issued by the Texas Department of Licensing and Regulation that expires on or after January 1, 2022. A license or other authorization that expires before that date is governed by the law in effect on the date the license or other authorization expired, and the former law is continued in effect for that purpose.

SECTION 6.19. Section 155.105(b), Occupations Code, as amended by this Act, applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 6.20. The changes in law made by this Act to Chapters 401, 402, 403, and 506, Occupations Code, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.
ARTICLE 7. TRANSPORTATION CODE

SECTION 7.01. Section 370.262(a), Transportation Code, is amended to read as follows:

(a) Chapter 551, Government Code, does not prohibit any open or closed meeting of the board, a committee of the board, or the staff, or any combination of the board or staff, from being held by telephone conference call. The board may hold an open or closed meeting by telephone conference call subject to the requirements of Sections 551.125(c), (d), (f), and (g) [551.125(c)-(f)], Government Code, but is not subject to the requirements of Subsection (b) of that section.

ARTICLE 8. CONFLICTING ACTS; EFFECTIVE DATE

SECTION 8.01. To the extent of any conflict, this Act prevails over another Act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 8.02. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.