

## **BILL ANALYSIS**

C.S.H.B. 1219  
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Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, a person must hold a provisional license and complete an apprenticeship before becoming a licensed funeral director or embalmer. In addition, a person must be a graduate of or enrolled in an accredited school or college of mortuary science to apply for a provisional license in order to fulfill the apprenticeship requirement. Recent studies note that there is a high dropout rate in mortuary science schools across the country, primarily because of the mental toll the profession can take on inexperienced students. C.S.H.B. 1219 seeks to revise the law governing provisional licenses to practice funeral directing or embalming to provide an opportunity for prospective funeral directors and embalmers to experience the demands of the funeral service industry and assess their desire to commit to such a demanding profession prior to enrolling in and paying for an educational program.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Funeral Service Commission in SECTION 3 and SECTION 9 of this bill.

### **ANALYSIS**

C.S.H.B. 1219 amends the Occupations Code to remove as a requirement for an applicant to be eligible for a funeral director's license or an embalmer's license that the applicant have served as a provisional license holder for not less than one year under the personal supervision and instruction of a funeral director or embalmer, as applicable, and to instead require the applicant to have completed the requirements of the provisional license program.

C.S.H.B. 1219 revises a condition for the issuance of a provisional license to practice funeral directing requiring an applicant to be employed by a funeral director to instead require that the applicant be employed by a funeral establishment. The bill requires an applicant for a provisional license to practice funeral directing to comply with the requirements of relevant statutory provisions and the requirements of the Texas Funeral Service Commission. The bill specifies that, as a condition for issuance of a provisional license to practice embalming, an applicant must be employed by a funeral establishment or commercial embalming facility to learn embalming under the instruction and supervision of an embalmer. The bill specifies that the application for a provisional license to practice embalming must be on a form provided by the commission and verified under oath by the applicant.

C.S.H.B. 1219 requires the commission to waive, for a period not to exceed 12 months and for an applicant who is otherwise qualified for a provisional funeral director's license or embalmer's

license, the requirement for issuance of a provisional license that an applicant have completed the applicable educational requirements for the license or be enrolled in an accredited school or college of mortuary science and requires the commission to issue to the applicant a provisional license that expires at the end of that period. The bill requires an applicant for a provisional license to submit to a criminal background check before submitting an application for a license.

C.S.H.B. 1219 requires a provisional license holder participating in a provisional license program to work in a funeral establishment or commercial embalming facility licensed by the commission and to work under the direct and personal supervision of a funeral director or embalmer, as applicable. The bill decreases from 60 to 45 the minimum number of cases with which the provisional license holder is required to assist for purposes of the provisional license program. The bill requires the commission to prescribe case reporting requirements for provisional license holders by rule and to provide case report forms to be used by a provisional license holder. The bill requires a provisional license holder, when conducting funeral arrangements, to inform family members and other persons with whom the arrangements are being made that the license holder has a provisional license and works under the personal supervision of a licensed funeral director.

C.S.H.B. 1219 removes a provision authorizing a case completed by a provisional license holder as part of the provisional license program to serve as credit for both mortuary school or college and the provisional license holder program and instead authorizes a funeral directing or embalming case completed for credit while attending an accredited mortuary school or college to serve as credit toward the provisional license holder program.

C.S.H.B. 1219 clarifies that a provisional license holder, on entering employment with a funeral establishment or commercial embalming facility, is required to provide the commission with notification of the name of the establishment or facility where the provisional license holder will train, which must be signed by the funeral director or embalmer in charge. The bill requires a provisional license holder to be employed by a funeral establishment or commercial embalming facility, as applicable, during the term of the provisional license and requires the commission to cancel the provisional license if the provisional license holder does not meet this requirement. The bill clarifies that the funeral director or embalmer in charge of the funeral establishment or commercial embalming facility from which a provisional license holder leaves employment is responsible for preparing and filing the affidavit showing the length of time the provisional license holder was employed and the number of cases handled while employed by the funeral establishment or facility.

C.S.H.B. 1219 makes a provisional license valid for 12 consecutive months and authorizes a provisional license to be renewed only once for a period not to exceed an additional 12 consecutive months. The bill requires the commission to cancel a provisional license if the license holder fails to complete the licensing requirements of the provisional license program within 24 consecutive months. The bill authorizes a provisional license for which the commission has waived the education requirements to be renewed for a period not to exceed 24 consecutive months and requires the provisional license holder to complete the licensing requirements of the provisional license program within 36 consecutive months. The bill authorizes a provisional license holder who completes the requirements of the provisional license program and is otherwise eligible for a funeral director's or embalmer's license to receive that license regardless of the date the provisional license is due to expire.

C.S.H.B. 1219 changes the deadline to apply for reinstatement of a provisional license that is canceled on the basis of a failure to renew from not later than 18 months after the date of cancellation to not later than the date the license would have expired if the license had been renewed. The bill establishes that a reinstated license expires on the date the license would have expired if the license had been timely renewed and prohibits a provisional license holder from working as a funeral director or embalmer while the license is suspended or canceled.

C.S.H.B. 1219 authorizes a person who does not complete the provisional license program within the prescribed period to reapply for a provisional license and requires such an applicant to comply with the requirements of a provisional license program. The bill prohibits casework performed under a previous provisional license from being counted toward the requirements for the new provisional license but authorizes the commission to adopt rules to allow casework performed under a previous provisional license to transfer to a new provisional license if the license holder requests a hardship exemption. The bill establishes that a person may reapply for a provisional license only once.

C.S.H.B. 1219 repeals the following provisions of the Occupations Code:

- Sections 651.303(b) and (c)
- Section 651.304(e)
- Sections 651.305(e) and (f)

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1219 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

No equivalent provision.

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 651.253(a), Occupations Code, is amended to read as follows:

(a) To be eligible for a funeral director's license or an embalmer's license, an applicant must:

- (1) be at least 18 years of age;
- (2) have graduated from an accredited high school or passed an examination prescribed by the Texas Education Agency;
- (3) have graduated from an accredited school or college of mortuary science;
- (4) unless the applicant holds a reciprocal [embalmer's] license, have completed the requirements of the provisional license program ~~[served as a provisional license holder for not less than one year under the personal supervision and instruction of a funeral director or embalmer, as applicable];~~ and
- (5) have successfully completed the applicable written examination described by Section 651.255 or 651.256.

SECTION 1. Section 651.302, Occupations Code, is amended to read as follows:

SECTION 2. Section 651.302, Occupations Code, is amended to read as follows:

Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL LICENSE.

(a) The commission shall issue a provisional license to practice funeral directing to an applicant who:

- (1) is at least 18 years of age;
- (2) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science;
- (3) is employed by a funeral establishment [director] to learn funeral directing [or embalming] under the instruction and supervision of a [the] funeral director;
- (4) files an application for a provisional license on a form provided by the commission and verified under oath by the applicant; ~~and~~
- (5) pays any required application or license fee; and
- (6) complies with the requirements of this chapter and of the commission.

(b) The commission shall issue a provisional license to practice embalming to an applicant who:

- (1) is at least 18 years of age;
- (2) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science;
- (3) is employed by a funeral establishment or commercial embalming facility to learn embalming under the instruction and supervision of an embalmer;
- (4) files an application for a provisional license on a form provided by the commission and verified under oath by the applicant;
- (5) ~~[(4)]~~ pays any required application or license fee; and
- (6) ~~[(5)]~~ complies with the requirements of this chapter and of the commission.

(c) The commission ~~may~~ waive the requirements of Subsection (a)(2) or (b)(2) for a period not to exceed 12 months and issue to an applicant a provisional license that expires at the end of that period.

(d) An applicant must submit to a criminal background check before submitting an application for a license.

SECTION 2. Section 651.303, Occupations Code, is amended by adding Subsections (a-

Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL LICENSE. (a) The commission shall issue a provisional license to practice funeral directing to an applicant who:

- (1) is at least 18 years of age;
- (2) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science;
- (3) is employed by a funeral establishment [director] to learn funeral directing [or embalming] under the instruction and supervision of a [the] funeral director;
- (4) files an application for a provisional license on a form provided by the commission and verified under oath by the applicant; ~~and~~
- (5) pays any required application or license fee; and
- (6) complies with the requirements of this chapter and of the commission.

(b) The commission shall issue a provisional license to practice embalming to an applicant who:

- (1) is at least 18 years of age;
- (2) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science;
- (3) is employed by a funeral establishment or commercial embalming facility to learn embalming under the instruction and supervision of an embalmer;
- (4) files an application for a provisional license on a form provided by the commission and verified under oath by the applicant;
- (5) ~~[(4)]~~ pays any required application or license fee; and
- (6) ~~[(5)]~~ complies with the requirements of this chapter and of the commission.

(c) The commission ~~shall~~ waive the requirements of Subsection (a)(2) or (b)(2) for a period not to exceed 12 months for an applicant who is otherwise qualified and shall issue to the applicant a provisional license that expires at the end of that period.

(d) An applicant must submit to a criminal background check before submitting an application for a license.

SECTION 3. Section 651.303, Occupations Code, is amended by adding Subsections (a-

1) and (e-1) to read as follows:

(a-1) A provisional license holder may work only:

(1) in a funeral establishment or commercial embalming facility licensed by the commission; and

(2) under the direct and personal supervision of a funeral director or embalmer, as applicable.

(e-1) The commission by rule shall prescribe case reporting requirements for provisional license holders. The commission shall provide case report forms to be used by a provisional license holder.

No equivalent provision.

SECTION 3. The heading to Section 651.304, Occupations Code, is amended.

SECTION 4. Section 651.304, Occupations Code, is amended by amending Subsections (a) and (d) and adding Subsection (b) to read

1), (e-1), and (g) and amending Subsection (d) to read as follows:

(a-1) A provisional license holder may work only:

(1) in a funeral establishment or commercial embalming facility licensed by the commission; and

(2) under the direct and personal supervision of a funeral director or embalmer, as applicable.

(d) The provisional license program must include assisting with at least 45 [60] cases. Not more than two provisional license holders may receive credit for work done on any one body. The commission by rule shall:

(1) define the standards for a case;

(2) set the number of cases a provisional license holder is required to complete during the program; and

(3) establish guidelines for supervision under which a provisional license holder is granted increased responsibilities during the course of the provisional license program.

(e-1) The commission by rule shall prescribe case reporting requirements for provisional license holders. The commission shall provide case report forms to be used by a provisional license holder.

(g) When conducting funeral arrangements, a provisional license holder shall inform family members and other persons with whom the arrangements are being made that the license holder has a provisional license and works under the personal supervision of a licensed funeral director.

SECTION 4. Section 651.303(a), Occupations Code, is amended to read as follows:

(a) A funeral directing or embalming case completed for credit while attending an accredited [under Section 651.303(d) may serve as credit for both] mortuary school or college may serve as credit toward [and] the provisional license holder program.

SECTION 5. Same as introduced version.

SECTION 6. Section 651.304, Occupations Code, is amended by amending Subsections (a) and (d) and adding Subsection (b) to read

as follows:

(a) On entering employment with a funeral establishment or commercial embalming facility ~~[director or embalmer]~~, a provisional license holder shall immediately notify the commission of the name of the establishment or facility where [and place of business of the funeral director or embalmer under whom] the provisional license holder will train. The funeral director or embalmer in charge must ~~[shall]~~ sign the notification.

(b) A provisional license holder must be employed by a funeral establishment or commercial embalming facility, as applicable, during the term of the provisional license. If a provisional license holder is not employed as required by this subsection, the commission shall cancel the provisional license.

(d) If a provisional license holder leaves the employment of the funeral establishment or commercial embalming facility ~~[a funeral director or embalmer]~~, the funeral director or embalmer in charge shall prepare an affidavit showing the length of time the provisional license holder was employed and the number of cases handled while employed by the funeral establishment or facility ~~[director or embalmer]~~. The funeral director or embalmer shall file the original affidavit ~~[shall be filed]~~ with the commission as ~~[and made]~~ a matter of record. The funeral director or embalmer shall provide a [A] copy of the affidavit [shall be furnished] to the provisional license holder.

SECTION 5. Subchapter G, Chapter 651, Occupations Code, is amended by adding Section 651.3045 to read as follows:

Sec. 651.3045. TERM OF PROVISIONAL LICENSE. (a) Except as provided by Subsection (c), a provisional license is valid for 12 consecutive months and may be renewed only once for a period not to exceed an additional 12 consecutive months.

(b) The commission shall cancel a provisional license if the license holder fails to complete the licensing requirements of the provisional license program within 24 consecutive months.

(c) If a provisional license holder holds a provisional license issued under Section 651.302(c), the provisional license may be

as follows:

(a) On entering employment with a funeral establishment or commercial embalming facility ~~[director or embalmer]~~, a provisional license holder shall immediately notify the commission of the name of the establishment or facility where [and place of business of the funeral director or embalmer under whom] the provisional license holder will train. The funeral director or embalmer in charge must ~~[shall]~~ sign the notification.

(b) A provisional license holder must be employed by a funeral establishment or commercial embalming facility, as applicable, during the term of the provisional license. If a provisional license holder is not employed as required by this subsection, the commission shall cancel the provisional license.

(d) If a provisional license holder leaves the employment of the funeral establishment or commercial embalming facility ~~[a funeral director or embalmer]~~, the funeral director or embalmer in charge shall prepare an affidavit showing the length of time the provisional license holder was employed and the number of cases handled while employed by the establishment or facility ~~[funeral director or embalmer]~~. The funeral director or embalmer shall file the original affidavit ~~[shall be filed]~~ with the commission as ~~[and made]~~ a matter of record. The funeral director or embalmer shall provide a [A] copy of the affidavit [shall be furnished] to the provisional license holder.

SECTION 7. Subchapter G, Chapter 651, Occupations Code, is amended by adding Section 651.3045 to read as follows:

Sec. 651.3045. TERM OF PROVISIONAL LICENSE. (a) Except as provided by Subsection (c), a provisional license is valid for 12 consecutive months and may be renewed only once for a period not to exceed an additional 12 consecutive months.

(b) The commission shall cancel a provisional license if the license holder fails to complete the licensing requirements of the provisional license program within 24 consecutive months.

(c) If a provisional license holder holds a provisional license issued under Section 651.302(c), the provisional license may be

renewed for a period not to exceed 24 consecutive months and the provisional license holder must complete the licensing requirements of the provisional license program within 36 consecutive months.

SECTION 6. Section 651.305, Occupations Code, is amended.

SECTION 7. Subchapter G, Chapter 651, Occupations Code, is amended.

SECTION 8. The following sections of the Occupations Code are repealed:  
(1) Sections 651.303(b) and (c);  
(2) Section 651.304(e); and  
(3) Sections 651.305(e) and (f).

SECTION 9. This Act takes effect September 1, 2015.

renewed for a period not to exceed 24 consecutive months and the provisional license holder must complete the licensing requirements of the provisional license program within 36 consecutive months.

(d) A provisional license holder who completes the requirements of the provisional license program and is otherwise eligible for a funeral director's or embalmer's license may receive that license regardless of the date the provisional license is due to expire.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.