

## **BILL ANALYSIS**

Senate Research Center

H.B. 4069  
By: Smith (Elife)  
Business & Commerce  
5/15/2015  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties cite numerous changes they would like to see regarding the regulation of both barbering and cosmetology. H.B. 4069 seeks to make these changes to applicable law.

H.B. 4069 amends current law relating to the regulation of barbering and cosmetology.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 14 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 1601, Occupations Code, by adding Section 1601.0025, as follows:

Sec. 1601.0025. SERVICES NOT CONSTITUTING BARBERING. Provides that, notwithstanding Section 1601.002 (Definition of Barbering), "barbering," "practicing barbering," and "practice of barbering" do not include threading, which involves removing hair from an individual using a piece of thread that is looped around the hair and pulled to remove the hair from the skin and includes the incidental trimming of eyebrow hair.

SECTION 2. Amends Section 1601.254(b), Occupations Code, as follows:

(b) Requires an applicant, to be eligible for a barber instructor license, to meet certain requirements, including having completed at least two years of work experience as a licensed Class A barber immediately preceding the date of the application. Makes nonsubstantive changes.

SECTION 3. Amends Section 1601.455(b), Occupations Code, to authorize a person holding a license, certificate, or permit under this chapter to perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client who receives the services in preparation for a special event, including a wedding or quinceañera.

SECTION 4. Amends Section 1601.564(c), Occupations Code, to require a student, if the student withdraws or is terminated after 50 percent of the course has been completed, to allow the student to reenter the school at any time before the second anniversary, rather than fourth anniversary, of the date of withdrawal or termination.

SECTION 5. Amends Section 1601.565, Occupations Code, as follows:

Sec. 1601.565. EFFECT OF STUDENT WITHDRAWAL. (a) Requires a barber school to record a grade of incomplete for a student who withdraws from a course of training but who is not entitled to a refund under this chapter, rather than under Section 1601.564 (Withdrawal or Termination of Student), if:

(1) the student requests the grade at the time of withdrawal; and

(2) the withdrawal is for an appropriate reason unrelated to the student's academic status.

(b) Authorizes a student who receives a grade of incomplete to reenroll in the course of training before the second anniversary, rather than fourth anniversary, of the date the student withdraws and to complete the subjects without paying additional tuition.

SECTION 6. Amends Section 1602.002(a), Occupations Code, to redefine "cosmetology" in this chapter.

SECTION 7. Amends Subchapter A, Chapter 1602, Occupations Code, by adding Section 1602.0025, as follows:

Sec. 1602.0025. SERVICES NOT CONSTITUTING COSMETOLOGY. Provides that, notwithstanding Section 1602.002(a), "cosmetology" does not include threading, which involves removing hair from an individual using a piece of thread that is looped around the hair and pulled to remove the hair from the skin and includes the incidental trimming of eyebrow hair.

SECTION 8. Amends Section 1602.051, Occupations Code, as follows:

Sec. 1602.051. BOARD; MEMBERSHIP. (a) Provides that the Advisory Board on Cosmetology consists of 11 members, rather than nine members, appointed by the presiding officer of the Texas Commission of Licensing and Regulation (TCLR), with TCLR's approval, as follows:

(1)-(4) Makes no change to these subdivisions;

(5) one member who holds a manicurist specialty license;

(6) Redesignates existing Subdivision (5) as Subdivision (6) and makes no further change to this subdivision;

(7) Redesignates existing Subdivision (6) as Subdivision (7) and makes no further change to this subdivision; and

(8) three public members, rather than two public members.

(b) Requires the associate commissioner of the Texas Education Agency responsible for career and technical education or the associate commissioner's authorized representative to serve as an ex officio member of the advisory board, rather than TCLR, without voting privileges.

SECTION 9. Amends Section 1602.055(a), Occupations Code, to provide that members of the board serve staggered six-year terms, with the terms of three or four members, as appropriate, rather than of one or two members, expiring on the same date each odd-numbered year.

SECTION 10. Amends Section 1602.261(a), Occupations Code, to authorize a person holding a manicurist/esthetician specialty license to perform only the practice of cosmetology defined in Sections 1602.002(a)(6) through (12), rather than Sections 1602.002(a)(6) through (11).

SECTION 11. Amends Section 1602.407(b), Occupations Code, as follows:

(b) Authorizes a person holding a license, certificate, or permit under this chapter to perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client who receives the services in preparation for a special event, including a wedding or quinceañera. Makes conforming changes.

SECTION 12. Amends Section 1602.461, Occupations Code, as follows:

Sec. 1602.461. REENTRY OF STUDENT AFTER WITHDRAWAL OR TERMINATION. Requires the school, if a student voluntarily withdraws or is terminated after completing 50 percent of the course at a private beauty culture school, to allow the student to reenter at any time during the 24-month period, rather than 48-month period, following the date of withdrawal or termination.

SECTION 13. Amends Section 1602.462, Occupations Code, as follows:

Sec. 1602.462. EFFECT OF STUDENT WITHDRAWAL. (a) Requires a private beauty culture school to record a grade of incomplete for a student who withdraws but is not entitled to a refund under this chapter, rather than under Section 1602.459(a), if the student:

(1) requests the grade at the time the student withdraws; and

(2) withdraws for an appropriate reason unrelated to the student's academic status.

(b) Authorizes a student to reenroll in the program during the 24-month period following the date the student withdraws and complete the subjects without incurring additional tuition for hours already completed. Deletes existing text authorizing a student who receives a grade of incomplete to reenroll in the program during the 48-month period following the date the student withdraws and complete the subjects without payment of additional tuition.

SECTION 14. Requires TCLR, not later than January 1, 2016, to adopt rules to implement the changes in law made by this Act to Chapters 1601 and 1602, Occupations Code.

SECTION 15. Requires the presiding officer of TCLR, not later than January 1, 2016, to appoint the two additional members to the advisory board as required by Section 1602.051, as amended by this Act, and to designate one member to a term expiring in 2017 and one to a term expiring in 2021.

SECTION 16. Provides that the change in law made by this Act to Section 1601.254(b), Occupations Code, applies only to an application for a barber instructor license submitted on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 17. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2015.

(b) Provides that Sections 1601.0025 and 1602.0025, Occupations Code, as added by this Act, take effect on the later of:

(1) September 1, 2015; or

(2) the date on which the Supreme Court of Texas issues a decision in *Patel v. Texas Department of Licensing and Regulation*, No. 12-0657.