

BILL ANALYSIS

Senate Research Center

S.B. 1615
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are approximately 600,000 licensed cosmetologists in the United States. Despite the high demand for cosmetology services, licensees are limited to providing services within state borders. S.B. 1615 would implement in Texas the Cosmetology Licensure Compact (CLC), which is an interstate occupational licensure compact and legally binding agreement among adopting states. CLC enables cosmetologists to obtain a multistate license to practice in all states that join the compact, rather than get a license in every state in which they want to practice. Accordingly, S.B. 1615 would provide licensees with opportunities for multistate practice, support relocating military families, improve the safety of cosmetology services, and foster workforce development by reducing unnecessary licensure burdens.

S.B. 1615 amends current law relating to the cosmetology licensure compact.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Cosmetology Licensure Compact Commission in SECTION 1 (Section 1604.001, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1 (Section 1604.003, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 9, Occupations Code, by adding Chapter 1604, as follows:

CHAPTER 1604. COSMETOLOGY LICENSURE COMPACT

Sec. 1604.001. **COSMETOLOGY LICENSURE COMPACT.** Provides that the Cosmetology Licensure Compact is enacted and entered into with all other jurisdictions that legally join the compact, which reads as follows:

COSMETOLOGY LICENSURE COMPACT

ARTICLE 1-PURPOSE

Provides that the purpose of this compact is to facilitate the interstate practice and regulation of cosmetology with the goal of improving public access to, and the safety of, cosmetology services and reducing unnecessary burdens related to cosmetology licensure. Provides that through this compact, the member states seek to establish a regulatory framework which provides for a new multistate licensing program. Provides that through this new licensing program, the member states seek to provide increased value and mobility to licensed cosmetologists in the member states, while ensuring the provision of safe, effective, and reliable services to the public. Provides that this compact is designed to achieve the following objectives, and the member states hereby ratify the same intentions by subscribing hereto:

- A. Provide opportunities for interstate practice by cosmetologists who meet uniform requirements for multistate licensure;
- B. Enhance the abilities of member states to protect public health and safety, and prevent fraud and unlicensed activity within the profession;
- C. Ensure and encourage cooperation between member states in the licensure and regulation of the practice of cosmetology;
- D. Support relocating military members and their spouses;
- E. Facilitate the exchange of information between member states related to the licensure, investigation, and discipline of the practice of cosmetology;
- F. Provide for the licensure and mobility of the workforce in the profession, while addressing the shortage of workers and lessening the associated burdens on the member states.

ARTICLE 2-DEFINITIONS

Defines "active military member," "adverse action," "authorization to practice," "alternative program," "background check," "charter member state," "commission," "cosmetologist," "cosmetology," "cosmetology services," "practice of cosmetology," "current significant investigative information," "data system," "disqualifying event," "encumbered license," "encumbrance," "executive committee," "home state," "investigative information," "jurisprudence requirement," "licensee," "member state," "multistate license," "remote state," "rule," "single-state license," "state," and "state licensing authority."

ARTICLE 3-MEMBER STATE REQUIREMENTS

- A. Provides that to be eligible to join this compact, and to maintain eligibility as a member state, a state is required to:
 1. license and regulate cosmetology;
 2. have a mechanism or entity in place to receive and investigate complaints about licensees practicing in that state;
 3. require that licensees within the state pass a cosmetology competency examination prior to being licensed to provide cosmetology services to the public in that state;
 4. require that licensees satisfy educational or training requirements in cosmetology prior to being licensed to provide cosmetology services to the public in that state;
 5. implement procedures for considering one or more of the following categories of information from applicants for licensure: criminal history; disciplinary history; or background check. Authorizes such procedures to include the submission of information by applicants for the purpose of obtaining an applicant's background check as defined herein;
 6. participate in the data system, including through the use of unique identifying numbers;
 7. share information related to adverse actions with the Cosmetology Licensure Compact Commission (commission) and other member states, both through the data system and otherwise;

8. notify the commission and other member states, in compliance with the terms of the compact and rules of the commission, of the existence of investigative information or current significant investigative information in the state's possession regarding a licensee practicing in that state;

9. comply with such rules as may be enacted by the commission to administer the compact; and

10. accept licensees from other member states as established herein.

B. Authorizes member states to charge a fee for granting a license to practice cosmetology.

C. Requires individuals not residing in a member state to continue to be able to apply for a member state's single-state license as provided under the laws of each member state. Prohibits the single-state license granted to these individuals from being recognized as granting a multistate license to provide services in any other member state.

D. Requires that nothing in this compact affect the requirements established by a Member state for the issuance of a single-state license.

E. Requires a multistate license issued to a licensee by a home state to a resident of that state to be recognized by each member state as authorizing a licensee to practice cosmetology in each member state.

F. Requires the commission at no point to have the power to define the educational or professional requirements for a license to practice cosmetology. Requires the member states to retain sole jurisdiction over the provision of these requirements.

ARTICLE 4-MULTISTATE LICENSE

A. Requires a licensee, to be eligible to apply to their home state's state licensing authority for an initial multistate license under this compact, to hold an active and unencumbered single-state license to practice cosmetology in their home state.

B. Requires a member state's state licensing authority, upon the receipt of an application for a multistate license, according to the rules of the commission, to ascertain whether the applicant meets the requirements for a multistate license under this compact.

C. Requires the state licensing authority in receipt of the application to, within a reasonable time, grant a multistate license to that applicant, and inform all member states of the grant of said multistate license if an applicant meets the requirements for a multistate license under this compact and any applicable rules of the commission.

D. Requires a multistate license to practice cosmetology issued by a member state's state licensing authority to be recognized by each member state as authorizing the practice thereof as though that licensee held a single-state license to do so in each member state, subject to the restrictions herein.

E. Authorizes a multistate license granted pursuant to this compact to be effective for a definite period of time, concurrent with the licensure renewal period in the home state.

F. Requires a licensee, to maintain a multistate license under this compact, to:

1. agree to abide by the rules of the state licensing authority, and the state scope of practice laws governing the practice of cosmetology, of any member state in which the licensee provides services;
2. pay all required fees related to the application and process, and any other fees which the commission is authorized by rule to require; and
3. comply with any and all other requirements regarding multistate licenses which the commission is authorized by rule to provide.

G. Provides that a licensee practicing in a member state is subject to all scope of practice laws governing cosmetology services in that state.

H. Provides that the practice of cosmetology under a multistate license granted pursuant to this compact will subject the licensee to the jurisdiction of the state licensing authority, the courts, and the laws of the member state in which the cosmetology services are provided.

ARTICLE 5-REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

A. Authorizes a licensee to hold a multistate license, issued by their home state license, in only one member state at any given time.

B. Provides that if a licensee changes their home state by moving between two member states:

1. the licensee is required to immediately apply for the reissuance of their multistate license in their new home state. Requires the licensee to pay all applicable fees and notify the prior home state in accordance with the rules of the commission.
2. upon receipt of an application to reissue a multistate license, the new home state is required to verify that the multistate license is active, unencumbered and eligible for reissuance under the terms of the compact and the rules of the commission. Provides that the multistate license issued by the prior home state will be deactivated and all member states notified in accordance with the applicable rules adopted by the commission.
3. if required for initial licensure, the new home state is authorized to require a background check as specified in the laws of that state, or the compliance with any jurisprudence requirements of the new home state.
4. notwithstanding any other provision of this compact, if a licensee does not meet the requirements set forth in this compact for the reissuance of a multistate license by the new home state, then the licensee is required to be subject to the new home state requirements for the issuance of a single-state license in that state.

C. Provides that if a licensee changes their primary state of residence by moving from a member state to a non-member state, or from a non-member state to a member state, then the licensee is required to be subject to the state requirements for the issuance of a single-state license in the new home state.

D. Requires that nothing this compact interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this compact, a licensee is required to have only one home state, and only one multistate license.

E. Requires that nothing in this compact interfere with the requirements established by a member state for the issuance of a single-state license.

ARTICLE 6-AUTHORITY OF THE COMPACT COMMISSION AND MEMBER STATE
LICENSING AUTHORITIES

A. Requires that nothing in this compact, nor any rule or regulation of the commission, be construed to limit, restrict, or in any way reduce the ability of a member state to enact and enforce laws, regulations, or other rules related to the practice of cosmetology in that state, where those laws, regulations, or other rules are not inconsistent with the provisions of this compact.

B. Requires a member state's state licensing authority, insofar as practical, to cooperate with the commission and with each entity exercising independent regulatory authority over the practice of cosmetology according to the provisions of this compact.

C. Requires that discipline be the sole responsibility of the state in which cosmetology services are provided. Requires that each member state's state licensing authority be responsible for receiving complaints about individuals practicing cosmetology in that state, and for communicating all relevant investigative information about any such adverse action to the other member states through the data system in addition to any other methods the commission is authorized by rule to require.

ARTICLE 7-ADVERSE ACTIONS

A. Requires a licensee's home state to have exclusive power to impose an adverse action against a licensee's multistate license issued by the home state.

B. Authorizes a home state to take adverse action on a multistate license based on the investigative information, current significant investigative information, or adverse action of a remote state.

C. Requires that each remote state's state licensing authority, in addition to the powers conferred by state law, have the power to:

1. Take adverse action against a licensee's authorization to practice cosmetology through the multistate license in that member state, provided that:

a. only the licensee's home state is required to have the power to take adverse action against the multistate license issued by the home state; and

b. for the purposes of taking adverse action, the home state's state licensing authority is required to give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. Requires that the home state, in so doing, apply its own state laws to determine the appropriate action.

2. Issue cease and desist orders or impose an encumbrance on a licensee's authorization to practice within that member state.

3. Complete any pending investigations of a licensee who changes their primary state of residence during the course of such an investigation. Requires that the state licensing authority also be empowered to report the results of such an investigation to the commission through the data system as described herein.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of

evidence. Requires that subpoenas issued by a state licensing authority in a member state for the attendance and testimony of witnesses or the production of evidence from another member state be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. Requires that the issuing state licensing authority pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

5. If otherwise permitted by state law, recover from the affected licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

6. Take adverse action against the licensee's authorization to practice in that state based on the factual findings of another remote state.

D. Requires that a licensee's home state complete any pending investigation(s) of a cosmetologist who changes their primary state of residence during the course of the investigation(s). Requires that the home state also have the authority to take appropriate action(s) and to promptly report the conclusions of the investigations to the data system.

E. Provides that if an adverse action is taken by the home state against a licensee's multistate license, the licensee's authorization to practice in all other member states be deactivated until all encumbrances have been removed from the home state license. Requires that all home state disciplinary orders that impose an adverse action against a licensee's multistate license include a statement that the cosmetologist's authorization to practice is deactivated in all member states during the pendency of the order.

F. Requires that nothing in this compact override a member state's authority to accept a licensee's participation in an alternative program in lieu of adverse action. Requires that a licensee's multistate license be suspended for the duration of the licensee's participation in any alternative program.

G. Joint Investigations

1. Authorizes a member state, in addition to the authority granted to a member state by its respective scope of practice laws or other applicable state law, to participate with other member states in joint investigations of licensees.

2. Requires member states to share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

ARTICLE 8-ACTIVE MILITARY MEMBERS AND THEIR SPOUSES

Requires active military members, or their spouses, to designate a home state where the individual has a current license to practice cosmetology in good standing. Authorizes the individual to retain their home state designation during any period of service when that individual or their spouse is on active duty assignment.

ARTICLE 9-ESTABLISHMENT AND OPERATION OF THE COSMETOLOGY LICENSURE COMPACT COMMISSION

A. Provides that the compact member states hereby create and establish a joint government agency whose membership consists of all member states that have

enacted the compact known as the Cosmetology Licensure Compact Commission. Provides that the commission is an instrumentality of the compact member states acting jointly and not an instrumentality of any one state. Requires the commission to come into existence on or after the effective date of the compact as set forth in Article 13.

B. Membership, Voting, and Meetings

1. Requires that each member state have and be limited to one delegate selected by that member state's state licensing authority.
2. Requires that the delegate be an administrator of the licensing authority of the member state or their designee.
3. Provides that the commission is required to by rule or bylaw establish a term of office for delegates and is authorized to by rule or bylaw establish term limits.
4. Authorizes the commission to recommend removal or suspension of any delegate from office.
5. Requires a member state's state licensing authority to fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.
6. Requires that each delegate be entitled to one vote on all matters that are voted on by the commission.
7. Requires that the commission meet at least once during each calendar year. Authorizes additional meetings to be held as set forth in the bylaws. Authorizes the commission to meet by telecommunication, video conference or other similar electronic means.

C. Requires the commission to have the following powers:

1. establish the fiscal year of the commission;
2. establish code of conduct and conflict of interest policies;
3. adopt rules and bylaws;
4. maintain its financial records in accordance with the bylaws;
5. meet and take such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;
6. initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any state licensing authority to sue or be sued under applicable law is prohibited from being affected;
7. maintain and certify records and information provided to a member state as the authenticated business records of the commission, and designate an agent to do so on the commission's behalf;
8. purchase and maintain insurance and bonds;
9. borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;
10. conduct an annual financial review;

11. hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
12. as set forth in the commission rules, charge a fee to a licensee for the grant of a multistate license and thereafter, as may be established by commission rule, charge the licensee a multistate license renewal fee for each renewal period. Requires that nothing herein be construed to prevent a home state from charging a licensee a fee for a multistate license or renewals of a multistate license, or a fee for the jurisprudence requirement if the member state imposes such a requirement for the grant of a multistate license;
13. assess and collect fees;
14. accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the commission is required to avoid any appearance of impropriety or conflict of interest;
15. lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;
16. sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
17. establish a budget and make expenditures;
18. borrow money;
19. appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as are authorized to be designated in this compact and the bylaws;
20. provide and receive information from, and cooperate with, law enforcement agencies;
21. elect a chair, vice chair, secretary and treasurer and such other officers of the commission as provided in the commission's bylaws;
22. establish and elect an executive committee, including a chair and a vice chair;
23. adopt and provide to the member states an annual report;
24. determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and
25. perform such other functions as may be necessary or appropriate to achieve the purposes of this compact.

D. The Executive Committee

1. Requires the executive committee to have the power to act on behalf of the commission according to the terms of this compact. Requires that the powers, duties, and responsibilities of the executive committee include:

a. overseeing the day-to-day activities of the administration of the compact including compliance with the provisions of the compact, the commission's rules and bylaws, and other such duties as deemed necessary;

b. recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to compact member states, fees charged to licensees, and other fees;

c. ensuring compact administration services are appropriately provided, including by contract;

d. preparing and recommending the budget;

e. maintaining financial records on behalf of the commission;

f. monitoring compact compliance of member states and providing compliance reports to the commission;

g. establishing additional committees as necessary;

h. exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

i. other duties as provided in the rules or bylaws of the commission.

2. Requires that the executive committee be composed of up to seven voting members:

a. the chair and vice chair of the commission and any other members of the commission who serve on the executive committee are required to be voting members of the executive committee; and

b. other than the chair, vice-chair, secretary and treasurer, the commission is required to elect three voting members from the current membership of the commission.

c. Authorizes the commission to elect ex-officio, nonvoting members from a recognized national cosmetology professional association as approved by the commission. Requires that the commission's bylaws identify qualifying organizations and the manner of appointment if the number of organizations seeking to appoint an ex officio member exceeds the number of members specified in this article.

3. Authorizes the commission to remove any member of the executive committee as provided in the commission's bylaws.

4. Requires the executive committee to meet at least annually.

a. Requires annual executive committee meetings, as well as any executive committee meeting at which it does not take or intend to

take formal action on a matter for which a commission vote would otherwise be required, to be open to the public, except that the executive committee is authorized to meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under Article 9.F.4.

b. Requires the executive committee to give five business days advance notice of its public meetings, posted on its website and as determined to provide notice to persons with an interest in the public matters the Executive Committee intends to address at those meetings.

5. Authorizes the executive committee to hold an emergency meeting when acting for the commission to:

a. meet an imminent threat to public health, safety, or welfare;

b. prevent a loss of commission or member state funds; or

c. protect public health and safety.

E. Requires the commission to adopt and provide to the member states an annual report.

F. Meetings of the commission

1. Requires that all meetings of the commission that are not closed pursuant to Article 9.F.4 be open to the public. Requires that notice of public meetings be posted on the commission's website at least 30 days prior to the public meeting.

2. Authorizes the commission, notwithstanding Article 9.F.1, to convene an emergency public meeting by providing at least 24 hours prior notice on the commission's website, and any other means as provided in the commission's rules, for any of the reasons it is authorized to dispense with notice of proposed rulemaking under Article 11.L. Requires the commission's legal counsel to certify that one of the reasons justifying an emergency public meeting has been met.

3. Requires that notice of all commission meetings provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice is required to include the mechanism for access to the meeting.

4. Authorizes the commission to convene in a closed, non-public meeting for the commission to discuss:

a. non-compliance of a member state with its obligations under the compact;

b. the employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

c. current or threatened discipline of a licensee by the commission or by a member state's licensing authority;

d. current, threatened, or reasonably anticipated litigation;

- e. negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- f. accusing any person of a crime or formally censuring any person;
- g. trade secrets or commercial or financial information that is privileged or confidential;
- h. information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- i. investigative records compiled for law enforcement purposes;
- j. information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;
- k. legal advice;
- l. matters specifically exempted from disclosure to the public by federal or member state law; or
- m. other matters as promulgated by the commission by rule.

5. Provides that if a meeting, or portion of a meeting, is closed, the presiding officer is required to state that the meeting will be closed and reference each relevant exempting provision, and such reference is required to be recorded in the minutes.

6. Requires the commission to keep minutes that fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. Requires that all documents considered in connection with an action be identified in such minutes. Requires that all minutes and documents of a closed meeting remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

G. Financing of the commission

1. Requires that the commission pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. Authorizes the commission to accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

3. Authorizes the commission to levy on and collect an annual assessment from each member state and impose fees on licensees of member states to whom it grants a multistate license to cover the cost of the operations and activities of the commission and its staff, which are required to be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. Requires that the aggregate annual assessment amount for member states be allocated based upon a formula that the commission is required to promulgate by rule.

4. Prohibits the commission from incurring obligations of any kind prior to securing the funds adequate to meet the same or from pledging the credit of any member states, except by and with the authority of the member state.

5. Requires the commission to keep accurate accounts of all receipts and disbursements. Requires that the receipts and disbursements of the commission be subject to the financial review and accounting procedures established under its bylaws. Requires that all receipts and disbursements of funds handled by the commission be subject to an annual financial review by a certified or licensed public accountant, and that the report of the financial review be included in and become part of the annual report of the commission.

H. Qualified Immunity, Defense, and Indemnification

1. Requires that the members, officers, executive director, employees and representatives of the commission be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph is required to be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. Prohibits the procurement of insurance of any type by the commission from in any way compromising or limiting the immunity granted hereunder.

2. Requires that the commission defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein is required to be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. Requires the commission to indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Requires that nothing herein be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which is required to be governed solely by any other applicable state laws.

5. Requires that nothing in this compact be interpreted to waive or otherwise abrogate a member state's state action immunity or state action

affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

6. Requires that nothing in this compact be construed to be a waiver of sovereign immunity by the member states or by the commission.

ARTICLE 10-DATA SYSTEM

A. Requires that the commission provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system.

B. Requires the commission to assign each applicant for a multistate license a unique identifier, as determined by the rules of the commission.

C. Requires a member state, notwithstanding any other provision of state law to the contrary, to submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

1. identifying information;
2. licensure data;
3. adverse actions against a license and information related thereto;
4. non-confidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation;
5. any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any criminal history record information where prohibited by law);
6. the existence of investigative information;
7. the existence of current significant investigative information; and
8. other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

D. Requires that the records and information provided to a member state pursuant to this compact or through the data system, when certified by the commission or an agent thereof, constitute the authenticated business records of the commission, and be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a member state.

E. Provides that the existence of current significant investigative information and the existence of investigative information pertaining to a licensee in any member state will only be available to other member states.

F. Provides that it is the responsibility of the member states to monitor the database to determine whether adverse action has been taken against such a licensee or licensee applicant. Provides that adverse action information pertaining to a licensee or licensee applicant in any member state will be available to any other member state.

G. Authorizes member states contributing information to the data system to designate information that is prohibited from being shared with the public without the express permission of the contributing state.

H. Requires that any information submitted to the data system that is subsequently expunged pursuant to federal law or the laws of the member state contributing the information be removed from the data system.

ARTICLE 11-RULEMAKING

A. Requires the commission to promulgate reasonable rules in order to effectively and efficiently implement and administer the purposes and provisions of the compact. Requires that a rule be invalid and have no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review.

B. Requires that the rules of the commission have the force of law in each member state, provided however that where the rules of the commission conflict with the laws of the member state that establish the member state's scope of practice laws governing the practice of cosmetology as held by a court of competent jurisdiction, the rules of the commission shall be ineffective in that state to the extent of the conflict.

C. Requires the commission to exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Requires that rules become binding as of the date specified by the commission for each rule.

D. Provides that if a majority of the legislatures of the member states rejects a rule or portion of a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, then such rule is required to have no further force and effect in any member state or to any state applying to participate in the compact.

E. Requires that rules be adopted at a regular or special meeting of the commission.

F. Requires the commission, prior to adoption of a proposed rule, to hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

G. Requires the commission prior to adoption of a proposed rule by the commission, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, to provide a notice of proposed rulemaking:

1. on the website of the commission or other publicly accessible platform;
2. to persons who have requested notice of the commission's notices of proposed rulemaking; and
3. in such other way(s) as the commission is authorized to by rule specify.

H. Requires that the notice of proposed rulemaking include:

1. the time, date, and location of the public hearing at which the commission will hear public comments on the proposed rule and, if different, the time, date, and location of the meeting where the commission will consider and vote on the proposed rule;

2. if the hearing is held via telecommunication, video conference, or other electronic means, the commission is required to include the mechanism for access to the hearing in the notice of proposed rulemaking;

3. the text of the proposed rule and the reason therefor;

4. a request for comments on the proposed rule from any interested person; and

5. the manner in which interested persons are authorized to submit written comments.

I. Provides that all hearings will be recorded. Requires that a copy of the recording and all written comments and documents received by the commission in response to the proposed rule be available to the public.

J. Requires that nothing in this article be construed as requiring a separate hearing on each rule. Authorizes rules to be grouped for the convenience of the commission at hearings required by this article.

K. Requires the commission, by majority vote of all members, to take final action on the proposed rule based on the rulemaking record and the full text of the rule.

1. Authorizes the commission to adopt changes to the proposed rule provided the changes do not enlarge the original purpose of the proposed rule.

2. Requires the commission to provide an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters.

3. Requires the commission to determine a reasonable effective date for the rule. Requires that the effective date of the rule, except for an emergency as provided in Article 11.L, be no sooner than 45 days after the commission issuing the notice that it adopted or amended the rule.

L. Authorizes the commission, upon determination that an emergency exists, to consider and adopt an emergency rule with five days' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the compact and in this article are required to be retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. Provides that an emergency rule, for the purposes of this provision, is one that is required to be adopted immediately to:

1. meet an imminent threat to public health, safety, or welfare;

2. prevent a loss of commission or member state funds;

3. meet a deadline for the promulgation of a rule that is established by federal law or rule; or

4. protect public health and safety.

M. Authorizes the commission or an authorized committee of the commission to direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Requires that public notice of any revisions be posted on the website of the commission. Requires that the revision be subject to challenge by any person for a period of 30 days after posting. Authorizes the revision to be challenged only on

grounds that the revision results in a material change to a rule. Requires that a challenge be made in writing and delivered to the commission prior to the end of the notice period. Provides that the revision, if no challenge is made, will take effect without further action. Prohibits the revision, if the revision is challenged, from taking effect without the approval of the commission.

N. Prohibits any member state's rulemaking requirements from applying under this compact.

ARTICLE 12-OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. Requires the executive and judicial branches of state government in each member state to enforce this compact and take all actions necessary and appropriate to implement the compact.
2. Provides that venue is proper and requires that judicial proceedings by or against the commission be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. Authorizes the commission to waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Requires that nothing herein affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.
3. Requires the commission to be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact, and to have standing to intervene in such a proceeding for all purposes. Requires that failure to provide the commission service of process render a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. Provides that if the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission is required to provide written notice to the defaulting state. Requires that the notice of default describe the default, the proposed means of curing the default, and any other action that the commission is authorized to take, and offer training and specific technical assistance regarding the default.
2. Requires the commission to provide a copy of the notice of default to the other member states.
3. Provides that if a state in default fails to cure the default, the defaulting state is authorized to be terminated from the compact upon an affirmative vote of a majority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact is authorized to be terminated on the effective date of termination. Provides that a cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
4. Requires that termination of membership in the compact be imposed only after all other means of securing compliance have been exhausted. Requires that notice of intent to suspend or terminate be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's state licensing authority and each of the member states' state licensing authority.

5. Provides that a state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

6. Requires a state, upon the termination of that state's membership from this compact, to immediately provide notice to all licensees who hold a multistate license within that state of such termination. Requires the terminated state to continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of said notice of termination.

7. Prohibits the commission from bearing any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

8. Authorizes the defaulting state to appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. Requires the prevailing party to be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Requires the commission, upon request by a member state, to attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. Requires that the commission promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. Requires the commission, in the reasonable exercise of its discretion, to enforce the provisions of this compact and the commission's rules.

2. Authorizes the commission, by majority vote as provided by commission rule, to initiate legal action against a member state in default in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. Authorizes the relief sought to include both injunctive relief and damages. Requires that the prevailing party be awarded all costs of such litigation, including reasonable attorney's fees, in the event judicial enforcement is necessary. Requires that the remedies herein not be the exclusive remedies of the commission. Authorizes the commission to pursue any other remedies available under federal or the defaulting member state's law.

3. Authorizes a member state to initiate legal action against the commission in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. Authorizes the relief sought to include both injunctive relief and damages. Requires that the prevailing party be awarded all costs of such litigation, including reasonable attorney's fees, in the event judicial enforcement is necessary.

4. Prohibits any individual or entity other than a member state from enforcing this compact against the commission.

ARTICLE 13-EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

A. Requires that the compact come into effect on the date on which the compact statute is enacted into law in the seventh member state.

1. Requires the commission, on or after the effective date of the compact, to convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

a. Requires a charter member state whose enactment is found to be materially different from the model compact statute to be entitled to the default process set forth in Article 12.

b. Requires the commission, if any member state is later found to be in default, or is terminated or withdraws from the compact, to remain in existence and the compact is required to remain in effect even if the number of member states should be less than seven.

2. Requires member states enacting the compact subsequent to the charter member states to be subject to the process set forth in Article 9.C.24 to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

3. Requires that all actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming into existence be considered to be actions of the commission unless specifically repudiated by the commission.

4. Requires any state that joins the compact to be subject to the commission's rules and bylaws as they exist on the date on which the compact becomes law in that state. Requires that any rule that has been previously adopted by the commission have the full force and effect of law on the day the compact becomes law in that state.

B. Authorizes any member state to withdraw from this compact by enacting a statute repealing that state's enactment of the compact.

1. Requires that a member state's withdrawal not take effect until 180 days after enactment of the repealing statute.

2. Prohibits withdrawal from affecting the continuing requirement of the withdrawing state's state licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

3. Requires a state, upon the enactment of a statute withdrawing from this compact, to immediately provide notice of such withdrawal to all licensees within that state. Requires such withdrawing state, notwithstanding any subsequent statutory enactment to the contrary, to continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

C. Requires that nothing contained in this compact be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

D. Authorizes this compact to be amended by the member states. Prohibits any amendment to this compact from becoming effective and binding upon any member state until it is enacted into the laws of all member states.

ARTICLE 14-CONSTRUCTION AND SEVERABILITY

A. Requires that this compact and the commission's rulemaking authority be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Prohibits provisions of the compact expressly authorizing or requiring the promulgation of rules from being construed to limit the commission's rulemaking authority solely for those purposes.

B. Severability clause.

C. Authorizes the commission, notwithstanding Article 14.B, to deny a state's participation in the compact or, in accordance with the requirements of Article 12, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the compact. Requires that the compact otherwise, if this compact is required to be held to be contrary to the constitution of any member state, remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

ARTICLE 15-CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

A. Requires that nothing herein prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

B. Provides that any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

C. Provides that all permissible agreements between the commission and the member states are binding in accordance with their terms.

Sec. 1604.002. ADMINISTRATION OF COMPACT. Provides that the Texas Department of Licensing and Regulation is the Cosmetology Licensure Compact administrator for this state.

Sec. 1604.003. RULES. Authorizes the Texas Commission of Licensing and Regulation to adopt rules necessary to implement this chapter.

SECTION 2. Effective date: September 1, 2026.