

BILL ANALYSIS

Senate Research Center
86R23369 SOS-F

C.S.S.B. 1532
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Business & Commerce
4/5/2019
Committee Report (Substituted)

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) the used automotive parts recyclers program.

Bill Analysis

Chapter 1001 (Driver Education and Safety), Education Code:

- Amends Chapter 1001 (Driver and Traffic Safety Education), Education Code, to remove the requirement that all driver education schools 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.

Chapter 755 (Boiler Safety), Health and Safety Code:

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

Chapter 1958 (Mold Assessors & Remediators), Occupations Code:

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

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

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

Chapter 605 (Orthotists and Prosthetists), Occupations Code:

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

Chapter 701 (Dietitians), Occupations Code:

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

Chapter 2309 (Used Automotive Parts Recyclers), Occupations Code:

- Amends the statute to repeal the risk-based inspection requirement in the used automotive parts recyclers program. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1532 amends current law relating to the licensing and regulation of certain occupations and activities and authorizes a fee.

RULEMAKING AUTHORITY

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

Rulemaking authority previously granted to TCLR is modified in SECTION 6.001 (Section 2309.102, Occupations Code) of this bill.

Rulemaking authority previously granted to TCLR is rescinded in SECTION 4.002 (Chapter 605, Occupations Code), SECTION 5.002 (Section 701.155, Occupations Code), SECTION 6.003 (Section 2309.154, Occupations Code), and SECTION 6.004 (Chapter 2309, 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) Redefines "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 in driver education or driver education instructor development, rather than training persons at a primary or 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, and TDLR determines that the school, rather than if the application is submitted on a form approved by the executive director of TDLR (executive director), includes the fee, and 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 any 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, and 1001.2534, 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) Requires a driver education instructor, to be eligible to be certified as a supervising teacher, to:

(1) have been certified as a driver education teacher for at least one year;

(2) have successfully completed:

(A) 15 semester hours of driver and traffic safety education from an accredited college or university; or

(B) a supervising teacher development course approved by TDLR; and

(3) have obtained or successfully completed, as applicable, at least one of the following:

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

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

(C) an associate or baccalaureate degree in education from an accredited college or university.

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

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 article, respectively.

(b) Provides that a driver education instructor license issued under former Section 1001.253, Education Code, before the repeal of the section by this article remains valid until expiration, and provides that that section is continued in effect for that purpose.

(c) Establishes that a person who holds a driver education instructor license described by former Section 1001.253(b), Education Code, on the effective date of this Act is entitled on expiration of that license to issuance of a driver education instructor license certified as a teaching assistant under Section 1001.2532, Education Code, as added by this article, if the person otherwise 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 former 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, as added by this article, on expiration of that license, if the person otherwise 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 former 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, as added by this article, on expiration of that license, if the person otherwise 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, and 1001.2534, Education Code, as added by this Act, prospective.

ARTICLE 2. BOILERS

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

ARTICLE 3. AUDIOLOGISTS

SECTION 3.001. Amends Section 401.403(b), Occupations Code, as follows:

(b) Requires a person who holds a license, rather than who meets the requirements of this chapter (Speech-Language Pathologists and Audiologists) 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 of Subdivision (1) relating to registering with TDLR the person's intention to fit and dispense hearing instruments and redesignates existing Subdivisions (2)–(5) as Subdivision (1)–(4);

(2) makes no further changes to this subdivision;

(3) when providing services in this state, use a written contract that contains certain information including TDLR's internet address; and

(4) makes no further changes to this subdivision.

ARTICLE 4. ORTHOTIC AND PROSTHETIC TECHNICIANS

SECTION 4.001. 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 4.002. (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 4.003. 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 5. DIETITIANS

SECTION 5.001. Amends Section 701.151(b), Occupations Code, as follows:

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

(1) deletes the existing text of Subdivision (1) relating to adopting an official seal and redesignates existing Subdivision (2) as this subdivision;

(2) redesignates existing Subdivision (3) as this subdivision and makes no further changes; and

(3) deletes existing text of Subdivision (4) relating to certain punishments for violations and redesignates existing Subdivision (5) as this subdivision.

SECTION 5.002. Repealer: Section 701.155 (Seal), Occupations Code.

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

ARTICLE 6. USED AUTOMOTIVE PARTS RECYCLERS

SECTION 6.001. Amends Section 2309.102(a), Occupations Code, to require TCLR to adopt rules for licensing used automotive parts recyclers, rather than to require TCLR to adopt rules for licensing used automotive parts recyclers and used automotive parts employees.

SECTION 6.002. Amends the heading to Section 2309.106, Occupations Code, to read as follows:

Sec. 2309.106. PERIODIC INSPECTIONS.

SECTION 6.003. 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.

Repealer: Section 2309.154 (Used Automotive Parts Employee License Required), Occupation Code.

SECTION 6.004. (a) Provides that on the effective date of this Act, a used automotive parts employee license issued under former Section 2309.154, 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 used automotive parts employees adopted under Chapter 2309 (Used Automotive Parts Recyclers), Occupations Code.

SECTION 6.005. (a) Provides that the change in law made by this article to Chapter 2309, Occupations Code, does not affect the validity of a proceeding pending before a court or other governmental entity on the effective date of this Act.

(b) Provides that an offense or other violation of law committed before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this subsection, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.001. Effective date: September 1, 2019.