

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Hair braiding (braiding) is a practice popular among many African, African-American, Caribbean and immigrant communities in Texas. Despite the fact that natural braiding does not use chemicals, dyes, or coloring agents and does not involve cutting hair, currently in Texas, it is regulated under laws that pertain to the practices of barbering and cosmetology.

When hair braiding was initially regulated by Texas, a licensed braider had to complete 1,500 hours of a standard barbering or cosmetology curriculum and successfully complete the barber or cosmetology examination before receive a braiding certificate. However, instruction and training for natural hair braiding in barber and cosmetology schools in Texas was virtually nonexistent. Other regulations include or included space, equipment and sanitation requirements that are not seen as needed in the course or practice of natural hair braiding techniques. The requirements were later lowered to 35 hours of barbering or cosmetology training with no examination.

Currently, 11 states do not require a license to work as a braider: Arizona, California, Connecticut, Georgia, Kansas, Maryland, Michigan, Mississippi, Utah, Virginia, and Washington. Because natural hair braiding is a cultural experience, and is not consistent with the practices of barbering or cosmetology, and because it involves no chemicals, dyes, coloring agents, or hair cutting, many believe braiding should be deregulated by the State of Texas.

S.B. 1193 would amend the barbering law—Chapter 1601, Occupations Code—to remove hair braiding from the definition of barbering; clarify the barbering law does not apply to a person who only performs natural hair braiding; remove the hair braiding specialty course from courses which are taught by a barber instructor; remove the hair braiding specialty certificate from the list of licenses which can be obtained through reciprocity with another state or country; remove hair braiding from the list of services which can only be performed in a barber specialty shop; and delete the hair braiding specialty certificate of registration.

As proposed, S.B. 1193 amends current law relating to the deregulation of hair braiding.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is modified in SECTION 3 (Section 1601.254, Occupations Code) and SECTION 8 (Section 1602.255, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1601.002, Occupations Code, as follows:

Sec. 1601.002. DEFINITION OF BARBERING. Redefines "barbering," "practicing barbering," or the "practice of barbering."

SECTION 2. Amends Section 1601.003, Occupations Code, as follows:

Sec. 1601.003. APPLICATION OF CHAPTER. Provides that this chapter does not apply to a person who:

- (1) Makes no change to this subdivision;

(2) is:

- (A) and (B) Makes no change to these paragraphs;
- (C) and (D) Makes nonsubstantive changes to these paragraphs;
- (E) a person who performs only natural hair braiding, including braiding a person's hair, trimming hair extensions only as applicable to the braiding process, and attaching commercial hair by braiding and without the use of chemicals or adhesives.

SECTION 3. Amends Section 1601.254(c), Occupations Code, to require the Texas Commission of Licensing and Regulation (TCLR) to adopt rules for the licensing of specialty instructors to teach specialty courses in the practice of barbering as defined by Sections 1601.002(1)(C)-(H) (relating to definition of barbering), rather than Sections 1601.002(1)(C)-(H) and (K).

SECTION 4. Amends Section 1601.265(a), Occupations Code, as follows:

(a) Requires the Texas Department of Licensing and Regulation (TDLR) to issue a license or certificate to an applicant for a license or certificate issued under Section 1601.253 (Eligibility for Class A Barber Certificate), 1601.256 (Eligibility for Barber Technician License), or 1601.258 (Eligibility for Hair Weaving Specialty Certificate of Registration), rather than Section 1601.253, 1601.256, 1601.258, or 1601.259 if the applicant:

- (1)-(3) Makes no change to these subdivisions.

SECTION 5. Amends Section 1601.304(a), Occupations Code, to authorizes a person who holds a specialty shop permit to maintain an establishment in which only barbering as defined by Section 1601.002(1)(E) (relating to treating a person's nails), (F) (relating to massaging a person's hands), or (H) (relating to weaving a person's hair), rather than Section 1601.002(1)(E), (F), (H), or (K).

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

SECTION 7. Amends Section 1602.003(b), Occupations Code, as follows:

(b) Provides that this chapter does not apply to a person who:

- (1)-(5) Makes no change to these subdivisions;
- (6) and (7) Makes nonsubstantive changes;
- (8) performs only natural hair braiding, including braiding a person's hair, trimming hair extensions only as applicable to the braiding process, and attaching commercial hair by braiding and without the use of chemicals or adhesives.

SECTION 8. Amends Section 1602.255(c), Occupations Code, as follows:

(c) Requires TCLR to adopt rules for the licensing of specialty instructors to teach specialty courses in the practice of cosmetology defined in Sections 1602.002(a)(6), (8), (9), and (11), rather than Sections 1602.002(a)(7), (9), (10), and (12).

SECTION 9. Amends Section 1602.256(a), Occupations Code, as follows:

(a) Authorizes a person holding a manicurist specialty license to perform only the practice of cosmetology defined in Section 1602.002(a)(9) or (10), rather than Section 1602.002(a)(10) or (11).

SECTION 10. Amends Section 1602.257(a), Occupations Code, as follows:

- (a) Authorizes a person holding an esthetician specialty license to perform only the practice of cosmetology defined in Sections 1602.002(a)(5), (6), (7), (8), and (11), rather than Sections 1602.002(a)(6), (7), (8), (9), and (12).

SECTION 11. Amends Section 1602.2571(a), Occupations Code, as follows:

- (a) Authorizes a person holding a specialty license in eyelash extension application to perform only the practice of cosmetology defined in Section 1602.002(a)(11), rather than Section 1602.002(a)(12).

SECTION 12. Amends Section 1602.259(a), Occupations Code, as follows:

- (a) Authorizes a person holding a hair weaving specialty certificate to perform only the practice of cosmetology defined in Sections 1602.002(a)(2) and (12), rather than Sections 1602.002(a)(2), (3), and (13).

SECTION 13. Amends Section 1602.260(a), Occupations Code, as follows:

- (a) Authorizes a person holding a wig specialty to perform only the practice of cosmetology defined in Section 1602.002(a)(3), rather than Section 1602.002(a)(4).

SECTION 14. Amends Section 1602.261(a), Occupations Code, as follows:

- (a) Authorizes a person holding a manicurist/esthetician specialty license to perform only the practice of cosmetology defined in Sections 1602.002(a)(5) through (10), rather than Sections 1602.002(a)(6) through (11).

SECTION 15. Amends Section 1602.267(a), Occupations Code, to authorize a person holding a shampoo apprentice permit to perform only the practice of cosmetology defined by Section 1602.002(a)(2), rather than Section 1602.002(3).

SECTION 16. Amends Section 1602.305(a), Occupations Code, as follows:

- (a) Authorizes a person holding a specialty shop license to maintain an establishment in which only the practice of cosmetology as defined in Section 1602.002(a)(3), (6), (8), (9), or (11), rather than in Section 1602.002(a)(2), (4), (7), (9), (10), or (12), is performed.

SECTION 17. Amends Section 1603.352(a), Occupations Code, as follows:

- (a) Requires a person who holds a license, certificate, or permit issued under this chapter, Chapter 1601 (Barbers), or Chapter 1602 (Cosmetologists) and who performs a barbering service described by Section 1601.002(1)(E) or (F) or a cosmetology service described by Section 1602.002(a)(9) or (10), rather than Section 1602.002(a)(10) or (11), to, before performing the service, clean, disinfect, and sterilize with an autoclave or dry heat sterilizer or sanitize with an ultraviolet sanitizer, in accordance with the sterilizer or sanitizer manufacturer's instructions, each metal instrument, including metal nail clippers, cuticle pushers, cuticle nippers, and other metal instruments, used to perform the service.

SECTION 18. Repealers: Section 1601.259 (Eligibility for Hair Braiding Specialty Certificate of Registration) and 1602.258 (Eligibility for a Hair Braiding Specialty Certificate), Occupations Code.

SECTION 19. (a) Requires TDLR to issue a refund of fees to a person holding a barber or cosmetology hair braiding specialty certificate, hair braiding instructor license, or hair braiding specialty shop license immediately before the effective date of this Act.

- (b) Requires TDLR to prorate fees on a monthly basis so that each license or certificate holder described by Subsection (a) of this section receives a refund for the amount of the

fee that is allocable to the number of months from the month in which this Act takes effect until the month in which the license or certificate was scheduled to expire.

SECTION 20. Effective date: upon passage or September 1, 2015.