

## **BILL ANALYSIS**

Senate Research Center  
86R10297 SOS-F

S.B. 1532  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

#### Background

Last session, S.B. 2065 passed and deregulated several programs, activities, and licenses regulated by the Texas Department of Licensing and Regulation (TDLR). S.B. 1532 is a continuation of the efforts of S.B. 2065. TDLR conducts a biennial Strategic Plan ("Strat Plan") to evaluate the effectiveness and efficiency of its various licensing programs. Based on TDLR's recommended statutory changes, S.B. 1532 will deregulate or reduce regulatory burden in the following programs and professions: (1) driver education and safety, (2) boiler safety, (3) mold assessors and remediators, (4) audiologists, (5) orthotists and prosthetists, (6) dietitians, and (7) used automotive parts recyclers program.

#### Bill Analysis

##### Education Code, Chapter 1001, Driver Education and Safety:

- Amends Education Code, Chapter 1001, Driver and Traffic Safety Education, to remove the requirement that all driver education schools must have a physical facility in order to have an online driver education school, and amends the statute to provide TDLR with the authority to develop pathways to become a driver education instructor

##### Health and Safety Code, Chapter 755, Boiler Safety:

- Repeals requirement in Section 755.029(c), Certificate of Operation, the requirement that a certificate of operation for a boiler must be posted "under glass" in a conspicuous place on or near the boiler

##### Occupations Code, Chapter 1958, Mold Assessors & Remediators:

- Repeals the statewide licensing requirement for mold remediators and mold assessors prescribed under Occupations Code, Chapter 1958, and gives Texas Department of Insurance authority for prescribing guidelines to assessors, adjusters, and other persons/entities involved in the mold business

##### Occupations Code, Section 401.403(b), Practice by Audiologists:

- Removes the requirement, in Occupations Code, Section 401.403(b), that an audiologist register their intention with TDLR to fit and dispense hearing instruments

##### Occupations Code, Chapter 605, Orthotists and Prosthetists:

- Repeals TDLR's authorization to issue voluntary orthotic technician, prosthetic technician, and prosthetic orthotic technician certificates

##### Occupations Code, Chapter 701, Dietitians:

- Removes the requirement in Occupations Code, Section 701.155, that dietitians obtain and use a seal on certain documentation

Occupations Code, Chapter 2309, Used Automotive Parts Recyclers:

- Amends the statute to repeal the risk-based inspection requirement in the used automotive parts recyclers program.

As proposed, S.B. 1532 amends current law relating to the licensing and regulation of certain occupations and activities, and authorizes fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation (TCLR) in SECTION 1.004 (Sections 1001.2531 and 1001.2535, Education Code) and SECTION 1.007 of this bill.

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3.003 of this bill.

Rulemaking authority previously granted to TCLR is rescinded in SECTION 3.002 (Chapter 1958, Occupations Code), SECTION 5.001 (Section 605.259, Occupations Code), SECTION 6.002 (Section 701.155, Occupations Code), and SECTION 7.002 (Section 2309.106, Occupations Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. DRIVER EDUCATION

SECTION 1.001. Amends Section 1001.001(7), Education Code, as follows:

(7) Defines "driver education school" to mean an enterprise that:

(A) makes no changes to this paragraph; and

(B) is operated by an individual, association, partnership, or corporation for education and training persons, rather than corporation for education and training persons at a primary branch location, in driver education or driver education instructor development.

SECTION 1.002. Amends Section 1001.151(e), Education Code, to authorize the Texas Commission of Licensing and Regulation (TCLR) to establish a fee for an application for approval to offer a driver education course, rather than for approval to offer a driver education course by an alternative method of instruction under Section 1001.3541 (Alternative Method of Instruction for Driver Education Course).

SECTION 1.003. Amends 1001.204(b), Education Code, as follows:

(b) Requires the Texas Department of Licensing and Regulation (TDLR) to approve an application for a driver education school license if the application is submitted on a form approved by TDLR, the application is accompanied by the fee, rather than approved by the executive director of TDLR (executive director), includes the fee, and TDLR determines, rather than on inspection of the premises of the school, it is determined, that the school:

(1) makes no changes to this subdivision;

(2) provides that this subdivision applies if applicable to the school;

(3)–(6) makes no changes to these subdivisions;

(7) provides that this subdivision applies if applicable to the school;

(8)–(12) makes no changes to these subdivisions;

(13) makes a nonsubstantive change to this subdivision;

(14) meets an additional criteria required by TDLR, including any applicable inspection requirements; and

(15) provides adequate testing and security measures for the school's method of instruction.

SECTION 1.004. Amends Subchapter F, Chapter 1001, Education Code, by adding Sections 1001.2531, 1001.2532, 1001.2533, 1001.2534, and 1001.2535, as follows:

Sec. 1001.2531. DRIVER EDUCATION INSTRUCTOR REQUIREMENTS. (a) Requires TCLR by rule to establish standards for a driver education instructor to be certified as a teaching assistant, driver education teacher, or supervising teacher.

(b) Requires an applicant under this section to apply to TDLR on a certain form, submit a certain fee, and present satisfactory evidence of certain requirements established by TCLR rule.

Sec. 1001.2532. TEACHING ASSISTANT. (a) Defines "teaching assistant."

(b) Sets forth specific requirements necessary to be eligible to be certified as a teaching assistant.

Sec. 1001.2533. DRIVER EDUCATION TEACHER. (a) Defines "driver education teacher."

(b) Sets forth specific requirements necessary to be eligible to be certified as a driver education teacher.

Sec. 1001.2534. SUPERVISING TEACHER. (a) Defines "supervising teacher."

(b) Sets forth specific requirements necessary to be eligible to be certified as a supervising teacher.

Sec. 1001.2535. ADDITIONAL REQUIREMENTS FOR DRIVER EDUCATION TEACHER AND SUPERVISING TEACHER. (a) Requires a driver education instructor, in addition to the requirements under Sections 1001.2533 or 1001.2534, as applicable, to be eligible to be certified as a driver education teacher or supervising teacher, to:

(1) hold a certificate and any additional certification required by TCLR rule to teach driver education;

(2) have completed 15 semester hours in education courses at an accredited college or university during the 10 years before the application date; or

(3) have obtained an associate or baccalaureate degree in education from an accredited college or university.

(b) Authorizes TCLR, TDLR, or the executive director to adopt an alternative method to determine or verify an instructor's eligibility under Subsection (a).

SECTION 1.005. Amends Subchapter H, Chapter 1001, Education Code, by adding Section 1001.3542, as follows:

Sec. 1001.3542. METHOD OF INSTRUCTION FOR DRIVER EDUCATION COURSE. Authorizes a driver education school to teach a driver education course by any method approved by TDLR, including an alternative method under Section 1001.3541 or a traditional method under Subchapter C (Operation of Driver Education School).

SECTION 1.006. Repealer: Section 1001.253 (Driver Education Instructor Training), Education Code.

Repealer: Section 1001.254 (Temporary License), Education Code.

Repealer: Section 1001.256 (Duplicate License), Education Code.

Repealer: Section 1001.3541(b) (relating to the requirements for TDLR approval of an alternate method for a driver education course), Education Code.

SECTION 1.007. (a) Requires TCLR, as soon as practicable after the effective date of this Act, to adopt rules to implement Sections 1001.204(b) and 1001.2531, Education Code, as amended and added by this Act, respectively.

(b) Provides that a license issued under Section 1001.253, Education Code, before the repeal of the section remains valid until expiration, and that section is continued in effect for that purpose.

(c) Establishes that a person who holds a driver education instructor license described by Section 1001.253(b), Education Code, on the effective date of this Act is entitled to issuance of a driver education instructor license certified as a teaching assistant under Section 1001.2532, Education Code, on expiration of the license, if the person meets the requirements for renewal of a driver education instructor license certified as a teaching assistant.

(d) Entitles a person who holds a driver education instructor license described by Section 1001.253(c), Education Code, on the effective date of this Act to issuance of a driver education instructor license certified as a driver education teacher under Section 1001.2533, Education Code, on expiration of the license, if the person meets the requirements for renewal of a driver education instructor license certified as a driver education teacher.

(e) Entitles a person who holds a driver education instructor license described by Section 1001.253(e), Education Code, on the effective date of this Act to issuance of a driver education instructor license certified as a supervising teacher under Section 1001.2534, Education Code, on expiration of the license, if the person meets the requirements for renewal of a driver education instructor license certified as a supervising teacher.

(f) Establishes that the changes in law made by this article do not affect the validity of a disciplinary action or other proceeding that was initiated before the effective date of this Act and that is pending before a court or other governmental entity on the effective date of this Act.

(g) Makes application of Sections 1001.2531, 1001.2532, 1001.2533, 1001.2534, and 101.2535 prospective.

## ARTICLE 2. BOILERS

SECTION 2.001. Amends Section 755.029(c), Health and Safety Code, to require a certificate of operation to be posed in a conspicuous place, rather than under glass in a conspicuous place, on or near the boiler for which it is issued.

## ARTICLE 3. MOLD

SECTION 3.001. Amends Section 544.303, Insurance Code, as follows:

Sec. 544.303. PROHIBITION OF CERTAIN UNDERWRITING DECISIONS BASED ON PREVIOUS MOLD CLAIM OR DAMAGE. Prohibits an insurer from making an underwriting decision regarding a residential property insurance policy based on previous mold damage or a claim for mold damage if:

(1)–(3) makes no changes to these subdivisions;

(4) the property was inspected and certified by an independent assessor, adjuster, or person or entity experienced in the remediation of mold damage, as prescribed by TDLR, who determined, based on the inspection, that the property does not contain evidence of mold damage. Deletes existing designations of paragraphs and deletes existing text of Paragraph (A), relating to the cause of mold.

SECTION 3.002. Repealer: Chapter 1958 (Mold Assessors and Remediators), Occupations Code.

SECTION 3.003. (a) Provides that on the effective date of this Act, a license or registration issued under former Chapter 1958, Occupations Code, expires and that certain actions before TDLR relating to an alleged violation of former chapter 1958, Occupations Code, are dismissed.

(b) Requires TDLR, as soon as practicable after the effective date of this Act, to repeal all rules regarding the regulation of mold assessors and remediators adopted under former Chapter 1958, Occupations Code.

(c) Authorizes an administrative penalty assessed by TDLR or the executive director related to a violation of former Chapter 1958, Occupations Code, before the effective date of this Act, to be collected as provided by Chapter 51 (Texas Department of Licensing and Regulation), Occupation Code.

(d) Provides that a mold remediation initiated before the effective date of this Act is governed by former Section 1958.154 (Certificate of Mold Remediation; Duty of Property Owner), Occupations Code, as that section existed before the effective date of this Act and the former law is continued in effect for that purpose. Authorizes a person who held a mold assessment or mold remediation license under former Chapter 1958, Occupations Code, on the effective date of this Act, to sign and provide a certificate of mold remediation after the effective date of this Act for a mold remediation initiated before the effective date of this Act.

(e) Makes application of this Article prospective.

(f) Requires the commissioner of insurance, as soon as practicable after the effective date of this Act, to adopt rules required by Section 544.303, Insurance Code, as amended by this article.

#### ARTICLE 4. AUDIOLOGISTS

SECTION 4.001. Amends Section 401.403(b), Occupations Code, as follows:

(b) Requires a person who holds a license, rather than meets the requirements of this chapter for licensing, as an audiologist or audiologist intern and who fits and dispenses hearing instruments to:

(1) comply with rules adopted under this chapter related to fitting and dispensing hearing instruments, rather than the profession's code of ethics. Deletes existing text for Subdivision (1) and redesignates Subdivision (2) as Subdivision (1);

(2) redesignates Subdivision (3) as Subdivision (2);

(3) includes TDLR's Internet website address among the requirements for the written contract that is used when providing services in this state and redesignates Subdivision (4) as Subdivision (3); and

(4) redesignates Subdivision (5) as Subdivision (4).

#### ARTICLE 5. ORTHOTIC AND PROSTHETIC TECHNICIANS

SECTION 5.001. Repealer: Section 605.002(19) (relating to the definition of "registered orthotic technician"), Occupations Code.

Repealer: Section 605.002(20) (relating to the definition of "registered prosthetic orthotic technician"), Occupations Code.

Repealer: Section 605.002(21) (relating to the definition of "registered prosthetic technician"), Occupations Code.

Repealer: Section 605.259 (Orthotic or Prosthetic Technician Registration Certificate), Occupations Code.

SECTION 5.002. (a) Provides that, on the effective date of this Act, a registered orthotic technician or registered prosthetic technician certificate issued under former Section 605.259, Occupations Code, expires.

(b) Requires TCLR, as soon as practicable after the effective date of this Act, to repeal all rules regarding the regulation of orthotic and prosthetic technicians adopted under Chapter 605 (Orthotists and Prosthetists), Occupations Code.

SECTION 5.003. Establishes that the change in law made by this article does not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

#### ARTICLE 6. DIETITIANS

SECTION 6.001. Amends Section 701.151(b), Occupations Code, as follows:

(b) Requires TCLR or TDLR, rather than TDLR, as appropriate, to:

(1) deletes the existing text for Subdivision (1) and redesignates Subdivision (2) as Subdivision (1);

(2) redesignates Subdivision (3) as Subdivision (2);

(3) deletes existing text of Subdivision (4) and redesignates Subdivision (5) as Subdivision (3).

SECTION 6.002. Repealer: Section 701.155 (Seal), Occupations Code.

Repealer: Section 701.353 (Prohibited Use of Seal), Occupations Code.

#### ARTICLE 7. USED AUTOMOTIVE PARTS RECYCLERS

SECTION 7.001. Amends the heading of Section 2309.106, Occupations Code, to read as follows:

Sec. 2309.106. PERIODIC INSPECTIONS.

SECTION 7.002. Repealer: Section 2309.106(c) (relating to TDLR conducting additional inspections based on a schedule of risk-based inspections using certain criteria), Occupations Code.

Repealer: Section 2309.106(d) (relating to requiring a used automotive parts recycler to pay a certain fee for each risk-based inspection), Occupations Code.

ARTICLE 8. EFFECTIVE DATE

SECTION 8.001. Effective date: September 1, 2023.