

SUBJECT: Deregulating certain occupations and activities

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 6 ayes — Kuempel, Guillen, Frullo, Geren, Hernandez, Herrero
0 nays
3 absent — Goldman, Paddie, S. Thompson

SENATE VOTE: On final passage, April 24 — 30-0

WITNESSES: No public hearing

DIGEST: CSSB 2065 would amend regulations and licensing requirements for several Texas Department of Licensing and Regulation (TDLR) programs, including:

- statewide licensing in the vehicle protection product warrantors program;
- statewide licensing in the temporary common worker employers program;
- the for-profit legal service contracts program;
- shampoo and threading regulation in the barbering and cosmetology programs; and
- statewide vehicle booting in the vehicle towing, booting, and storage program.

Vehicle protection product warrantors program. CSSB 2065 would repeal the Vehicle Protection Product Regulatory Act and abolish the Vehicle Protection Product Warrantor Advisory Board. TDLR would have to repeal all rules relating to the regulation of vehicle protection product warrantors adopted under the act as soon as practicable. On September 1, 2017, any registration issued under the Vehicle Protection Product

Regulatory Act would expire, and any pending action related to an alleged violation of the act would be dismissed. TDLR still could collect an administrative penalty that had been assessed. The repeal of the act would not affect the validity or terms of a warranty issued or renewed before the effective date.

The bill would add provisions relating to vehicle protection products to the Deceptive Trade Practices-Consumer Protection Act. It would be a false, misleading, or deceptive act or practice for a warrantor of a vehicle protection product warranty to use, in connection with the product, a name that included the word "casualty," "surety," "insurance," "mutual," or any other word descriptive of an insurance business, including property or casualty insurance, or a surety business.

In addition, a retail seller could not require, as a condition of a retail installment transaction or a cash sale of a motor vehicle or a commercial vehicle, a buyer to purchase a vehicle protection product that was not installed on the vehicle at the time of the transaction. If a retail seller did this, it would be considered a false, misleading, or deceptive act or practice, and would be actionable in a public or private suit brought under the Deceptive Trade Practices-Consumer Protection Act.

Temporary common worker employers program. CSSB 2065 would remove TDLR licensing requirements for persons operating as a temporary common worker employer and instead would provide such employers with the authority to operate if they met the requirements for temporary common worker employers described in Labor Code, ch. 92. Any governmental subdivision could enforce ch. 92 within its boundaries.

Any pending administrative hearing would be dismissed upon the effective date of the bill, and any offense committed before that date would be governed by the law that was in effect on the date the offense was committed.

For-profit legal service contract companies. CSSB 2065 would repeal several sections and subchapters of Occupations Code, ch. 953, which

provides for the regulation of for-profit legal service contract companies by TDLR. The bill would remove registration requirements, company record requirements, prepaid legal service contract programs, and financial security requirements for legal service contract companies. Any violation of the remaining sections of Occupations Code, ch. 953 would be an actionable deceptive trade practice.

This portion of the bill would be effective on September 1, 2019. Any pending proceeding relating to a registration issued under ch. 953 would be dismissed and any registration issued would expire on that date.

Barbering and cosmetology. The bill would eliminate shampoo specialty certificates and shampoo apprentice permits and all related regulations and requirements. Shampooing and conditioning would be removed from the definitions of barbering and cosmetology.

The bill would add to the definition of cosmetology the act of removing superfluous hair from a person's body using chemicals, tweezers, or other devices or appliances of any kind or description. However, the bill would establish that threading, which involves removing unwanted hair by looping a thread around the hair, was not included in the definitions of barbering and cosmetology.

Any barbering or cosmetology shampooing specialty certificate or shampoo apprentice permit issued would expire on the effective date of the bill, and any offense or violation committed before that date would be governed by the law that was in effect on the date the offense was committed.

Motor vehicle towing, booting, and storage. CSSB 2065 would remove provisions of Occupations Code, ch. 2308 that require boot operator's licenses and boot company licenses before a person may boot a vehicle. The bill would allow a person to perform booting operations or operate a booting company without a license unless prohibited by a local authority, effective September 1, 2018.

To reflect these changes, the Towing, Storage, and Booting Advisory Board would be renamed as the Towing and Storage Advisory Board. It no longer would include a representative of a booting company or a public member, but instead would include a person who operated both a towing company and a vehicle storage facility. Further, the bill would specify that the member representing property and casualty insurers be a member insurer of the Texas Property and Casualty Insurance Guaranty Association.

The bill also would create new booting requirements. Only one boot could be installed on a vehicle at a time. A booting company would have to remove the boot within an hour of being contacted by the vehicle owner for removal. The booting company would have to waive the fee for removal, excluding any associated parking fees, if it did not remove the boot in the prescribed timeframe.

A person exercising a statutory or contractual lien right with regard to a vehicle who installed or removed a boot or controlled, installed, or directed the installation and removal of one or more boots, or a commercial office building owner or manager who installed or removed a boot in the building's parking facility, would not be subject to local booting regulations, the booting removal timeframe, or the requirements for booting an unauthorized vehicle.

A local authority could regulate booting activities in areas where it regulated parking or traffic. These regulations would have to meet several requirements laid out in the bill, including providing a method for filing complaints.

A towing company could tow a vehicle from a university parking facility to another location on the university campus at the request of the university to facilitate a special event. This could not happen unless the proper notice was posted on the parking facility for the 72 hours preceding towing enforcement and for 48 hours after the conclusion of the event. A vehicle not claimed within 48 hours after the conclusion of the event only could be towed to another location on campus without further expense to

the vehicle owner or operator. The university would have to notify the owner or operator of the person's right to a hearing.

This portion of the 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, 2017.

Effective date. Unless otherwise provided, CSSB 2065 would take effect September 1, 2017, only if a specific appropriation for its implementation was provided in the general appropriations act. To the extent of any conflict, it would prevail over another act of the 85th Legislature relating to nonsubstantive additions and corrections in enacted codes.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would have a positive impact of \$12,100 through fiscal 2019. However, the bill would result in a net negative impact to general revenue of \$1.2 million in 2020, increasing in subsequent years.

CSSB 2065 differs from the Senate-passed version by providing requirements for towing a vehicle on a university campus.