By: Carona

H.B. No. 1193

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbers and related occupations, barbershops and specialty shops, and barber schools; providing a criminal penalty.

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

SECTION 1. Subsection (b), Section 1601.051~~(b)~~, Occupations Code, is amended to read as follows:

(b) One member appointed under Subsection (a)(1) must be a resident of a county with a population of 75,000 [~~25,000~~] or less.

SECTION 2. Subsection (b), Section 1601.253~~(b)~~, Occupations Code, is amended to read as follows:

(b) The board shall issue a Class A barber certificate to an applicant who:

(1) complies with the application requirements of this chapter;

(2) passes the examination with an average grade of at least 75 percent;

(3) pays a fee set by board rule [~~not to exceed $100~~]; and

(4) possesses the other qualifications required by this chapter.

SECTION 3. Subsections (a) and (c), Sections 1601.254~~(a) and (c)~~, Occupations Code, are amended to read as follows:

(a) An applicant for a teacher's certificate must:

5-21-03

(1) be a Class A barber;

(2) have at least five years' experience as a practicing barber in a barbershop, two years of which occurred in the two years preceding the application date; and

(3) submit an examination fee set by board rule [~~not to exceed $100~~] with the application.

(c) The board shall issue a teacher's certificate to an applicant who:

(1) passes the appropriate examination; and

(2) pays a certificate fee set by board rule [~~not to exceed:~~

[~~(A) $100, if the applicant fulfills the certificate requirements during the period beginning November 1 of an odd-numbered year and extending through October 31 of the following year; or~~

[~~(B) $50, if the applicant fulfills the certificate requirements during the period beginning November 1 of an even-numbered year and extending through October 31 of the following year~~].

SECTION 4. Subsections (b) and (d), ~~Section~~ 1601.256~~(b) and (d)~~, Occupations Code, are amended to read as follows:

(b) An applicant for a barber technician license must:

(1) be at least 16 years of age;

(2) have completed the seventh grade or the equivalent of the seventh grade;

(3) have completed a course of instruction in a board-approved training program consisting of not less than 300

hours in a period of not less than eight weeks; and

(4) submit a [~~$10 administration~~] fee set by board rule with the application.

(d) The board shall issue a barber technician license to an applicant who:

(1) possesses the qualifications described by Subsection (b);

(2) passes the appropriate examination;

(3) pays a license fee set by the board [~~not to exceed $100~~]; and

(4) has not committed an act that is a ground for denial of a license.

SECTION 5. Subsections (b) and (c), Section~~s~~ 1601.257 ~~(b) and (c)~~, Occupations Code, are amended to read as follows:

(b) An applicant for a manicurist license must:

(1) be at least 17 [~~16~~] years of age;

(2) have completed the seventh grade or the equivalent of the seventh grade;

(3) have completed a board-approved training program consisting of 600 hours of instruction in manicuring; and

(4) submit a [~~$10 administration~~] fee set by board rule with the application.

(c) The board shall issue a manicurist license to an applicant who:

(1) possesses the qualifications described by Subsection (b);

(2) passes the appropriate examination;

(3) pays a license fee set by board rule [~~not to exceed $30~~]; and

(4) has not committed an act that is a ground for denial of a license.

SECTION 6. Section 1601.260, Occupations Code, is amended to read as follows:

Sec. 1601.260. ELIGIBILITY FOR STUDENT PERMIT. (a) An applicant for a permit to be a student in a barber school must:

(1) submit an enrollment application to the board in the form prescribed by the board;

(2) have completed the seventh grade;

(3) satisfy other requirements specified by the board; and

(4) submit with the application a nonrefundable application fee set by board rule [~~in an amount not to exceed $25~~].

(b) A separate application is required for each enrollment, reenrollment, or transfer enrollment. The application fee applies only to the first enrollment. The board may [~~not~~] charge a separate [~~the application~~] fee set by board rule for any later enrollment, reenrollment, or transfer enrollment.

SECTION 7. Subsection (b), Section 1601.261~~(b)~~, Occupations Code, is amended to read as follows:

(b) The board by rule shall set the fee for an examination necessary to receive a certificate to practice barbering or to practice as a barber technician or a manicurist [~~in an amount not to exceed $50~~].

SECTION 8. Section 1601.266, Occupations Code, is amended

to read as follows:

Sec. 1601.266. DUPLICATE CERTIFICATE. The board may issue a duplicate certificate on written application of the certificate holder and payment of a fee set by board rule [~~not to exceed $10~~].

SECTION 9. Section 1601.301, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) A person who owns, operates, or manages a barbershop or specialty shop must, not later than the third day after the date on which the shop opens for business, [~~:~~

[~~(1)~~] submit an application to the board for an appropriate permit for the [~~each~~] shop, accompanied by the application fee set by board rule [~~; and~~

[~~(2) register with the board the person's full name and the location of each shop~~].

(c) The application must provide:

(1) the permanent address of the barbershop or specialty shop;

(2) the legal description of the premises to be licensed;

(3) the person's full name; and

(4) any other information required by the board.

(d) A person operating under a barbershop permit or specialty shop permit may not move the operation to another location without submitting a new application to the board, accompanied by the application fee set by board rule.

SECTION 10. Section 1601.303, Occupations Code, is amended

to read as follows:

Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. (a) The board shall issue a barbershop permit to an applicant if:

(1) the applicant holds a Class A barber certificate and is an owner of the shop or is practicing barbering at the shop;

[~~(2) the applicant has practiced barbering for at least 12 months,~~] and

(2) [~~(3)~~] the shop meets the minimum health standards for barbershops set by the board and all other rules of the board.

(b) If a barber is not the owner of the barbershop, the shop owner's name must also appear on the barbershop permit.

SECTION 11. Subsection (b), Section 1601.304~~(b)~~, Occupations Code, is amended to read as follows:

(b) An applicant for a manicurist specialty shop permit must submit:

(1) an application that includes:

(A) the shop's address;

(B) the legal description of the premises for which the permit is sought; and

(C) any other information required by the board; and

(2) an inspection fee in an amount set by board rule [~~not to exceed $50~~].

SECTION 12. Subsection (b), Section 1601.353~~(b)~~, Occupations Code, is amended to read as follows:

(b) An applicant for a barber school permit must submit to the board:

(1) a detailed drawing and chart of the proposed physical layout of the school, showing the departments, floor space, equipment, lights, and outlets;

(2) photographs of the proposed site for the school, including the interior and exterior of the building, rooms, and departments;

(3) a detailed copy of the training program;

(4) a copy of the catalogue and promotional literature of the school;

(5) a copy of the building lease or proposed building lease if the building is not owned by the school;

(6) a sworn statement showing the ownership of the school; and

(7) a permit fee set by board rule [~~not to exceed $1,000~~].

SECTION 13. Subsection (b), Section 1601.356~~(b)~~, Occupations Code, is amended to read as follows:

(b) A barber school that is not approved by the board on initial inspection may be reinspected. The board shall charge a reinspection fee in an amount set by board rule [~~not to exceed $500~~].

SECTION 14. Subsection (c), Section 1601.402~~(c)~~, Occupations Code, is amended to read as follows:

(c) The board shall issue a renewal certificate or license on receipt of a renewal application in the form prescribed by the board, accompanied by a renewal fee in an amount set by board rule [~~equal to the original certificate or license fee but not to exceed~~

~~$100~~].

SECTION 15. Section 1601.403, Occupations Code, is amended to read as follows:

Sec. 1601.403. RENEWAL OF TEACHER'S CERTIFICATE. The board shall renew a teacher's certificate biennially on or before November 1 of each odd-numbered year on payment of a renewal fee set by board rule [~~not to exceed $100~~].

SECTION 16. Subsections (b) and (c), Section~~s~~ 1601.404~~(b) and (c)~~, Occupations Code, are amended to read as follows:

(b) A Class A barber or license holder whose certificate or license has been expired for not more than five years may reinstate the person's certificate or license by applying to the board and submitting a personal affidavit that the board determines provides a justification for issuing a certificate or license to the person. The person must pay a fee set by board rule [~~equal to the amount of the current certificate or license fee~~] and an additional delinquency fee set by board rule [~~of $30~~] for each year or part of a year the certificate or license has been expired.

(c) A Class A barber or license holder who retires from practice and whose certificate or license has been expired for more than five years may qualify for a new certificate or license by applying to the board and by:

(1) making a proper showing to the board, supported by a personal affidavit;

(2) paying an examination fee set by board rule [~~not to exceed $100~~];

(3) passing a satisfactory examination conducted by

the board; and

(4) paying the fee for an original certificate or license.

SECTION 17. Subsection (b), Section 1601.405~~(b)~~, Occupations Code, is amended to read as follows:

(b) The board shall issue a renewal certificate or license on application and payment of the current [~~a~~] renewal fee not later than the 90th day after the date the person is released or discharged from active duty in the armed forces. [~~The renewal fee is:~~

[~~(1) $10 if the application and payment are made during the period beginning November 1 of an odd-numbered year and ending October 31 of the following year; or~~

[~~(2) $5 if the application and payment are made during the period beginning November 1 of an even-numbered year and ending October 31 of the following year.~~]

SECTION 18. Section 1601.406, Occupations Code, is amended to read as follows:

Sec. 1601.406. RENEWAL OF BARBERSHOP OR SPECIALTY SHOP PERMIT.

(a) A barbershop permit or specialty shop permit expires on the second anniversary of the date of issuance of the permit [~~July 1 of each odd-numbered year~~].

(b) A barbershop permit holder may renew the permit by paying a renewal fee set by board rule [~~not to exceed $70~~].

(c) A specialty shop permit holder may renew the permit by submitting to the board a renewal application accompanied by a

renewal fee set by board rule [~~not to exceed $50~~].

SECTION 19. Subsection (b), Section 1601.407~~(b)~~, Occupations Code, is amended to read as follows:

(b) A barber school may renew its permit by paying a renewal fee set by board rule [~~not to exceed $300~~].

SECTION 20. Section 1601.408, Occupations Code, is amended to read as follows:

Sec. 1601.408. RENEWAL OF EXPIRED PERMIT. A person holding a barbershop, specialty shop, or barber school permit that has been expired for more than 30 days may renew the person's permit by submitting to the board a renewal application accompanied by:

(1) the regular renewal fee; and

(2) an additional delinquency fee set by board rule [~~of $30~~] for each year or part of a year the permit has been expired.

SECTION 21. Subchapter I, Chapter 1601, Occupations Code, is amended by adding Section 1601.409 to read as follows:

Sec. 1601.409. CONTINUING EDUCATION. The board may recognize, prepare, or administer continuing education programs for the practice of barbering. Participation in the programs is voluntary.

SECTION 22. Section 1601.501, Occupations Code, is amended to read as follows:

Sec. 1601.501. DISPLAY OF BARBERSHOP OR SPECIALTY SHOP PERMIT. The holder of a [~~A~~] barbershop permit or specialty shop permit [~~holder~~] must display the permit in a conspicuous place in the shop for which the permit is issued.

SECTION 23. Section 1601.506, Occupations Code, is amended

to read as follows:

Sec. 1601.506. CLEANLINESS. The board by rule shall adopt reasonable standards for cleanliness applicable to each holder of a license or permit under this chapter [~~(a) A person in charge of a barbershop or specialty shop shall:~~

[~~(1) keep the shop and all furniture, tools, appliances, and other equipment used at the shop in a clean condition;~~

[~~(2) wash thoroughly, at least once daily, and otherwise maintain the cleanliness of each comb, hairbrush, or similar item used in the shop; and~~

[~~(3) sterilize, at least once after each use, each mug, shaving brush, razor, scissors, shears, clippers, or tweezers used in the shop~~].

[~~(b) A barber or other person regulated under this chapter shall immediately after using:~~

[~~(1) a mug, shaving brush, or clippers for the service of a person, sterilize the equipment by immersing it in boiling water for at least one minute; or~~

[~~(2) a razor or scissors, shears, or tweezers for the service of a person, sterilize the equipment by:~~

[~~(A) immersing it for at least 10 minutes in a five percent aqueous solution of carbolic acid; or~~

[~~(B) immersing it in boiling water for at least one minute.~~

[~~(c) A barber or other person regulated under this chapter may not:~~

[~~(1) use for the service of a customer:~~

[~~(A) a comb or hairbrush or any similar item that is not thoroughly clean;~~

[~~(B) a mug, shaving brush, or razor or shears, scissors, clippers, or tweezers that are not thoroughly clean or that have not been sterilized since last used; or~~

[~~(C) a towel or washcloth that has not been laundered since last used;~~

[~~(2) serve a customer unless the person thoroughly cleans the person's hands immediately before the service;~~

[~~(3) use on more than one person the same piece of alum or other material to stop the flow of blood;~~

[~~(4) shave a person when the surface to be shaved is inflamed, is broken out, or contains pus;~~

[~~(5) permit any person to use the headrest of any barber's chair under the person's control until after the headrest has been covered with a towel that has been laundered since last used or with clean new paper or a similar clean substance;~~

[~~(6) use a powder puff or sponge in the service of a customer unless it has been sterilized since last used;~~

[~~(7) use a finger bowl unless it has been sterilized since last used and fresh water or other liquid has been placed in the bowl; or~~

[~~(8) serve a customer without the use of a sanitized neck strip, cloth towel, or paper towel between the customer and the chair cloth.~~

[~~(d) A person subject to Subsection (c) may use a neck~~

~~duster in providing services for a customer.~~]

SECTION 24. Subsection (a), Section 1601.560~~(a)~~, Occupations Code, is amended to read as follows:

(a) In addition to the teacher required by Section 1601.355(b), a barber school that provides training leading to issuance of a Class A barber certificate shall have at least one qualified instructor, holding a Class A certificate, for every 25 [~~20~~] students on the premises [~~for instruction in practical work~~]. A teacher may serve as an instructor in practical work in addition to holding a position as a theory teacher.

SECTION 25. Subsections (a) and (b), Section~~s~~ 1601.651~~(a) and (b)~~, Occupations Code, are amended to read as follows:

(a) The attorney general may file an action for an injunction or other proceeding to:

(1) enforce this chapter; or

(2) enjoin a barber, barbershop owner, or barber school from operating in violation of this chapter.

(b) A barber, barbershop owner, or barber school that operates in violation of this chapter is liable to the state for a civil penalty in the amount of $25 a day for each day a violation occurs. The attorney general may bring an action under this subsection. The attorney general shall bring an action under this subsection in Travis County.

SECTION 26. Subchapter N, Chapter 1601, Occupations Code, is amended by adding Section 1601.652 to read as follows:

Sec. 1601.652. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter or a rule adopted under

this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $300.

SECTION 27. Subsection (a), Section 1601.705~~(a)~~, Occupations Code, is amended to read as follows:

(a) If the person requests a hearing [~~or fails to respond in a timely manner to the notice~~], the executive director shall set a hearing and give written notice of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

SECTION 28. Sections 1601.264, 1601.302, 1601.310, 1601.311, Subsection (d), Section 1601.402~~(d)~~, and Section 1601.503, Occupations Code, are repealed.

SECTION 29. Chapter 1601, Occupations Code, as amended by this Act, applies only to a license or permit issued, or a fee charged, by the State Board of Barber Examiners on or after the effective date of this Act.

SECTION 30. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that SB 1193 (Bill No.), by Senator Carona (Author/Sponsor),

was heard by the Committee on Business & Commerce on May 20, 2003,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Barbara Henderson
(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A **COMMITTEE PRINTED VERSION** OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

Paper clip the original to the bill; retain pink copy for committee files; deliver yellow copy to bill author/sponsor.

By: Carona S.B. No. 1193

(In the Senate - Filed March 12, 2003; March 19, 2003, read first time and referred to Committee on Business and Commerce; May 21, 2003, reported favorably by the following vote: Yeas 9, Nays 0; May 21, 2003, sent to printer.)

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(1) be a Class A barber;

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[~~(A) $100, if the applicant fulfills the certificate requirements during the period beginning November 1 of an odd-numbered year and extending through October 31 of the following year; or~~

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(c) The application must provide:

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[~~(2) the applicant has practiced barbering for at least 12 months;~~] and

(2) [~~(3)~~] the shop meets the minimum health standards for barbershops set by the board and all other rules of the board.

(b) If a barber is not the owner of the barbershop, the shop owner's name must also appear on the barbershop permit.

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(b) An applicant for a manicurist specialty shop permit must submit:

(1) an application that includes:

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(B) the legal description of the premises for which the permit is sought; and

(C) any other information required by the board; and

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(5) a copy of the building lease or proposed building lease if the building is not owned by the school;

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(b) A barber school may renew its permit by paying a renewal fee set by board rule [~~not to exceed $300~~].

SECTION 20. Section 1601.408, Occupations Code, is amended to read as follows:

Sec. 1601.408. RENEWAL OF EXPIRED PERMIT. A person holding a barbershop, specialty shop, or barber school permit that has been expired for more than 30 days may renew the person's permit by submitting to the board a renewal application accompanied by:

(1) the regular renewal fee; and

(2) an additional delinquency fee set by board rule [~~of $30~~] for each year or part of a year the permit has been expired.

SECTION 21. Subchapter I, Chapter 1601, Occupations Code, is amended by adding Section 1601.409 to read as follows:

Sec. 1601.409. CONTINUING EDUCATION. The board may recognize, prepare, or administer continuing education programs for the practice of barbering. Participation in the programs is voluntary.

SECTION 22. Section 1601.501, Occupations Code, is amended to read as follows:

Sec. 1601.501. DISPLAY OF BARBERSHOP OR SPECIALTY SHOP PERMIT. The holder of a [~~A~~] barbershop permit or specialty shop permit [~~holder~~] must display the permit in a conspicuous place in the shop for which the permit is issued.

SECTION 23. Section 1601.506, Occupations Code, is amended to read as follows:

Sec. 1601.506. CLEANLINESS. The board by rule shall adopt reasonable standards for cleanliness applicable to each holder of a license or permit under this chapter [~~(a) A person in charge of a barbershop or specialty shop shall:~~

[~~(1) keep the shop and all furniture, tools, appliances, and other equipment used at the shop in a clean condition;~~

[~~(2) wash thoroughly, at least once daily, and otherwise maintain the cleanliness of each comb, hairbrush, or similar item used in the shop; and~~

[~~(3) sterilize, at least once after each use, each mug, shaving brush, razor, scissors, shears, clippers, or tweezers used in the shop~~].

[~~(b) A barber or other person regulated under this chapter shall immediately after using:~~

[~~(1) a mug, shaving brush, or clippers for the service of a person, sterilize the equipment by immersing it in boiling water for at least one minute; or~~

[~~(2) a razor or scissors, shears, or tweezers for the service of a person, sterilize the equipment by:~~

[~~(A) immersing it for at least 10 minutes in a five percent aqueous solution of carbolic acid; or~~

[~~(B) immersing it in boiling water for at least one minute.~~

[~~(c) A barber or other person regulated under this chapter may not:~~

[~~(1) use for the service of a customer:~~

[~~(A) a comb or hairbrush or any similar item that is not thoroughly clean;~~

[~~(B) a mug, shaving brush, or razor or shears, scissors, clippers, or tweezers that are not thoroughly clean or that have not been sterilized since last used; or~~

[~~(C) a towel or washcloth that has not been laundered since last used;~~

[~~(2) serve a customer unless the person thoroughly cleans the person's hands immediately before the service;~~

[~~(3) use on more than one person the same piece of alum or other material to stop the flow of blood;~~

[~~(4) shave a person when the surface to be shaved is inflamed, is broken out, or contains pus;~~

[~~(5) permit any person to use the headrest of any barber's chair under the person's control until after the headrest has been covered with a towel that has been laundered since last used or with clean new paper or a similar clean substance;~~

[~~(6) use a powder puff or sponge in the service of a customer unless it has been sterilized since last used;~~

[~~(7) use a finger bowl unless it has been sterilized since last used and fresh water or other liquid has been placed in the bowl; or~~

[~~(8) serve a customer without the use of a sanitized neck strip, cloth towel, or paper towel between the customer and the chair cloth.~~

[~~(d) A person subject to Subsection (c) may use a neck duster in providing services for a customer.~~]

SECTION 24. Subsection (a), Section 1601.560, Occupations Code, is amended to read as follows:

(a) In addition to the teacher required by Section 1601.355(b), a barber school that provides training leading to issuance of a Class A barber certificate shall have at least one qualified instructor, holding a Class A certificate, for every 25 [~~20~~] students on the premises [~~for instruction in practical work~~]. A teacher may serve as an instructor in practical work in addition to holding a position as a theory teacher.

SECTION 25. Subsections (a) and (b), Section 1601.651, Occupations Code, are amended to read as follows:

(a) The attorney general may file an action for an injunction or other proceeding to:

(1) enforce this chapter; or

(2) enjoin a barber, barbershop owner, or barber school from operating in violation of this chapter.

(b) A barber, barbershop owner, or barber school that operates in violation of this chapter is liable to the state for a civil penalty in the amount of $25 a day for each day a violation occurs. The attorney general may bring an action under this subsection. The attorney general shall bring an action under this subsection in Travis County.

SECTION 26. Subchapter N, Chapter 1601, Occupations Code, is amended by adding Section 1601.652 to read as follows:

Sec. 1601.652. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $300.

SECTION 27. Subsection (a), Section 1601.705, Occupations Code, is amended to read as follows:

(a) If the person requests a hearing [~~or fails to respond in a timely manner to the notice~~], the executive director shall set a hearing and give written notice of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

SECTION 28. Sections 1601.264, 1601.302, 1601.310, 1601.311, Subsection (d), Section 1601.402, and Section 1601.503, Occupations Code, are repealed.

SECTION 29. Chapter 1601, Occupations Code, as amended by this Act, applies only to a license or permit issued, or a fee charged, by the State Board of Barber Examiners on or after the effective date of this Act.

SECTION 30. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

* * * * *

FAVORABLE
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 1193

By Senator Carona
(Author/Senate Sponsor)

5/21/03
(date)

We, your Committee on BUSINESS AND COMMERCE, to which was referred the attached measure, have on May 20 2003 (date of hearing), had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

(X) do pass and be printed

( ) do pass and be ordered not printed

(X) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. (X) yes ( ) no

A revised fiscal note was requested. ( ) yes ( ) no

An actuarial analysis was requested. ( ) yes ( ) no

Considered by subcommittee. ( ) yes ( ) no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Troy Fraser, Chairman	✓			
Senator Kip Averitt, Vice-Chairman	✓			
Senator Ken Armbrister	✓			
Senator Kim Brimer	✓			
Senator Craig Estes	✓			
Senator Mike Jackson	✓			
Senator Eddie Lucio	✓			
Senator Leticia Van de Putte	✓			
Senator Tommy Williams	✓			
TOTAL VOTES	9	0	0	0

COMMITTEE ACTION

(S260) Considered in public hearing
(S270) Testimony taken

Barbara Henderson
COMMITTEE CLERK

Fraser
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

WITNESS LIST

SB 1193

SENATE COMMITTEE REPORT

Business & Commerce

May 20, 2003 - 9:00AM

FOR: Shirley, Joe (Self), Coppell, TX

Registering, but not testifying:

ON: Beran, Douglas (Texas State Board of Barber Examiners), Austin, TX
Parker, Glenn (Barber Board - CFO), Austin, TX

BILL ANALYSIS

Senate Research Center
78R7629 MXM-D

S.B. 1193
By: Carona
Business & Commerce
5/18/2003
As Filed

DIGEST AND PURPOSE

The portion of the Occupations Code pertaining to barbers was amended during the 77th Legislature. However, additional changes are required to allow the State Board of Barber Examiners to operate more efficiently and effectively. As proposed, S.B. 1193 revises and updates the regulations and licensing of barbers and related occupations, barbershops, specialty shops, and barber schools.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the State Board of Barber Examiners in SECTION 23 (Section 1601.506, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1601.051(b), Occupations Code, to require that one member of the State Board of Barber Examiners (SBBE) appointed under Subsection (a)(1) be a resident of a county with a population of 75,000 or less, rather than 25,000 or less.

SECTION 2. Amends Section 1601.253(b), Occupations Code, to require SBBE to issue a Class A barber certificate to an applicant who pays a fee set by SBBE rule, rather than a fee not to exceed $100, as well as fulfilling other criteria.

SECTION 3. Amends Sections 1601.254(a) and (c), Occupations Code, as follows:

(a) Requires an applicant for a teacher's fee to submit an examination fee set by SBBE rule, rather than a fee not to exceed $100, as well as fulfilling other criteria.

(c) Requires SBBE to issue a teacher's certificate to an applicant who pays a certificate fee set by SBBE rule, rather than an option of two different fees depending upon the circumstances, as well as fulfilling other criteria.

SECTION 4. Amends Sections 1601.256(b) and (d), Occupations Code, as follows:

(b) Requires an applicant for a barber technician license to submit a fee set by SBBE rule, rather than a $10 administration fee, with the application as well as fulfilling other criteria.

(d) Requires SBBE to issue a barber technician licence to an applicant who pays a certificate fee set by SBBE rule, rather a $100 fee, as well as fulfilling other criteria.

SECTION 5. Amends Sections 1601.257(b) and (c), Occupations Code, as follows:

(b) Requires an applicant for a manicurist license to be at least 17 years of age, rather than at least 16 years of age, and submit a fee set by SBBE rule, rather than a $10 administration fee, with the application as well as fulfilling other criteria.

(c) Requires SBBE to issue a manicurist licence to an applicant who pays a license fee set by SBBE rule, rather than a fee not to exceed $30, as well as fulfilling other criteria.

SECTION 6. Amends Section 1601.260, Occupations Code, as follows:

Sec. 1601.260. ELIGIBILITY FOR STUDENT PERMIT. (a) Requires an applicant for a permit to be a student in a barber school to submit with the application a nonrefundable application fee set by SBBE rule, rather than a fee in an amount not to exceed $25, as well as fulfilling other criteria.

(b) Authorizes SBBE to charge a separate fee set by SBBE rule for any later enrollment, reenrollment, or transfer enrollment, rather than prohibiting SBBE from charging a separate fee for the above instances.

SECTION 7. Amends Section 1601.261(b), Occupations Code, to require SBBE by rule to set the fee, rather than the fee being in an amount not to exceed $50, for an examination necessary to receive a certificate to practice barbering or to practice as a barber technician or a manicurist.

SECTION 8. Amends Section 1601.266, Occupations Code, to authorize SBBE to issue a duplicate certificate on written application of the certificate holder and a payment of a fee set by SBBE rule, rather than a fee not to exceed $10.

SECTION 9. Amends Section 1601.301, Occupations Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires a person who owns, operates, or manages a barbershop or specialty shop to, not later than the third day after the date on which the shop opens for business, submit an application to SBBE for an appropriate permit for the, rather than each, shop, accompanied by the application fee set by board rule. Deletes text referring to registering the person's full name and the location of each shop with SBBE.

(c) Sets forth the information the application is required to provide.

(d) Prohibits a person operating under a barbershop permit or specialty shop permit from moving the operation to another location without submitting a new application to the board, accompanied by the application fee set by SBBE rule.

SECTION 10. Amends Section 1601.303, Occupations Code, as follows:

Sec. 1601.303. ISSUANCE OF BARBERSHOP PERMIT. (a) Creates this subsection from existing text. Requires SBBE to issue a barbershop permit to an applicant if the applicant holds a Class A barber certificate and is an owner of the shop or is practicing barbering at the shop and the shop meets the minimum health standards for barbershops set by the board and all other rules of SBBE. Deletes text referring to an experience requirement.

(b) Requires the shop owner's name, if a barber is not the owner of the barbershop, also to appear on the barbershop permit.

SECTION 11. Amends Section 1601.304(b), Occupations Code, to require an applicant for a manicurist specialty shop permit to submit an inspection fee in an amount set by SBBE rule, rather than a fee not to exceed $50, as well as an application including certain information.

SECTION 12. Amends Section 1601.353(b), Occupations Code, to require an applicant for a barber school permit to submit to SBBE a permit fee set by SBBE rule, rather than a permit fee not to exceed $1,000, as well as other items.

SECTION 13. Amends Section 1601.356(b), Occupations Code, require SBBE to charge a reinspection fee in an amount set by SBBE rule, rather than a reinspection fee not to exceed $500.

SECTION 14. Amends Section 1601.402(c), Occupations Code, to require SBBE to issue a

renewal certificate or license on receipt of a renewal application in the form prescribed by SBBE, accompanied by a renewal fee in an amount set by SBBE rule, rather than a renewal fee equal to the original certificate or license fee but not to exceed $100.

SECTION 15. Amends Section 1601.403, Occupations Code, to require SBBE to renew a teacher's certificate biennially on or before November 1 of each odd-numbered year on payment of a renewal fee set by SBBE rule, rather than a renewal fee not to exceed $100.

SECTION 16. Amends Sections 1601.404(b) and (c), Occupations Code, as follows:

(b) Requires the person to pay a fee set by SBBE rule, rather than a fee equal to the amount of the current certificate or license fee, and an additional delinquency fee set by SBBE rule, rather than a delinquency fee of $30, for each year or part of a year the certificate or license has been expired.

(c) Authorizes a Class A barber or license holder who retires from practice and whose certificate or license has been expired for more than five years to qualify for a new certificate or license by applying to the board and by paying an examination fee set by SBBE rule, rather than an examination fee not to exceed $100, as well as fulfilling other criteria.

SECTION 17. Amends Section 1601.405(b), Occupations Code, to require SBBE to issue a renewal certificate or license on application and payment of the current renewal fee, rather than a renewal fee, not later than the 90th day after the date the person is released or discharged from active duty in the armed forces. Deletes text referring to specific renewal fees.

SECTION 18. Amends Section 1601.406, Occupations Code, as follows:

Sec. 1601.406. RENEWAL OF BARBERSHOP OR SPECIALTY SHOP PERMIT. (a) Provides that a barbershop permit or specialty shop permit expires on the second anniversary of the date of issuance of the permit, rather than on July 1 of each odd-numbered year.

(b) Authorizes a barbershop permit holder to renew the permit by paying a renewal fee set by SBBE rule, rather than a renewal fee not to exceed $70.

(c) Authorizes a specialty shop permit holder to renew the permit by submitting to SBBE a renewal application accompanied by a renewal fee set by SBBE rule, rather than a renewal fee not to exceed $50.

SECTION 19. Amends Section 1601.407(b), Occupations Code, to authorize a barber school to renew its permit by paying a renewal fee set by SBBE rule, rather than a renewal fee not to exceed $300.

SECTION 20. Amends Section 1601.408, Occupations Code, to authorize a person holding a barbershop, specialty shop, or barber school permit that has been expired for more than 30 days to renew the person's permit by submitting to the board a renewal application accompanied by the regular renewal fee and an additional delinquency fee set by SBBE rule, rather than an additional delinquency fee of $30, for each year or part of a year the permit has been expired.

SECTION 21. Amends Subchapter I, Chapter 1601, Occupations Code, by adding Section 1601.409, as follows:

Sec. 1601.409. CONTINUING EDUCATION. Authorizes SBBE to recognize, prepare, or administer continuing education programs for the practice of barbering. Provides that participation in the programs is voluntary.

SECTION 22. Amends Section 1601.501, Occupations Code, as follows:

Sec. 1601.501. New heading: DISPLAY OF BARBERSHOP OR SPECIALTY SHOP PERMIT. Requires the holder of a barbershop permit or specialty shop permit to display the permit in a conspicuous place in the shop for which the permit is issued. Makes a nonsubstantive change.

SECTION 23. Amends Section 1601.506, Occupations Code, to require SBBE by rule to adopt reasonable standards for cleanliness applicable to each holder of a license or permit under this chapter. Deletes text referring to specific cleanliness requirements.

SECTION 24. Amends Section 1601.560(a), Occupations Code, to require a barber school that provides training leading to issuance of a Class A barber certificate, in addition to the teacher required by Section 1601.355(b), to have at least one qualified instructor holding a Class A certificate for every 25, rather than 20, students on the premises, rather than for instruction in practical work.

SECTION 25. Amends Sections 1601.651(a) and (b), Occupations Code, as follows:

(a) Authorizes the attorney general to file an action for an injunction or other proceeding to enforce this chapter or enjoin a barber, barbershop owner, or barber school from operating in violation of this chapter.

(b) Makes a conforming change.

SECTION 26. Amends Subchapter N, Chapter 1601, Occupations Code, by adding Section 1601.652, as follows:

Sec. 1601.652. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person violates this chapter or a rule adopted under this chapter.

(b) Provides that an offense under this section is a misdemeanor punishable by a fine of not less than $100 or more than $300.

SECTION 27. Amends Section 1601.705(a), Occupations Code, to delete failing to respond in a timely manner to the notice as a prerequisite to the executive director of SBBE setting a hearing and giving written notice of the hearing to the person.

SECTION 28. Repealer: Sections 1601.264 (Health Certificate Requirement), 1601.302 (Temporary Barbershop Permit), 1601.310 (Relocation of Specialty Shop), 1601.311 (Display of Specialty Shop Permit), 1601.402(d) (prohibiting SBBE from renewing a certificate or license until certain criteria are met), and 1601.503 (Notification of Change of Location), Occupations Code.

SECTION 29. Makes application of this Act prospective.

SECTION 30. Effective date: upon passage or September 1, 2003.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 16, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: **SB1193** by Carona (Relating to the regulation of barbers and related occupations, barbershops and specialty shops, and barber schools; providing a criminal penalty.), **As Introduced**

No significant fiscal implication to the State is anticipated.

Based on the analysis of the Board of Barber Examiners, duties and responsibilities associated with implementing provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 502 Board of Barber Examiners
LBB Staff: JK, JRO, RT, JC

S.B. No. 1193 By Carona

A BILL TO BE ENTITLED

AN ACT:
relating to the regulation of barbers and related occupations, barbershops and specialty shops, and barber schools; providing a criminal penalty.

MAR 12 2003 Filed with the Secretary of the Senate

MAR 19 2003 Read and referred to Committee on BUSINESS AND COMMERCE

MAY 21 2003 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 ordered engrossed by: { unanimous consent / a viva voce vote / _____ yeas, _____ nays

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

_____ Read third time, _____ , and passed by: { A viva voce vote / _____ yeas, _____ nays

_____
SECRETARY OF THE SENATE

OTHER ACTION:

_____ Engrossed

_____ Sent to House

Engrossing Clerk _____

_____ Received from the Senate

_____ Read first time and referred to Committee on _____

_____ 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)

_____ Returned to Senate.

_____
CHIEF CLERK OF THE HOUSE

_____ Returned from House without amendment.

_____ Returned from House with _____ amendments.

_____ Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____

_____, _____, and _____

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

_____ , _____ , _____ .

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
{ _____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
{ _____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
{ _____ yeas, _____ nays