

BILL ANALYSIS

S.B. 378
By: Schwertner
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, estheticians and cosmetologists can only perform injections, including Botox, under the authority of a physician, and enforcement of this law lies with the Texas Medical Board (TMB), not the Texas Department of Licensing and Regulation (TDLR). The bill sponsor has informed the committee that estheticians and cosmetologists are having "Botox parties" and administering unauthorized injections to friends and family. TMB has disciplinary authority over the physicians who were supposed to be authorizing the injections, but current statute is silent on both the TMB and TDLR's authority to pursue the licensed esthetician or cosmetologist who engages in these activities. S.B. 378 seeks to ensure that only qualified medical professionals are providing these treatments and to prevent potential harm and adverse effects that can occur from unlicensed and unauthorized administration of injections.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 378 amends the Occupations Code to prohibit a person performing a barbering or cosmetology service within the scope of an individual practitioner license or student permit from doing the following:

- making an incision into the dermis layer of a person's skin, including for purposes of injecting a medication or other substance; or
- using a device, defined by reference as an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part or accessory, that is required under federal or state law to be ordered or prescribed by a practitioner.

However, the bill authorizes a person holding such a license or permit to perform any of those acts as part of a barbering or cosmetology service if the person is licensed to perform that act in Texas or is otherwise authorized by law to perform that act. In a disciplinary action by the Texas Department of Licensing and Regulation related to an act in violation of the prohibition, the license or permit holder has the burden of proving by a preponderance of the evidence that the person is licensed or otherwise authorized to perform the act.

S.B. 378 expressly does not affect the authority of another state agency regulating a profession to enforce any law related to that profession. The bill's provisions apply only to conduct that occurs on or after the bill's effective date. Conduct that occurs before the bill's effective date is

governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.