

BILL ANALYSIS

Senate Research Center

H.B. 2095
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Chapters 1601 (Barbers), 1602 (Cosmetologists), and 1603 (Regulation of Barbering and Cosmetology) of the Occupations Code, the Texas Department of Licensing and Regulation (TDLR) regulates barbers, cosmetologists, and their respective facilities. The cosmetology and barber programs are the most diverse of TDLR's programs in terms of different license types, at 38 and 26 respectively. Furthermore, the population size of the cosmetology program makes it the largest licensing program that TDLR regulates today, with approximately 299,000 licensees.

TDLR recently reviewed its barber and cosmetology regulatory programs and identified several changes that are needed to modernize, clarify, and streamline the relevant statutes. H.B. 2095 incorporates these changes, therefore ensuring that TDLR is able to efficiently enforce standards that reflect the current business practices within the two industries.

Specifically, H.B. 2095 eliminates unnecessary licenses and certificates; permits an individual with a student permit to shampoo and condition hair at a licensed facility for compensation; creates a mini-salon or mini-barbershop licensing program to address a new business model that has developed in the industries; allows licensed barbers and cosmetologists to perform services outside of licensed facilities when necessary due to the physical or mental incapacitation of the recipient; and removes outdated restrictions relating to workstations, beauty school instructors, and examination proctors.

H.B. 2095 amends current law relating to the regulation of barbering and cosmetology and authorizes fees.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation (TCLR) is modified in SECTION 16 (Section 1602.354, Occupations Code) of this bill.

Rulemaking authority is expressly granted to TCLR in SECTION 21 (Section 1603.207, Occupations Code), SECTION 23 (Section 1603.351, Occupations Code), and SECTION 26 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1601.001(a), Occupations Code, by adding Subdivision (5) to define "dual shop" in this section.

SECTION 2. Amends Section 1601.260, Occupations Code, by adding Subsection (c) to authorize a person holding a student permit to shampoo or condition a person's hair in a facility licensed under this chapter (Barbers) or Chapter 1603 (Regulation of Barbering and Cosmetology). Prohibits the barber school in which the permit holder is enrolled from receiving compensation for services performed under this subsection.

SECTION 3. Amends Section 1601.261, Occupations Code, by adding Subsection (f) to provide that this section applies only to a person who holds a permit under this section issued to the person before September 1, 2013.

SECTION 4. Amends Section 1601.301, Occupations Code, as follows:

Sec. 1601.301. PERMIT REQUIRED. (a) Adds a dual shop to the enumerated businesses that a person is prohibited from owning, operating, or managing unless the person holds the appropriate permit.

(b) Requires a person who owns, operates, or manages a barbershop, dual shop, or specialty shop, to submit not later than the third day after the date the shop opens, an application to the Texas Department of Licensing and Regulation (TDLR) for an appropriate permit, accompanied by a fee set by Texas Commission of Licensing and Regulation (TCLR) rule.

(c) Authorizes a person who owns, operates, or manages a barbershop, dual shop, or specialty shop to employ a person holding a student permit under Section 1601.260 (Eligibility for Student Permit) to shampoo or condition a person's hair.

SECTION 5. Amends Section 1601.353, Occupations Code, as follows:

Sec. 1601.353. REQUIRED FACILITIES AND EQUIPMENT. Deletes from the list of required equipment in a barber school a liquid sterilizer for each workstation. Makes nonsubstantive changes.

SECTION 6. Amends Subchapter J, Chapter 1601, Occupations Code, by adding Section 1601.455, as follows:

Sec. 1601.455. SERVICE AT UNLICENSED LOCATION. (a) Defines "licensed facility" in this section.

(b) Authorizes a person holding a license, certificate, or permit under this chapter to perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client who, because of illness or physical or mental incapacitation, is unable to receive the services at a licensed facility.

(c) Requires that an appointment for a service performed under this section be made through a licensed facility.

SECTION 7. Amends Section 1602.001, Occupations Code, by adding Subdivision (3-a), to define "dual shop" in this section.

SECTION 8. Amends Section 1602.002(a), Occupations Code, to redefine "cosmetology" in this section.

SECTION 9. Amends Section 1602.051, Occupations Code, as follows:

Sec. 1602.051. BOARD; MEMBERSHIP. (a) Provides that the Advisory Board on Cosmetology consists of nine, rather than seven, members appointed by the presiding officer of TCLR, with TCLR's approval, including one member who represents a licensed public secondary beauty culture school and two public members, rather than one public member.

(b) Requires the associate commissioner of the Texas Education Agency (TEA) responsible for career and technical education or the associate commissioner's authorized representative, rather than the associate commissioner of TEA or the associate commissioner's authorized representative, to serve as an ex officio member of TCLR without voting privileges.

SECTION 10. Amends Section 1602.251(c), Occupations Code, to authorize a person licensed by TDLR to practice cosmetology only at a facility operated by a person holding a certain license, including a specialty shop license.

SECTION 11. Amends Section 1602.258, Occupations Code, as follows:

Sec. 1602.258. New heading: ELIGIBILITY FOR A HAIR BRAIDING SPECIALTY CERTIFICATE. (a) Authorizes a person holding a hair braiding specialty certificate to perform only the practice of cosmetology defined in Section 1602.002(a)(2) (relating to braiding a person's hair), rather than Sections 1602.002(a)(2), (3) (relating to shampooing and conditioning a person's hair), and (4) (relating to servicing a person's wig or artificial hairpiece).

(b) Requires an applicant, to be eligible for a hair braiding specialty certificate, to be at least 17 years of age and have the necessary requisites as determined by TDLR in the particular specialty for which certification is sought, including training through a TCLR-approved training program.

SECTION 12. Amends Subchapter F, Chapter 1602, Occupations Code, by adding Sections 1602.259 and 1602.260, as follows:

Sec. 1602.259. ELIGIBILITY FOR A HAIR WEAVING SPECIALTY CERTIFICATE. (a) Authorizes a person holding a hair weaving specialty certificate to perform only the practice of cosmetology defined in Sections 1602.002(a)(2), (3), and (13).

(b) Requires an applicant, to be eligible for a hair weaving specialty certificate, to:

(1) be at least 17 years of age; and

(2) have the necessary requisites as determined by TDLR in the particular specialty for which certification is sought, including training through a TCLR-approved training program.

Sec. 1602.260. ELIGIBILITY FOR A WIG SPECIALTY CERTIFICATE. (a) Authorizes a person holding a wig specialty certificate to perform only the practice of cosmetology defined in Section 1602.002(a)(4).

(b) Requires an applicant, to be eligible for a wig specialty certificate, to:

(1) be at least 17 years of age; and

(2) have the necessary requisites as determined by TDLR in the particular specialty for which certification is sought, including training through a TCLR-approved training program.

SECTION 13. Amends Section 1602.266, Occupations Code, by adding Subsection (c) to authorize a person holding a student permit to shampoo or condition a person's hair in a facility licensed under this chapter or Chapter 1603.

SECTION 14. Section 1602.267, Occupations Code, by adding Subsection (f) to provide that this section applies only to a person who holds a permit under this section issued to the person before September 1, 2013.

SECTION 15. Amends Section 1602.301, Occupations Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Prohibits a person from operating a vocational cosmetology program in a public school or lease space on the premises of a beauty shop, specialty shop, or dual shop, to engage in the practice of cosmetology as an independent contractor unless the person holds a license issued under this chapter.

(c) Authorizes a person who owns, operates, or manages a beauty shop, specialty shop, or dual shop to employ a person holding a student permit under Section 1602.266 (Student Permit) to shampoo or condition a person's hair.

SECTION 16. Amends Section 1602.354(a), Occupations Code, to provide that participation in continuing education programs is mandatory for all license renewals other than renewal of a shampoo specialty certificate.

SECTION 17. Amends Section 1602.403(c), Occupations Code, to prohibit a person holding a beauty shop license or specialty shop license from employing certain persons, including a person to shampoo or condition a person's hair unless the person holds a shampoo apprentice permit or student permit.

SECTION 18. Amends Subchapter I, Chapter 1602, Occupations Code, by adding Section 1602.407, as follows:

Sec. 1602.407. SERVICE AT UNLICENSED LOCATION. (a) Defines "licensed facility" in this section.

(b) Authorizes a person holding a license, certificate, or permit under this chapter to perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client who, because of illness or physical or mental incapacitation, is unable to receive the services at a licensed facility.

(c) Requires that an appointment for a service performed under this section be made through a licensed facility.

SECTION 19. Amends Section 1602.451(a), Occupations Code, to require the holder of a private beauty culture school license, among other requirements, to maintain on duty one licensed instructor, rather than one full-time licensed instructor, for each 25 students in attendance.

SECTION 20. Amends Section 1602.456, Occupations Code, by adding Subsection (b-1) to prohibit a private beauty culture school or public school in which a student permit holder is enrolled from receiving compensation for services performed under Section 1602.266(c).

SECTION 21. Amends Subchapter E, Chapter 1603, Occupations Code, by adding Section 1603.207, as follows:

Sec. 1603.207. MINI-SALONS AND MINI-BARBERSHOPS. (a) Defines "mini-salon or mini-barbershop" in this section.

(b) Authorizes TCLR to adopt rules for the:

(1) licensing, permitting, operation, inspection, and reporting requirements of a mini-salon or mini-barbershop;

(2) fees required to issue or renew a license or permit for or to inspect a mini-salon or mini-barbershop; and

(3) sanitation standards required for a mini-salon or mini-barbershop.

(c) Requires that a mini-salon or mini-barbershop licensed, certified, or permitted under this section meet the requirements of a barbershop, beauty shop, dual shop, or specialty shop licensed, certified, or permitted under this chapter, Chapter 1601, or Chapter 1602 (Cosmetologists).

SECTION 22. Amends Section 1603.256(c), Occupations Code, to remove an examination proctor from the list of persons authorized to administer a practical examination required under this subchapter, and to make nonsubstantive changes.

SECTION 23. Amends Section 1603.351, Occupations Code, as follows:

Sec. 1603.351. New heading: MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE EDUCATION. (a) Creates this subsection from existing text. Requires TCLR to prescribe the minimum curriculum, including the subjects and the number of hours in each subject, taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602, rather than a school licensed under those chapters, including a private beauty culture school or a vocational cosmetology program in a public school.

(b) Authorizes TCLR to adopt rules allowing distance education only for the theory portion of the curriculum taught by a school licensed under this chapter or Chapter 1601.

(c) Provides that distance education does not satisfy the requirements of the practical portion of the curriculum taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602.

SECTION 24. Repealers: Sections 1601.261(b) (requiring TDLR to issue a shampoo apprentice permit to an applicant who is at least 16 years of age) and (e) (authorizing a certain facility to employ a person who holds a shampoo apprentice permit and requiring a minimum pay), Occupations Code;

Repealers: Sections 1602.267(b) (requiring TDLR to issue a shampoo apprentice permit to an applicant who is at least 16 years of age) and (e) (authorizing a certain facility to employ a person who holds a shampoo apprentice permit and requiring a minimum pay), Occupations Code;

Repealer: Section 1603.153 (Analysis of Complaints and Violations), Occupations Code;

Repealer: Section 1603.251 (Definition), Occupations Code; and

Repealer: Section 1603.257 (Examination Proctor; Registration), Occupations Code.

SECTION 25. (a) Authorizes a person holding a shampoo specialty certificate under Section 1602.258, Occupations Code, on the effective date of this Act to continue to provide services under and renew the certificate as provided by Chapter 1602, Occupations Code.

(b) Prohibits TDLR from issuing an original shampoo specialty certificate on or after September 1, 2013.

(c) Authorizes a person holding a shampoo apprentice permit under Section 1601.261 (Eligibility for Shampoo Apprentice Permit) or 1602.267 (Shampoo Apprentice Permit), Occupations Code, on the effective date of this Act to continue to provide services under the permit as provided by Chapter 1601 or 1602, Occupations Code, as appropriate.

(d) Prohibits TDLR from issuing an original shampoo apprentice permit on or after September 1, 2013.

SECTION 26. Requires TCLR, not later than May 1, 2014, to adopt rules to implement Section 1603.207, Occupations Code, as added by this Act, and Section 1603.351, Occupations Code, as amended by this Act.

SECTION 27. Effective date: September 1, 2013.