By Robert J. Duncan H.B. No. 1223

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbers and cosmetologists under the Texas Board of Barber and Cosmetologist Examiners and the abolition of the State Board of Barber Examiners and the Texas Cosmetology Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 132, Revised Statutes, is amended by adding Article 8475 to read as follows:

Art. 8475. TEXAS BOARD OF BARBER AND COSMETOLOGIST EXAMINERS

Sec. 1. DEFINITIONS. In this article:

(1) "Barber" means a person licensed as a barber under Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes).

(2) "Board" means the Texas Board of Barber and Cosmetologist Examiners.

(3) "Cosmetologist" means a person licensed as a cosmetologist under Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes).

Sec. 2. BOARD. (a) The Texas Board of Barber and Cosmetologist Examiners is composed of nine members appointed by the governor. Board members serve staggered six-year terms, with the terms of three members expiring on February 1 of each odd-numbered year.

(b) The members of the board are appointed as follows:

(1) three members must be barbers licensed under Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes);

(2) three members must be cosmetologists licensed under Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes); and

(3) three members must be representatives of the general public.

(c) A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of barbering or cosmetology;

(2) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(d) An officer, employee, or paid consultant of a Texas trade association in the field of barbering or cosmetology may not

be a member of the board and may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(e) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of barbering or cosmetology may not be a member of the board and may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(f) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(g) A vacancy on the board shall be filled by appointment by the governor of a person with the appropriate qualifications to serve for the remainder of the term.

(h) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(i) The Texas Board of Barber and Cosmetologist Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is

abolished and this article, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), and Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), expire September 1, 2007.

Sec. 3. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 2 of this article;

(2) does not maintain during service on the board the qualifications required by Section 2 of this article;

(3) violates a prohibition established by this section or Section 6 of this article;

(4) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the potential ground. The presiding officer shall then notify the governor and the attorney general that a

potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest officer of the board, who shall notify the governor and the attorney general that a potential ground for removal exists.

Sec. 4. OFFICERS; MEETINGS. (a) The board shall elect annually from the membership of the board a presiding officer, assistant presiding officer, and secretary-treasurer.

(b) The board shall meet at least annually and at other times at the call of the presiding officer.

Sec. 5. BOARD POWERS AND DUTIES. (a) The board shall adopt rules consistent with this article for:

(1) the administration of this article and the operation of the board;

(2) the administration of Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), subject to Subsection (c) of this section; and

(3) the administration of Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), subject to Subsection (d) of this section.

(b) The board shall adopt application, examination, licensing, and renewal fees in amounts that are reasonable and necessary to provide sufficient revenue to cover the costs of administering the programs under the authority of the board. The fees set by the board may be adjusted so that the total fees collected are sufficient to meet the expenses of administering the

board's responsibilities.

(c) In administering Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), only the public members and the three barber members of the board may adopt rules or participate in disciplinary proceedings under this article. The participation of four barber and public members is required for a quorum under this subsection.

(d) In administering Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), only the public members and the three cosmetologist members may adopt rules or participate in disciplinary proceedings under this article. The participation of four cosmetologist and public members is required for a quorum under this subsection.

(e) The board may appoint an executive director and other personnel as necessary for the administration of this article.

Sec. 6. CONFLICT OF INTEREST. A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 7. ANNUAL FISCAL REPORT. The board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the

General Appropriations Act.

Sec. 8. PERSONNEL POLICIES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the board. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for board employees must be based on the system established under this subsection.

(c) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

Sec. 9. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.

(b) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notification:

(1) on each registration form, application, or written

contract for services of a person regulated under this article;

(2) on a sign prominently displayed in the place of business of each person regulated under this article; and

(3) in a bill for service provided by a person regulated under this article.

(c) The board shall develop materials and programs to educate the public concerning the licensing requirements imposed under this article, the need of the public to conduct business only with a licensed barber or cosmetologist, and the methods for reporting unlicensed activity.

Sec. 10. AGENCY FUNDS. All money paid to the board under this article is subject to Subchapter F, Chapter 404, Government Code.

Sec. 11. COMPLAINTS. (a) The board shall keep information about each complaint filed with the board. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) for complaints for which the board did not take action, an explanation of the reason the complaint was closed without action.

(b) The board shall keep a file about each written complaint

filed with the board that the board has authority to resolve. The board shall provide to the person filing the complaint and the persons or entities complained about the board's policies and procedures pertaining to complaint investigation and resolution. The board, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

Sec. 12. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the board workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) of this section must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (a)(1) of this section, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 13. STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding their qualification for office or employment under this article and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 14. PUBLIC ACCESS. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(b) The board shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs and services.

Sec. 15. OPEN MEETINGS; ADMINISTRATIVE PROCEDURE. The board is subject to the open meetings law, Chapter 551, Government Code, and the administrative procedures law, Chapter 2001,

Government Code.

Sec. 16. BOARD MEMBER TRAINING. (a) Before a member of the board may assume the member's duties and before the member may be confirmed by the senate, the member must complete at least one course of the training program established under this section.

(b) A training program established under this section shall provide information to the member regarding:

(1) the enabling legislation that created the board to which the member is appointed to serve;

(2) the programs operated by the board;

(3) the role and functions of the board;

(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the board;

(6) the results of the most recent formal audit of the board;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedures law, Chapter 2001, Government Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

SECTION 2. Article 8402, Revised Statutes, is amended to read as follows:

Art. 8402. REGISTERING NAME AND LOCATION[~~,--JURISDICTION-OF STATE--BOARD--OF--BARBER--EXAMINERS--AND--COSMETOLOGY--COMMISSION~~]. (a) Every person, firm, or corporation owning, operating or managing a barber shop or specialty shop shall register his full name and the location of said shop with the Texas [~~State~~] Board of Barber and Cosmetology Examiners and must hold a permit for that shop. An applicant for a barber shop permit or specialty shop permit must submit an application to the [~~barber~~] board for the appropriate permit.

(b) In order that the public may fix responsibility for services, acts, or treatments performed by a barber [~~persons~~] licensed by the Texas [~~State~~] Board of Barber and Cosmetology Examiners vis-a-vis those performed by a cosmetologist [~~persons~~] licensed by that board [~~the--Texas--Cosmetology-Commission~~], to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology, and to avoid confusion of the public [~~as--well--as--avoiding--conflicts---of jurisdiction--between--such-board-and-commission-which-might-impede effective-administration-or-enforcement-of--the--laws--under--their respective-jurisdictions~~]:

(1) a person licensed as a [~~by-the~~] barber by the board may practice only at a location for which the board has issued a barber shop permit, specialty shop permit, barber school or college permit, or any other permit[~~;--If--the--State--Board--of~~

~~Barber-Examiners-and-the-Texas-Cosmetology-Commission--license--the same--facility,--the--board--may--not--adopt--rules--restricting-or prohibiting-the-practice-by-a-Class-A-barber,--manicurist,--or--wig specialist-in-the-facility~~]; and

(2) a person licensed <u>as a cosmetologist</u> by the <u>board</u> [~~cosmetology--commission~~] may practice cosmetology only at a location for which the <u>board</u> [~~commission~~] has issued a beauty shop license, private beauty culture school license, or any other license. [~~If--the--State--Board-of-Barber-Examiners-and-the-Texas Cosmetology-Commission-license-the-same--facility,--the--commission may--not--adopt--rules-restricting-or-prohibiting-the-practice-by-a cosmetologist-in-the-facility.~~]

(c) [~~If-the-State-Board-of-Barber-Examiners--and--the--Texas Cosmetology--Commission-license-the-same-facility,-the-agencies-may not-adopt-rules-requiring:~~

[~~(1)--that-the-work-areas-of-barbers-and-cosmetologists practicing-in-the-facility-be-separated;~~

[~~(2)--that-the--waiting--areas--for--customers--of--the barbers-and-cosmetologists-practicing-in-the-facility-be-separated;~~

[~~(3)--that-the-facility-have-separate-restrooms-for-the barbers--or--cosmetologists--practicing--in-the-facility-or-for-the customers-of-the-barbers-and-cosmetologists;-or~~

[~~(4)--that-the-barbers-and-cosmetologists-practicing-in the-facility-or-the-customers-of-the-barbers-and-cosmetologists--be treated-separately-from-each-other-in-any-similar-manner.~~

[~~(d)~~] There shall at all times be prominently displayed in each shop and salon regulated under this Act[~~,~~] a sign in letters

no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the [~~regulatory~~] board [~~having--jurisdiction--over--those--individuals licensed--under--this--Act~~] and [~~which-shall-contain~~] a statement informing consumers that complaints against licensees can be directed to the [~~regulatory~~] board.

SECTION 3. Section 1, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. REGISTRATION REQUIRED. It shall be unlawful for any person to engage in the practice or attempt to practice barbering in the State of Texas without a certificate or registration as a registered barber issued pursuant to the provisions of this Act[~~,~~] by the Texas Board of Barber and Cosmetologist Examiners [~~hereinafter-created~~].

SECTION 4. Sections 3(g) and (h), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), are amended to read as follows:

(g) No person may operate a barber shop unless the shop is at all times under the sole and exclusive supervision and management of a registered Class A barber[~~,~~] and no person is practicing on the premises by authority of a cosmetologist [~~any~~] license, permit, or certificate issued by the board [~~Texas Cosmetology-Commission~~].

(h) A person operating under a permit who wishes to move his operation to another location approved by the board may do so by notifying the board 10 [~~Board-of-Barber-Examiners-ten~~] days before

he makes the move.

SECTION 5. Sections 4(a)-(l), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) "Barber" [~~"barber"~~] shall mean any person who performs, offers, or attempts to perform any act of barbering, professes to do barbering or to be engaged in the practice thereof, or who directly or indirectly or in any manner whatsoever advertises or holds himself out as a barber or as authorized to practice barbering.[~~,~~]

(b) "Barbering," [~~"barbering,"~~] "practicing barbering," or the "practice of barbering" shall mean the performing or doing, or offering or attempting to do or perform, any, all or any combination of the following acts, services, works, treatments, or undertakings:

(1) arranging, beautifying, coloring, processing, shaving, styling, or trimming the mustache or beard by any means or method;

(2) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, waving, or otherwise treating the hair as primary services, treatments, or undertakings by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to such primary services;

(3) cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident

preparatory or ancillary to those primary services enumerated in Section 4(b)(2), or primarily engaging in the occupation of cutting hair or practicing primarily as a haircutter by cutting hair as a separate and independent service, treatment, or undertaking for which haircut a charge is made, as such, separate and apart from any other service, treatment, or undertaking, directly or indirectly, or in any manner whatsoever;

(4) cleansing, stimulating, or massaging the scalp, face, neck, arms, or shoulders by means of the hands, devices, apparatuses, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(5) beautifying the face, neck, arms, or shoulders by the use of cosmetic preparations, antiseptics, tonics, lotions, powders, oils, clays, creams, or appliances;

(6) cutting, trimming, polishing, tinting, coloring, cleansing, manicuring, or pedicuring the nails of any person or attaching false nails;

(7) massaging, cleansing, treating, or beautifying the hands of any person;

(8) administering facial treatments;

(9) hair weaving;

(10) shampooing or conditioning hair;

(11) servicing a wig, toupee, or artificial hairpiece on a human head or on a block, subsequent to the initial retail sale by any of the acts, services, works, treatments, or undertakings enumerated in Section 4(b)(2) of this Act;

(12) advertising or holding out to the public by

any manner whatsoever that any person is a barber or authorized to practice barbering;

(13) advertising or holding out to the public by any manner whatsoever that any location or place of business is a barber shop, specialty shop, barber school, barber college, or barber salon; and

(14) receiving any fee, salary, compensation, or financial benefit, or the promise of any fee, salary, compensation, or financial benefit, for performing, doing, offering, or attempting to perform or do any act, work, service, or thing, which is any part of the practice of barbering as herein defined.[~~;~~]

(c) "Barber [~~"barber~~] shop" or "barber salon" shall mean any place where barbering is practiced, offered, or attempted to be practiced except when such place is duly licensed as a barber school or college.[~~;~~]

(d) "Board" [~~"board"~~] shall mean the Texas [~~State~~] Board of Barber and Cosmetology Examiners. [~~as established and provided for in the Texas Barber Law;~~]

(e) "Certificate" [~~"certificate"~~] shall mean a certificate of registration issued by the board in accordance with the provisions of this Act.[~~;~~]

(f) "License" [~~"license"~~] shall mean any license issued by the board in accordance with the provisions of this Act.[~~;~~]

(g) "Manager" [~~"manager"~~] shall mean any person who controls or directs the business affairs of a barber shop or directs the work of a person employed in a barber shop or both.[~~;~~]

(h) "Manicurist [~~"manicurist~~] specialty shop" shall mean any place where only the practice of barbering as defined by Sections 4(b)(6) and (7) of this Act is performed for compensation.[~~;~~]

(i) "Permit" [~~"permit"~~] shall mean any permit issued by the board in accordance with the provisions of this Act.[~~;~~]

(j) "Person" [~~"person"~~] shall mean any individual, association, firm, corporation, partnership, or other legal entity.[~~;~~]

(k) "Specialty [~~"specialty~~] shop" shall mean a manicurist specialty shop or a wig specialty shop.[~~;~~]

(l) "Wig [~~"wig~~] specialty shop" shall mean any place where only the practice of barbering as defined by Section 4(b)(11) of this Act is performed for compensation.

SECTION 6. Section 6, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. EXEMPTIONS. The following persons shall be exempt from the provisions of this Act, provided such persons are not represented, advertised, or held out to the public, directly or indirectly, or in any manner whatsoever, as barbers, journeymen barbers, barber technicians, or under any name, title, or designation indicating such person is authorized to practice by authority of any license or permit issued by the board:

(1) a doctor of medicine, doctor of osteopathic medicine, or registered nurse licensed and regulated by the State of Texas while operating within the scope of that person's license;

(2) commissioned or authorized medical or surgical officers of the United States Army, Navy, or Marine Hospital Service;

(3) persons licensed or practicing by authority of the board [~~Texas--Cosmetology--Commission~~] under the provisions of Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), so long as such persons practice within the scope of the license or permit duly issued by the board [~~Texas-Cosmetology-Commission~~]; or

(4) an inmate incarcerated in the Texas Department of Criminal Justice [~~Corrections~~] who performs barbering during the period of incarceration.

SECTION 7. Section 11(b), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) No examination shall be held at a barber school, college, or shop owned, managed, or operated by a member of the board [~~State-Board-of-Barber-Examiners~~].

SECTION 8. Section 13, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. PERMIT TO PRACTICE AS JOURNEYMAN BARBER. Any person who is at least 16-1/2 [~~sixteen-and-one-half~~] years of age, and who has a diploma showing graduation from a seven-grade grammar school, or its equivalent as determined by an examination conducted by the board [~~Board~~], and either

(a) Has a license or certificate of registration as a

practicing barber from another State or country, which has substantially the same requirements for licensing or registering barbers as required by this Act, or

(b) Who can prove by personal affidavit that he has practiced as a barber in another State for at least two years immediately prior to making application in this State, and who possesses the qualifications required by this Act, shall, upon payment of the required fee, be issued a permit to practice as a journeyman barber only until he is called by the board [~~Board--of Barber-Examiners~~] to determine his fitness to receive a certificate of registration to practice barbering. Should such applicant fail to pass the required examination he shall be allowed to practice as a journeyman barber until he is called by the board [~~Board~~] for the next term of examination. Should he fail at the examination he must cease to practice barbering in this State.

SECTION 9. Section 15A(f), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) A person who holds a license, permit, or certificate to practice cosmetology issued by the board [~~Texas---Cosmetology Commission~~] may not practice under that authority at a manicurist specialty shop regulated under this Act.

SECTION 10. Section 16(c), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The application shall be made on a form prescribed by the board [~~commission~~] and a $10 administration fee must accompany

the application.

SECTION 11. Section 18(f), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) A person who holds a license, permit, or certificate to practice cosmetology issued by the board [~~Texas--Cosmetology Commission~~] may not practice under that authority at a wig specialty shop regulated under this Act.

SECTION 12. Section 23a, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 23a. DUPLICATE CERTIFICATES. A duplicate registrant certificate may be issued by the board [~~Board-of-Barber-Examiners~~] on written application of the registrant and payment of a fee not to exceed $10.

SECTION 13. Section 27a(a), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) No barber inspector or other employee of the board [~~State-Board-of-Barber--Examiners~~] may sell barber supplies or engage in any other business which deals directly with barbers, barber shops, specialty shops, or barber schools except that he may engage in the practice of barbering.

SECTION 14. Section 28(a), Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Texas Board of Health shall make, establish and

1 promulgate reasonable sanitary rules and regulations for the
2 conduct of barber shops, specialty shops, and barber schools. The
3 board [~~State-Board-of-Barber-Examiners~~], by and through the Texas
4 Department of Health, shall have authority, and it is made its duty
5 to enter upon the premises of all barber shops, specialty shops,
6 barber schools, or any place at which the board [~~State--Board--of~~
7 ~~Barber--Examiners~~] has probable cause to believe that any of its
8 certificate holders or licensees are practicing illegally and
9 inspect same at any time during business hours. On receipt of a
10 formal written complaint by any person that a person who holds a
11 barber or teacher certificate or license or a barber school, barber
12 college, or barber shop permit issued by the board [~~State-Board-of~~
13 ~~Barber-Examiners~~] has violated this Act, that board may inspect the
14 premises of the licensee or certificate holder to investigate the
15 complaint at any time during business hours. A copy of such
16 sanitary rules and regulations adopted by the Texas Board of Health
17 shall be furnished to the executive director of the board [~~State~~
18 ~~Board--of--Barber--Examiners~~] who shall in turn forward to each
19 barber, barber school or licensee of the board a copy of such rules
20 and regulations. A copy of the sanitary rules and regulations
21 promulgated and adopted by the Texas Board of Health shall be
22 posted in barber shops, specialty shops, and barber schools in this
23 State. Subject only to the authority of the Texas Board of Health
24 to make and promulgate reasonable rules and regulations as to
25 sanitation, the board [~~State-Board-of-Barber-Examiners~~] shall have
26 full authority and power to make and enforce all rules and
27 regulations necessary for the performance of its duties, to

establish standards of conduct and ethics for all persons licensed or practicing under the provisions of this Act, and to regulate the practice and teaching of barbering in all of its particulars in keeping with the purposes and intent of this Act or to insure strict compliance with and enforcement of this Act.

SECTION 15. Section 29, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 29. RECORDS OF BOARD. [~~(a)~~] The board [~~Board~~] shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration, licenses, or permits. This record shall also contain the name, place of business, and residence of each registered barber, licensee, or permittee, and the date and number of his certificate of registration, license, or permit. This record shall be open to public inspection at all reasonable times.

[~~(b)--The-Board-shall-prepare-information-of-public--interest describing--the--functions-of-the-Board-and-the-procedures-by-which complaints-are-filed-with-and-resolved-by--the--Board.---The--Board shall-make-the-information--available-to-the-public-and-appropriate state-agencies.~~

[~~(c)--The--Board--by--rule--shall--establish-methods-by-which consumers-and-service-recipients-are-notified-of-the-name,--mailing address,--and--telephone--number--of--the--Board-for-the-purpose-of directing-complaints-to-the-Board.--The-Board-may-provide-for--that notification:~~

[~~(1)--on---each---registration--form,--application,--or~~

~~written--contract-for-services-of-an-individual-or-entity-regulated by-the-Board;~~

~~[(2)--on-a-sign-prominently-displayed-in-the--place--of business-of-each-individual-or-entity-regulated-under-this-Act;-or~~

~~[(3)--in--a--bill-for-service-provided-by-an-individual or-entity-regulated-by-the-Board.~~

~~[(d)--The-Board-shall-develop--and--implement--policies--that provide--the--public-with-a-reasonable-opportunity-to-appear-before the-Board-and-to-speak-on-any-issue-under-the-jurisdiction--of--the Board.~~

~~[(e)--The--Board--shall--prepare--and-maintain-a-written-plan that-describes-how-a-person-who-does-not-speak-English-or-who-has-a physical,-mental,--or--developmental--disability--may--be--provided reasonable-access-to-the-Board's-programs.~~]

SECTION 16. Section 1(2), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

(2) "Board" [~~"Commission"~~] means the Texas Board of Barber and Cosmetology Examiners [~~Commission~~].

SECTION 17. Section 4, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), as amended by Chapters 416 and 777, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 4. POWERS AND DUTIES OF BOARD [~~THE--COMMISSION~~]. (a) [~~The--commission--may--issue-rules-consistent-with-this-Act-after-a public-hearing-in-accordance-with-the-Administrative-Procedure--and~~

~~Texas---Register---Act--(Article--6252-13a,--Vernon's--Texas--Civil Statutes).~~

[~~(b)~~] The board [~~commission~~] may not adopt rules restricting competitive bidding or advertising by a person regulated by the board [~~commission~~] except to prohibit false, misleading, or deceptive practices by that person.

(b) [~~(c)~~] The board [~~commission~~] may not include in the rules to prohibit false, misleading, or deceptive practices by a person regulated by the board [~~commission~~] a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the person's personal appearance or the use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) [~~(d)~~] The board [~~commission~~] shall prescribe the minimum curricula of the subjects and hours of each to be taught by private beauty culture schools and vocational cosmetology programs in public schools.

(d) [~~(e)~~] The board [~~commission~~] shall establish sanitation rules designed to prevent the spread of infectious or contagious diseases.

(e) [~~(f)~~] The board [~~commission~~] may recognize, prepare, or administer continuing education programs for the practice of cosmetology. Participation in the programs is voluntary.

(f) [~~(g)--The-commission-shall-provide--to--its--members--and~~

~~employees,--as--often--as--necessary,--information--regarding-their qualifications-for-office-or-employment-under-this--Act--and--their responsibilities--under--applicable--laws--relating-to-standards-of conduct-for-state-officers-or-employees.~~

~~[(h)--The-commission-shall--develop--and--implement--policies that---clearly---define--the--respective--responsibilities--of--the commission-and-the-staff-of-the-commission.~~

~~[(i)--The-commission-shall--develop--and--implement--policies that--provide--the--public--with-a-reasonable-opportunity-to-appear before--the--commission--and--to--speak--on--any--issue--under--the jurisdiction-of-the-commission.~~

~~[(j)--The-commission-shall-prepare--and--maintain--a--written plan--that-describes-how-a-person-who-does-not-speak-English-or-who has-a-physical,-mental,-or-developmental-disability-can-be-provided reasonable-access-to-the-commission's-programs.~~

~~[(k)--The-commission-shall-set-and-monitor-hiring--goals--for women--and-minorities-for-each-program-area-of-the-agency-and-shall coordinate-recruiting-efforts-with-student-organizations-and--other groups-able-to-assist-in-meeting-those-hiring-goals.--The-executive director--shall--prepare--and-submit-a-report-to-the-commission-not later-than-February-1-of-each-year-outlining-the--progress--of--the agency--in--the--recruitment--and--hiring-of-women-and-minority-job applicants.~~

~~[(l)]~~ The board ~~[commission]~~ may request and, if necessary, compel by subpoena the attendance of witnesses for examination under oath and the production for inspection and copying of books, accounts, records, papers, correspondence, documents, and other

evidence relevant to the investigation of alleged violations of this Act. If a person fails to comply with a subpoena issued under this subsection, the board [~~commission~~], acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the board [~~commission~~] may be held. The court, if it determines that good cause exists for the issuance of the subpoena, shall order compliance with the requirements of the subpoena. Failure to obey the order of the court may be punished by the court as contempt.

[~~(i)--The--commission--by--rule-shall-establish-and-assess-on all-persons-and-entities--licensed--or--regulated--under--this--Act reasonable-and-necessary-fees.~~]

SECTION 18. Sections 10(b) and (c), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for an operator license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 1,500 hours of instruction in a licensed beauty culture school or 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses prescribed by the board [~~commission~~] in a public school vocational program.

(c) The application must be made on a form prescribed by the board [~~commission~~] and must be filed at least 10 days before the date set for the examination.

SECTION 19. Sections 11(b) and (c), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a,

Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for a manicurist license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 250 hours of instruction in manicuring through a training program approved by the board [~~commission~~].

(c) The application must be made on a form prescribed by the board [~~commission~~] and must be filed at least 10 days before the date set for the examination.

SECTION 20. Sections 12(b), (c), and (e), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for an instructor license must be at least 18 years of age, have completed the 12th grade or its equivalent, have a valid operator license, and have completed a course consisting of 750 hours of instruction in cosmetology courses and methods of teaching in a licensed private beauty culture school or in a vocational training program of a publicly financed postsecondary institution or at least two years of verifiable experience as a licensed operator and at least 250 hours of instruction in cosmetology in a training program approved by the board [~~commission~~].

(c) The application must be on a form prescribed by the board [~~commission~~] and must be filed at least 10 days before the date set for the examination.

(e) The board [~~commission~~] shall establish rules for the licensing of specialty instructors to teach specialty courses in

the practice of cosmetology as defined in Paragraphs (D) and (F) of Subdivision (3) of Section 1 of this Act.

SECTION 21. Sections 13(b), (c), and (e), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for a specialty certificate must be at least 16 years of age, have completed the seventh grade or its equivalent, and have the necessary requisites as determined by the board [~~commission~~] in the particular specialty in which certification is sought, including training through a training program approved by the board [~~commission~~].

(c) The application must be on a form prescribed by the board [~~commission~~].

(e) Subsection (a) of this section does not apply to an individual who has an instructor license or operator license issued by the board [~~commission~~].

SECTION 22. Sections 13A(b), (c), and (e), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for a facialist specialty license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have the necessary requisites as determined by the board [~~commission~~] in the facialist specialty.

(c) The application must be on a form prescribed by the board [~~commission~~] and must be filed at least 10 days before the date set for examination.

(e) Subsection (a) of this section does not apply to an

individual who has an instructor license or operator license issued by the board [~~commission~~].

SECTION 23. Section 15(b), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A temporary license shall be issued on submission of an application form prescribed by the board [~~commission~~] and payment of a $45 temporary license fee if the applicant meets the requirements of Subsection (a) of this section.

SECTION 24. Section 16, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. DUPLICATE LICENSE OR CERTIFICATE. (a) A duplicate license or certificate shall be issued upon application on a form prescribed by the board [~~commission~~] and on the payment of a $35 fee.

(b) A transcript shall be given to licensees under this Act upon application on a form prescribed by the board [~~commission~~] and payment of a $5 fee.

SECTION 25. Section 17(b), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The applicant shall submit an application on a form prescribed by the board [~~commission~~] and pay a $100 fee, plus the applicable license or certification fee.

SECTION 26. Section 18(b), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas

Civil Statutes), is amended to read as follows:

(b) A student permit shall be issued on submission of an application form prescribed by the board [~~commission~~] and payment of a $25 fee which must accompany the application.

SECTION 27. Sections 19(b)-(e), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for a beauty shop license must submit an application on a form prescribed by the board [~~commission~~]. The application must contain proof of the particular requisites for a beauty shop as established by the board [~~commission~~] and must be verified by the applicant. With the application, the applicant must submit a $35 inspection fee.

(c) The applicant is entitled to a beauty shop license if the application shows compliance with the rules of the board [~~commission~~], a $45 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) In order that the public may fix responsibility for services, acts, or treatments performed by persons licensed as barbers by the board [~~State-Board-of-Barber-Examiners~~] vis-a-vis those performed by persons licensed as cosmetologists by the board and [~~Texas--Cosmetology--Commission,~~] to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology[~~,-and-to-avoid-confusion-of-the-public-as well-as-avoiding-conflicts-of-jurisdiction-between-such--board--and commission---which---might---impede---effective--administration--or~~

~~enforcement-of-the-laws-under-their-respective-jurisdictions,--from and-after-January-31,-1980~~]:

(1) a person licensed <u>to practice barbering</u> by the [~~barber~~] board may practice barbering only at a location for which the board has issued a barber shop permit, barber school or college permit, or any other permit[~~.---If--the--State--Board-of-Barber Examiners-and-the-Texas-Cosmetology--Commission--license--the--same facility,--the-board-may-not-adopt-rules-restricting-or-prohibiting the-practice-by-a-Class-A-barber-in-the-facility~~]; and

(2) a person licensed <u>to practice cosmetology</u> by the <u>board</u> [~~cosmetology--commission~~] may practice cosmetology only at a location for which the <u>board</u> [~~commission~~] has issued a beauty shop license, private beauty culture school license, or any other license. [~~If-the-State-Board-of-Barber--Examiners--and--the--Texas Cosmetology--Commission--license--the-same-facility,-the-commission may-not-adopt-rules-restricting-or-prohibiting-the--practice--by--a cosmetologist-in-the-facility.~~

[~~(e)--If--the--State--Board-of-Barber-Examiners-and-the-Texas Cosmetology-Commission-license-the-same-facility,-the-agencies--may not-adopt-rules-requiring:~~

[~~(1)--that-the-work-areas-of-barbers-and-cosmetologists practicing-in-the-facility-be-separated;~~

[~~(2)--that--the--waiting--areas--for--customers--of-the barbers-and-cosmetologists-practicing-in-the-facility-be-separated;~~

[~~(3)--that-the-facility-have-separate-restrooms-for-the barbers-or-cosmetologists-practicing-in-the--facility--or--for--the customers-of-the-barbers-and-cosmetologists;-or~~

[~~(4)--that the barbers and cosmetologists practicing in the--facility or the customers of the barbers and cosmetologists be treated separately from each other in any similar manner.~~]

SECTION 28. Sections 20(b)-(d), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for a specialty shop license must submit an application on a form prescribed by the board [~~commission~~]. The application must contain proof of the particular requisites for a specialty shop as established by the board [~~commission~~] and must be verified by the applicant. With the application, the applicant must submit a $35 inspection fee.

(c) The applicant is entitled to a specialty shop license if the application shows compliance with the rules and regulations of the board [~~commission~~], a $45 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) Subsection (b) of this section does not apply to a shop operated under a beauty shop license issued by the board [~~commission~~].

SECTION 29. Sections 20A(b)-(d), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for a booth rental license must submit an application on a form prescribed by the board [~~commission~~]. The application must contain information as required by rule by the board [~~commission~~] and must be verified by the applicant.

(c) The applicant is entitled to a booth rental license if

the applicant:

(1) pays the application fee set by the board [~~commission~~] in an amount reasonable and necessary to cover the costs of administering the booth rental licensing program;

(2) shows compliance with the rules of the board [~~commission~~]; and

(3) has not committed an act that constitutes a ground for denial of a license or certificate.

(d) The board [~~commission~~] shall adopt rules relating to the information submitted for a booth rental license, including information regarding the applicant's compliance with state and federal tax laws.

SECTION 30. Sections 21(b), (c), (e), and (k), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) An applicant for a private beauty culture school license must submit an application on a form prescribed by the board [~~commission~~]. Each application must be verified by the applicant and must contain:

(1) a detailed floor plan of the school building divided into three separate areas, one for instruction in theory, one for practice work of senior students, and one for practice work of juniors; and

(2) a statement that the building is fireproof and of permanent type construction, contains a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students, and contains or will contain before classes commence the

equipment established by rule of the board [~~commission~~] as sufficient to properly instruct a minimum of 50 students.

(c) The board [~~commission~~] shall determine that an applicant for a private beauty culture school license is financially sound and capable of fulfilling the school's commitments for training before granting the license.

(e) The facilities of each applicant shall be inspected. The applicant is entitled to a private beauty culture school license if the inspection shows that this Act and the rules of the board [~~commission~~] have been met and the applicant has not committed an act that constitutes a ground for denial of a license.

(k) If a refund is not made within the period required by this section, the school shall pay interest on the refund for the interval beginning with the first day following the expiration of the refund period and ending with the day immediately preceding the date the refund is made. If the refund is made to a lending institution, the interest shall also be paid to that institution and applied against the student's loan. The commissioner of education annually shall establish the level of interest at a level sufficient to provide a deterrent to the retention of student funds. The board [~~commission~~] may exempt a school from the payment of the interest if the school makes a good faith effort to refund the tuition but is unable to locate the student. The school shall provide to the board [~~commission~~] on request documentation of the effort to locate the student.

SECTION 31. Sections 21A(a)-(e), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's

Texas Civil Statutes), are amended to read as follows:

(a) In addition to the bond requirements imposed under Section 21(c) of this Act, at the time that each private beauty culture school pays its annual renewal fee, in the years provided by Subsection (c) of this section, the board [~~commission~~] shall also collect a fee from the school for deposit in a special fund established in the state treasury called the private beauty culture school tuition protection fund.

(b) The board [~~commission~~] shall determine the amount of the fee by applying a percentage to each school's annual renewal fee. The percentage is the rate determined by the board [~~commission~~] that, when applied to the total of all renewal fees, will result in the collection of $200,000 for deposit in the fund in the first three years that the fee is collected. The fee assessed under this section may not exceed $200 per year.

(c) Beginning on January 1, 1992, the board [~~commission~~] shall collect the fee for three years. If on January 1, 1995, or on January 1 of any subsequent year the amount in the fund is less than $200,000, the board [~~commission~~] shall collect a fee during that year by applying a percentage to each school's annual renewal fee at a rate that will bring the balance of the fund to $200,000.

(d) The state treasurer shall invest the fund in the same manner as other state funds. Sufficient funds from the tuition protection fund shall be appropriated to the board [~~commission~~] for the purpose outlined in this section. The board [~~commission~~] shall administer claims made against the fund.

(e) If a school closes, the board [~~commission~~] shall attempt

to arrange for students of the closed school to attend another private beauty culture school.

SECTION 32. Section 21B, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 21B. COURSE LENGTH AND CURRICULUM OF PRIVATE BEAUTY CULTURE SCHOOL. (a) A private beauty culture school must submit to the board [~~commission~~] for approval the course lengths and curriculum content for each course offered by the school. The course lengths and content may not be implemented unless the board [~~commission~~] approves them. The course lengths and content shall reasonably ensure that students develop the job skills and knowledge necessary for employment.

(b) The board [~~commission~~] shall require a school to account fully for all curriculum contents and course lengths before issuing or renewing a license, and a school that is manipulating course lengths below or above industry standards shall be placed on probation until justification for the deviation is proved or the practice ceases.

SECTION 33. Section 21C, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 21C. TEMPORARY WORK PERMIT. (a) The board [~~commission~~] may issue a temporary work permit to any student who has completed 1,500 hours of instruction in an approved private beauty school program or 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses in a

public school vocational program and who has applied for the practical examination. The temporary work permit expires on the earlier of the date the student is scheduled for the practical examination or 90 days from the date the temporary permit is issued.

(b) The board [~~commission~~] may assess a fee for a temporary work permit. The board [~~commission~~] shall set the fee in an amount reasonable and necessary to defray the costs of administering this section.

SECTION 34. Sections 22(b), (c), (d), (f), and (g), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Each holder of a private beauty culture school license shall furnish to the board [~~commission~~]:

(1) the current course completion rates of students who attend a course of instruction offered by the school; and

(2) job placement rates and employment rates of students who complete a course of instruction.

(c) On the graduation of a student from a course of training offered by a private beauty culture school or the student's withdrawal or transfer from a course of training without completion of the training, the private beauty culture school shall send the board [~~commission~~] a certified written copy of the student's record, indicating all course hours completed by the student and whether the agreed tuition has been paid.

(d) A holder of a private beauty culture school license

shall furnish each prospective student with:

(1) a copy of the course outline;

(2) a schedule of the tuition and other fees assessed;

(3) the refund policy required under Section 21 of this Act;

(4) school regulations relating to absences;

(5) the school grading policy;

(6) the school rules of operation and conduct;

(7) school regulations relating to incomplete grades;

(8) the name, mailing address, and telephone number of the board [~~commission~~] for the purpose of directing complaints to the board [~~commission~~]; and

(9) the current rates of job placement and employment of students who complete a course of training.

(f) If the board [~~commission~~] has reasonable cause to believe that a private beauty culture school has violated this Act or a rule adopted under this Act, the board [~~commission~~] may order a peer review of the school or suspend the admission of students to the school. A peer review ordered under this subsection shall be conducted by a peer review team composed of knowledgeable persons selected by the board [~~commission~~]. The board [~~commission~~] shall attempt to provide a balance on each team between members assigned to the team who are from this state and those who are from other states. The team shall provide the board [~~commission~~] with an objective assessment of the content of the school's curriculum and its application. The school under review shall pay the costs of the peer review.

(g) A private beauty culture school that violates this Act or a rule adopted under this Act is liable for a civil penalty in addition to any injunctive relief or other remedy provided by law. The civil penalty may not exceed $1,000 a day for each violation. The attorney general, at the request of the board [~~commission~~], may bring a civil action to collect a civil penalty under this subsection. Civil penalties recovered in a suit brought under this subsection shall be deposited in the state treasury to the credit of the General Revenue Fund.

SECTION 35. Section 29, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 29. RIGHT OF ACCESS. The board [~~commission~~], an inspector, or any duly authorized representative of the board [~~commission~~] may enter the premises of any licensee at any time during normal business hours and in such manner as not to interfere with the conduct or operation of the business or school to determine whether or not the licensee is in compliance with this Act and the rules of the board [~~commission~~].

SECTION 36. Section 30, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 30. EXAMINATIONS. (a) The board [~~commission~~] shall use a written examination, selected by the board [~~commission~~], to examine license applicants and may require a practical examination for licenses and certificates issued under this Act, as the board [~~commission~~] considers necessary. The written examination must be

validated by independent testing professionals or be purchased from a national testing service. The board [~~commission~~] shall prescribe the method and content of any practical examination.

(b) On receipt of a written request by a student, the board [~~commission~~] may provide for the early written examination of a cosmetology operator license student who has completed at least 1,000 hours of instruction in a training program approved by the board [~~commission~~]. Agency inspectors may administer an examination conducted under this subsection on-site at beauty culture schools throughout the state.

(c) Examinations shall be conducted beginning the first of each month unless it is a legal holiday, in which case the examination shall begin on the following day. The site of the examinations shall be announced at least six months prior to the administration date. Examinations may not be conducted in the schools of board [~~commission~~] members.

(d) Not later than the 30th day after the date on which an examination is administered under this Act, the board [~~commission~~] shall notify each examinee of the results of the examination. However, except as otherwise provided by this subsection, if an examination is graded or reviewed by a national testing service, the board [~~commission~~] shall notify examinees of the results of the examination not later than the 14th day after the date on which the board [~~commission~~] receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the board [~~commission~~] shall notify the

examinee of the reason for the delay before the 90th day. If the examinee is a student in a vocational cosmetology program in a public school, the board [~~commission~~] shall grade the examination and may not submit the examination for grading by a national testing service. If requested in writing by a person who fails the examination, the board [~~commission~~] shall send to the person not later than the 60th day after the day on which the request is received by the board [~~commission~~] an analysis of the person's performance on the examination.

SECTION 37. Sections 33(d), (e), (h), and (i), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), are amended to read as follows:

(d) All licenses and certificates issued by the board [~~commission~~] may be prorated for the number of months the license or certificate will be valid.

(e) A license that has been expired for less than 30 days may be renewed. A renewal license shall be issued on submission of a completed application form prescribed by the board [~~commission~~] and payment of the renewal fee, plus a $10 delinquency fee.

(h) A private beauty culture school license that has been expired for more than 30 days may not be renewed. The licensee may apply for an original license under the current requirements and fees. The board [~~commission~~] may not accept credit hours for examination after the 30th day of expiration of a license subject to this subsection.

(i) The board [~~commission~~] by rule shall establish the delinquency fee for a booth rental license.

SECTION 38. Section 34(b), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The board [~~commission~~] by rule shall establish the renewal fee for a booth rental license.

SECTION 39. Section 35(a), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) If an inspector discovers a violation of this Act or of a rule established by the board [~~commission~~], he shall give written notice of the violation on a form prescribed by the board [~~commission~~] to the violator, and if the violation is not corrected in 10 days from the date of notice, the inspector shall file a complaint with the executive director.

SECTION 40. Section 38(a), Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board [~~commission~~] may sue in district court to enjoin or restrain a person from violating any section of this Act or the board [~~commission~~] rules.

SECTION 41. (a) This Act takes effect September 1, 1995.

(b) The following laws are repealed:

(1) Sections 23, 26, 26a, 26b, 26c, 27, 29A, 29C, and 29D, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's Texas Civil Statutes);

(2) Section 29B, Chapter 65, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 8407a, Vernon's

Texas Civil Statutes), as amended by Chapters 561 and 629, Acts of the 72nd Legislature, Regular Session, 1991;

(3) Sections 2, 3, 5, 6, 8, 28, 37, and 41, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes); and

(4) Section 7, Chapter 1036, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), as amended by Chapters 561 and 626, Acts of the 72nd Legislature, Regular Session, 1991.

(c) The State Board of Barber Examiners and the Texas Cosmetology Commission are abolished but continue in existence until September 1, 1996, for the sole purpose of transferring obligations, property, rights, powers, and duties to the Texas Board of Barber and Cosmetology Examiners created under this Act. The Texas Board of Barber and Cosmetology Examiners assumes all of the obligations, property, rights, powers, and duties of the State Board of Barber Examiners and the Texas Cosmetology Commission, as exercised by those agencies immediately before the effective date of this Act. All unexpended funds appropriated to the State Board of Barber Examiners and the Texas Cosmetology Commission are transferred to the Texas Board of Barber and Cosmetology Examiners. The transfer of the obligations, property, rights, powers, and duties of the State Board of Barber Examiners and the Texas Cosmetology Commission to the Texas Board of Barber and Cosmetology Examiners must be completed not later than September 1, 1996.

(d) All rules of the State Board of Barber Examiners and the Texas Cosmetology Commission are continued in effect as rules of

the Texas Board of Barber and Cosmetology Examiners until superceded by a rule of the Texas Board of Barber and Cosmetology Examiners. A license, permit, or registration issued by the State Board of Barber Examiners or the Texas Cosmetology Commission is continued in effect as provided by the law in effect immediately before the effective date of this Act. A complaint, investigation, contested case, or other proceeding pending on the effective date of this Act is continued without change in status after the effective date of this Act.

SECTION 42. In making the initial appointments to the Texas Board of Barber and Cosmetology Examiners, the governor shall appoint:

(1) one person licensed as a barber, one person licensed as a cosmetologist, and one public member to serve terms expiring February 1, 1997;

(2) one person licensed as a barber, one person licensed as a cosmetologist, and one public member to serve terms expiring February 1, 1999; and

(3) one person licensed as a barber, one person licensed as a cosmetologist, and one public member to serve terms expiring February 1, 2001.

SECTION 43. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

for chief clerk use only
Bill or Resolution Number: HB 1223

JOINT AUTHOR AUTHORIZATION

As primary author of HB 1223 I hereby authorize the following joint author(s):
(bill or resolution #)

JOHN CARONA	
printed name of joint author #1	signature of joint author #1
printed name of joint author #2	signature of joint author #2
printed name of joint author #3	signature of joint author #3
printed name of joint author #4	signature of joint author #4

signature of primary author

2/13/95
date

ORIGINAL FORM--Place in book

SEND COPIES TO:
Debbie Irvine (Legislative Council)
Legislative Reference Library
House Journal

H.B. No. 1223 By Robert Junell

A BILL TO BE ENTITLED
AN ACT

Relating to the regulation of barbers and cosmetologists under the Texas Board of Barber and Cosmetologist Examiners and the abolition of the State Board of Barber Examiners and the Texas Cosmetology Commission.

FEB 13 1995 Filed with the Chief Clerk

FEB 14 1995 Read first time and referred to Committee on PUBLIC HEALTH

_____ Reported ___ favorably (as amended)
(as substituted)

_____ Sent to Committee on (Calendars)
(Local & Consent Calendars)

_____ Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

_____ Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Engrossed

_____ Sent to Senate

_____
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

_____ Received from the House

_____ Read and referred to Committee on _____

_____ Reported favorably _____

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

_____ Ordered not printed

_____ Laid before the Senate

_____ Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

_____ Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

_____ Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

_____ Read third time, _____, and passed by (a viva voce vote)
(_____ yeas, _____ nays)

_____ Returned to the House

_____
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,

_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;

_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)