CHAPTER 62
H.B. No. 2095
AN ACT
relating to the regulation of barbering and cosmetology; authorizing fees.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 1601.001(a), Occupations Code, is amended by adding Subdivision (5) to read as follows:

(5) "Dual shop" means a shop owned, operated, or managed by a person holding a dual barber and beauty shop license issued under Chapter 1603.

SECTION 2. Section 1601.260, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) A person holding a student permit may shampoo or condition a person's hair in a facility licensed under this chapter or Chapter 1603. The barber school in which the permit holder is enrolled may not receive compensation for services performed under this subsection.

SECTION 3. Section 1601.261, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f) This section applies only to a person who holds a permit under this section issued to the person before September 1, 2013.

SECTION 4. Section 1601.301, Occupations Code, is amended to read as follows:

Sec. 1601.301. PERMIT REQUIRED. (a) A person may not own, operate, or manage a barbershop, dual shop, or specialty shop unless the person holds the appropriate permit.

(b) Not later than the third day after the date the shop opens, a person who owns, operates, or manages a barbershop, dual shop, or specialty shop must submit an application to the department for an appropriate permit for each shop, accompanied by a fee set by commission rule.

(c) A person who owns, operates, or manages a barbershop, dual shop, or specialty shop may employ a person holding a student permit under Section 1601.260 to shampoo or condition a person's hair.

SECTION 5. Section 1601.353, Occupations Code, is amended to read as follows:

Sec. 1601.353. REQUIRED FACILITIES AND EQUIPMENT. The department may approve an application for a permit for a barber school if the school:

(1) is located in:

(A) a municipality with a population of more than 50,000 that has a building of permanent construction containing at least 2,000 square feet of floor space, including classroom and practical areas, covered in a hard-surface floor-covering of tile or other suitable material; or

(B) a municipality with a population of 50,000 or less or an unincorporated area of a county that has a building of permanent construction containing at least 1,000 square feet of floor space, including classroom and practical areas, covered in a hard-surface floor-covering of tile or other suitable material;

(2) has the following equipment:

(A) at least 10 student workstations that include a chair that reclines, a back bar, and a wall mirror;

(B) a sink behind every two workstations;

(C) a liquid sterilizer for each workstation; and

(E) access to permanent restrooms and adequate drinking fountain facilities; and
(3) meets any other requirement set by the commission.

SECTION 6. Subchapter J, Chapter 1601, Occupations Code, is amended by adding Section 1601.455 to read as follows:

Sec. 1601.455. SERVICE AT UNLICENSED LOCATION. (a) In this section, “licensed facility” means the premises of a place of business that holds a license, certificate, or permit under this chapter or Chapter 1603.

(b) A person holding a license, certificate, or permit under this chapter may perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client who, because of illness or physical or mental incapacitation, is unable to receive the services at a licensed facility.

(c) An appointment for a service performed under this section must be made through a licensed facility.

SECTION 7. Section 1602.001, Occupations Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) “Dual shop” means a shop owned, operated, or managed by a person holding a dual barber and beauty shop license issued under Chapter 1603.

SECTION 8. Section 1602.002(a), Occupations Code, is amended to read as follows:

(a) In this chapter, “cosmetology” means the practice of performing or offering to perform for compensation any of the following services:

(1) treating a person’s hair by:
   (A) providing any method of treatment as a primary service, including arranging, beautifying, bleaching, cleansing, coloring, cutting, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;
   (B) providing a necessary service that is preparatory or ancillary to a service under Paragraph (A), including bobbing, clipping, cutting, or trimming; or
   (C) cutting the person’s hair as a separate and independent service for which a charge is directly or indirectly made separately from charges for any other service;

(2) [weaving or] braiding a person’s hair;

(3) shampooing and conditioning a person’s hair;

(4) servicing a person’s wig or artificial hairpiece on a person’s head or on a block after the initial retail sale and servicing in any manner listed in Subdivision (1);

(5) treating a person’s mustache or beard by arranging, beautifying, coloring, processing, styling, or trimming;

(6) cleansing, stimulating, or massaging a person’s scalp, face, neck, or arms:
   (A) by hand or by using a device, apparatus, or appliance; and
   (B) with or without the use of any cosmetic preparation, antiseptic, tonic, lotion, or cream;

(7) beautifying a person’s face, neck, or arms using a cosmetic preparation, antiseptic, tonic, lotion, powder, oil, clay, cream, or appliance;

(8) administering facial treatments;

(9) removing superfluous hair from a person’s body using depilatories, preparations, or tweezing techniques;

(10) treating a person’s nails by:
   (A) cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring; or
   (B) attaching false nails;

(11) massaging, cleansing, treating, or beautifying a person’s hands or feet; [weave or]

(12) applying semipermanent, thread-like extensions composed of single fibers to a person’s eyelashes; or

(13) weaving a person’s hair.

SECTION 9. Section 1602.051, Occupations Code, is amended to read as follows:

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Sec. 1602.051. BOARD; MEMBERSHIP. (a) The Advisory Board on Cosmetology consists of nine [seven] members appointed by the presiding officer of the commission, with the commission's approval, as follows:

(1) one member who holds a license for a beauty shop that is part of a chain of beauty shops;
(2) one member who holds a license for a beauty shop that is not part of a chain of beauty shops;
(3) one member who holds a private beauty culture school license;
(4) two members who each hold an operator license;
(5) one member who represents a licensed public secondary or postsecondary beauty culture school; [and]
(6) one member who represents a licensed public secondary beauty culture school; and
(7) two [one] public members [members].

(b) The associate commissioner [for occupational education and technology] of the Texas Education Agency responsible for career and technical education or the associate commissioner's authorized representative shall serve as an ex officio member of the commission without voting privileges.

SECTION 10. Section 1602.251(c), Occupations Code, is amended to read as follows:

(c) A person licensed by the department may practice cosmetology only at a facility operated by a person holding a beauty shop license, specialty shop license, private beauty culture school license, or other license issued by the department.

SECTION 11. Section 1602.258, Occupations Code, is amended to read as follows:

Sec. 1602.258. ELIGIBILITY FOR A HAIR BRAIDING SPECIALTY CERTIFICATE. (a) A person holding a hair braiding specialty certificate may perform only the practice of cosmetology defined in Section 1602.002(a)(2). (b) To be eligible for a hair braiding specialty certificate, an applicant must:

(1) be at least 17 years of age; and
(2) have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 12. Subchapter F, Chapter 1602, Occupations Code, is amended by adding Sections 1602.259 and 1602.260 to read as follows:

Sec. 1602.259. ELIGIBILITY FOR A HAIR WEAVING SPECIALTY CERTIFICATE. (a) A person holding a hair weaving specialty certificate may perform only the practice of cosmetology defined in Sections 1602.002(a)(2), (3), and (13). (b) To be eligible for a hair weaving specialty certificate, an applicant must:

(1) be at least 17 years of age; and
(2) have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

Sec. 1602.260. ELIGIBILITY FOR A WIG SPECIALTY CERTIFICATE. (a) A person holding a wig specialty certificate may perform only the practice of cosmetology defined in Section 1602.002(a)(4). (b) To be eligible for a wig specialty certificate, an applicant must:

(1) be at least 17 years of age; and
(2) have the necessary requisites as determined by the department in the particular specialty for which certification is sought, including training through a commission-approved training program.

SECTION 13. Section 1602.266, Occupations Code, is amended by adding Subsection (c) to read as follows:
(c) A person holding a student permit may shampoo or condition a person's hair in a facility licensed under this chapter or Chapter 1603.

SECTION 14. Section 1602.267, Occupations Code, is amended by adding Subsection (f) to read as follows:

(f) This section applies only to a person who holds a permit under this section issued to the person before September 1, 2013.

SECTION 15. Section 1602.301, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A person may not operate a vocational cosmetology program in a public school or lease space on the premises of a beauty shop, specialty shop, or dual shop to engage in the practice of cosmetology as an independent contractor unless the person holds a license issued under this chapter.

(c) A person who owns, operates, or manages a beauty shop, specialty shop, or dual shop may employ a person holding a student permit under Section 1602.266 to shampoo or condition a person's hair.

SECTION 16. Section 1602.354(a), Occupations Code, is amended to read as follows:

(a) The commission will by rule recognize, prepare, or administer continuing education programs for the practice of cosmetology. Participation in the programs is mandatory for all license renewals other than renewal of a shampoo specialty certificate.

SECTION 17. Section 1602.403(c), Occupations Code, is amended to read as follows:

(c) A person holding a beauty shop license or specialty shop license may not employ:

(1) a person as an operator or specialist or lease to a person who acts as an operator or specialist unless the person holds a license or certificate under this chapter or under Chapter 1601; or

(2) a person to shampoo or condition a person's hair unless the person holds a shampoo apprentice permit or student permit.

SECTION 18. Subchapter I, Chapter 1602, Occupations Code, is amended by adding Section 1602.407 to read as follows:

Sec. 1602.407. SERVICE AT UNLICENSED LOCATION. (a) In this section, "licensed facility" means the premises of a place of business that holds a license, certificate, or permit under this chapter or Chapter 1603.

(b) A person holding a license, certificate, or permit under this chapter may perform a service within the scope of the license, certificate, or permit at a location other than a licensed facility for a client who, because of illness or physical or mental incapacitation, is unable to receive the services at a licensed facility.

(c) An appointment for a service performed under this section must be made through a licensed facility.

SECTION 19. Section 1602.451(a), Occupations Code, is amended to read as follows:

(a) The holder of a private beauty culture school license shall:

(1) maintain a sanitary establishment;

(2) maintain on duty one [full-time] licensed instructor for each 25 students in attendance;

(3) maintain a daily record of students' attendance;

(4) establish regular class and instruction hours and grades;

(5) require a school term of not less than nine months and not less than 1,500 hours instruction for a complete course in cosmetology;

(6) require a school term of not less than 600 hours instruction for a complete course in manicuring;

(7) hold examinations before issuing diplomas;

(8) maintain a copy of the school's curriculum in a conspicuous place and verify that the curriculum is being followed;
(9) publish in the school’s catalogue and enrollment contract a description of the refund policy required under Section 1602.458; and

(10) provide the department with information on:

(A) the current course completion rates of students who attend a course of instruction offered by the school; and

(B) job placement rates and employment rates of students who complete the course of instruction.

SECTION 20. Section 1602.456, Occupations Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A private beauty culture school or public school in which a student permit holder is enrolled may not receive compensation for services performed under Section 1602.266(c).

SECTION 21. Subchapter E, Chapter 1603, Occupations Code, is amended by adding Section 1603.207 to read as follows:

Sec. 1603.207. MINI-SALONS AND MINI-BARBERSHOPS. (a) In this section, “mini-salon or mini-barbershop” includes a room or suite of rooms that is one of a number of connected establishments in a single premises that open onto a common hallway or another configuration of operations as determined by commission rule in which a person practices barbering or cosmetology under a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602.

(b) The commission may adopt rules for the:

(1) licensing, permitting, operation, inspection, and reporting requirements of a mini-salon or mini-barbershop;

(2) fees required to issue or renew a license or permit for or to inspect a mini-salon or mini-barbershop; and

(3) sanitation standards required for a mini-salon or mini-barbershop.

(c) A mini-salon or mini-barbershop licensed, certified, or permitted under this section must meet the requirements of a barbershop, beauty shop, dual shop, or specialty shop licensed, certified, or permitted under this chapter, Chapter 1601, or Chapter 1602.

SECTION 22. Section 1603.256(c), Occupations Code, is amended to read as follows:

(c) The following persons may administer a practical examination required under this subchapter:

(1) the department; or

(2) a person with whom the department contracts under Section 1603.252[; or

(3) an examination proctor].

SECTION 23. Section 1603.351, Occupations Code, is amended to read as follows:

Sec. 1603.351. MINIMUM CURRICULUM FOR SCHOOLS; DISTANCE EDUCATION. (a) The commission shall prescribe the minimum curriculum, including the subjects and the number of hours in each subject, taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602[, including a private beauty culture school or a vocational cosmetology program in a public school].

(b) The commission may adopt rules allowing distance education only for the theory portion of the curriculum taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602.

(c) Distance education does not satisfy the requirements of the practical portion of the curriculum taught by a school licensed under this chapter, Chapter 1601, or Chapter 1602.

SECTION 24. The following sections of the Occupations Code are repealed:

(1) Sections 1601.261(b) and (e);

(2) Sections 1602.267(b) and (e);

(3) Section 1603.153;

(4) Section 1603.251; and

(5) Section 1603.257.
SECTION 25. (a) A person holding a shampoo specialty certificate under Section 1602.258, Occupations Code, on the effective date of this Act may continue to provide services under and renew the certificate as provided by Chapter 1602, Occupations Code.

(b) The Texas Department of Licensing and Regulation may not issue an original shampoo specialty certificate on or after September 1, 2013.

(c) A person holding a shampoo apprentice permit under Section 1601.261 or 1602.267, Occupations Code, on the effective date of this Act may continue to provide services under the permit as provided by Chapter 1601 or 1602, Occupations Code, as appropriate.

(d) The Texas Department of Licensing and Regulation may not issue an original shampoo apprentice permit on or after September 1, 2013.

SECTION 26. Not later than May 1, 2014, the Texas Commission of Licensing and Regulation shall adopt rules to implement Section 1603.207, Occupations Code, as added by this Act, and Section 1603.351, Occupations Code, as amended by this Act.

SECTION 27. This Act takes effect September 1, 2013.

Passed by the House on April 11, 2013: Yeas 139, Nays 5, 2 present, not voting; passed by the Senate on May 8, 2013: Yeas 30, Nays 0.

Approved May 18, 2013.

Effective September 1, 2013.

CHAPTER 63

H.B. No. 2548

AN ACT
relating to the enforcement of a provision regarding the imposition of a surcharge for the use of a credit card.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 339.001, Finance Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) The consumer credit commissioner has [Finance Commission of Texas shall have] exclusive jurisdiction to enforce [and adopt rules relating to] this section.

(d) The Finance Commission of Texas may adopt rules relating to this section. Rules adopted pursuant to this section shall be consistent with federal laws and regulations governing credit card transactions described by this section.

(e) This section does not create a cause of action against an individual for violation of this section.

SECTION 2. Section 14.101, Finance Code, is amended to read as follows:

Sec. 14.101. GENERAL DUTIES OF COMMISSIONER. The commissioner shall enforce Section 339.001, this chapter, Subtitles B and C of Title 4, Chapter 393 with respect to a credit access business, and Chapter 394 in person or through an assistant commissioner, examiner, or other employee of the office.

SECTION 3. Section 14.201, Finance Code, is amended to read as follows:

Sec. 14.201. INVESTIGATION AND ENFORCEMENT AUTHORITY. Investigative and enforcement authority under this subchapter applies only to Section 339.001, this chapter, Subtitles B and C of Title 4, Chapter 393 with respect to a credit access business, and Chapter 394.

SECTION 4. Section 14.2015(a), Finance Code, as amended by Chapters 1182 (H.B. 3453) and 1302 (H.B. 2594), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(a) Except as provided by Subsection (b), information or material obtained or compiled by the commissioner in relation to an examination or investigation by the commissioner or the