

- SUBJECT:** Changing requirements for certain barber, private beauty culture schools
- COMMITTEE:** Licensing and Administrative Procedures — committee substitute recommended
- VOTE:** 8 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Miles, D. Miller, S. Thompson
- 0 nays
- 1 absent — Kuempel
- WITNESSES:** For — (*Registered, but did not testify:* William Andrew Brummett, Institute for Justice; Linda Connor)
- Against — Linda Colwell; Paul Griffith
- On — Brandon Martin, Career Colleges and Schools of Texas; Holly Zapata, Career Colleges and Schools of Texas, Professional Beauty Association; William Kuntz, Texas Department of Licensing and Regulation
- BACKGROUND:** Occupations Code, sec. 1601.353 sets certain minimum square-footage and equipment requirements for barber schools. Sec. 1602.303 sets certain minimum square-footage and equipment requirements for private beauty culture schools, including a requirement to maintain separate areas for clinic work and instruction in theory.
- In January 2015, a U.S. District Court judge held in *Brantley v. Kuntz* that a minimum square-footage and equipment requirement for hair-braiding schools in Texas violated the U.S. Constitution and did not advance any legitimate government interest.
- DIGEST:** CSHB 3325 would amend the requirements for barber and private beauty culture schools offering certain licenses and certifications.

The bill would specify that the current requirements for barber schools would apply only to those schools that offered instruction to persons seeking a Class A barber certificate. Barber schools meeting the current requirements could offer instruction in barbering to persons seeking any barber certificate, license, or permit offered under Occupations Code, ch. 1601.

The Texas Department of Licensing and Regulation could approve an application for a permit for a barber school that offered instruction to people seeking a certificate, license, or permit other than a class A barber certificate if the school:

- had adequate space, equipment, and instructional material to provide quality training, as determined by the Texas Commission of Licensing and Regulation; and
- met any other requirements set by the commission.

CSHB 3325 would specify that the current requirements for private beauty culture schools applied only to those schools that offered instruction to persons seeking an operator license. Private beauty culture schools meeting the current requirements could offer instruction in cosmetology to persons seeking any cosmetology certificate or license offered under Occupations Code, ch. 1602.

The bill would specify requirements for a private beauty culture school license for instructing persons seeking a cosmetology license or certificate, other than an operator license. The application for such a license would have to:

- be accompanied by the required license and inspection fees;
- be on a form prescribed by the department;
- be verified by the applicant;
- contain a statement that the building was of permanent construction and was divided into at least two separate areas for instruction of theory and clinic work;
- contain a statement that the building had adequate space,

- equipment, and instructional material, as determined by the commission, to provide quality classroom training;
- contain a statement that the building had access to permanent restrooms and adequate drinking fountain facilities; and
 - meet any other requirement set by the commission.

CSHB 3325 would allow the commission to set additional requirements for private beauty culture school license applicants. The bill would require the commission to adopt rules as soon as practicable to implement the changes made by this bill.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 3325 would lower barriers for certain barber and beauty schools to enter the market and create affordable education opportunities. The bill would allow barber and private beauty culture schools that chose to teach specialized curriculum to open without incurring unnecessary expenses, as long as they did not offer instruction for a class A barber license or a cosmetology operator license. The bill would make exceptions to the expensive and demanding requirements otherwise placed on barber and private beauty culture schools, such as maintaining a building with minimum square-footage, certain equipment, and classroom space.

Brantley v. Kuntz specifically dealt with hair-braiding and the fact that the requirements for a barber school were unconstitutional for that practice, but its reasoning applies to other areas as well. Besides hair-braiding, there are many specialized practices of barbering and cosmetology, such as esthetics, manicuring, and eyelash extension. The bill would lower barriers to opening for schools wishing to offer such instruction. As a result, more people could afford education in these areas because the tuition would not be as expensive as for traditional barber or private beauty culture schools.

CSHB 3325 would allow Texas Commission of Licensing and Regulation

to set standards for these specialized barber or private beauty culture schools. The requirements laid out in the bill for these schools would be similar to those required for certain driver education schools. The commission has the authority to make adequacy determinations in many different areas and would be well suited to make those decisions in the barber and cosmetology fields.

OPPONENTS
SAY:

CSHB 3325 would not provide enough defined requirements for schools offering barber and cosmetology licenses to ensure that graduates were prepared and qualified for jobs in those fields. While the requirements for schools offering class A barber certificates and cosmetology operator licenses would be defined sufficiently, the requirements for schools offering other certificates or licenses would not.

The goal of any barber or private beauty culture school should be to educate and train students so that they are ready for a job in their chosen areas. The bill would not be specific enough to ensure that the schools offering licenses or certificates other than class A barber certificates and cosmetology operator licenses were equipped with sufficient space, equipment, or materials needed to offer that level of training and education.