

BILL ANALYSIS

Senate Research Center
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H.B. 1219
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In order to obtain a funeral director or embalmer license in Texas, an applicant must complete several educational requirements and serve as a provisional license holder for at least one year. Provisional license holders gain practical experience in the industry by working at a licensed facility and under the direct supervision of a licensed funeral director or embalmer.

Under current law, an individual is ineligible to obtain a provisional funeral director or embalmer license until the individual has completed an accredited mortuary science program. This restriction prevents those who are interested in pursuing a mortuary science career from ensuring they are truly committed to this goal before dedicating significant time and money to complete the educational requirements. Furthermore, it prevents applicants from earning money in the field that they could then apply to mortuary school expenses.

H.B. 1219 requires the Texas Funeral Service Commission (TFSC) to waive the mortuary science educational requirements for up to 12 months for a provisional license applicant who is otherwise qualified. This will allow applicants to work under a licensed mortuary professional with a provisional funeral director or embalmer license before completing their mortuary science degree. H.B. 1219 also streamlines various procedures relating to provisional funeral director and embalmer licenses. These changes ensure TFSC knows where provisional license holders are working, and that provisional license holders are making timely progress towards completing the funeral director or embalmer license requirements.

H.B. 1219 amends current law relating to a provisional license to practice funeral directing or embalming and amends provisions subject to a criminal penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Funeral Service Commission in SECTION 3 (Section 651.303, Occupations Code) and SECTION 9 (Section 651.3055, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Funeral Service Commission is modified in SECTION 3 (Section 651.303, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Funeral Service Commission is rescinded in SECTION 10 (Sections 651.303 and 651.304, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 651.253(a), Occupations Code, as follows:

(a) Requires an applicant, to be eligible for a funeral director's license or an embalmer's license, unless the applicant holds a reciprocal license, to have completed the requirements of the provisional license program, rather than unless the applicant holds a reciprocal embalmer's license have served as a provisional license holder for not less than one year under the personal supervision and instruction of a funeral director or embalmer, as applicable. Makes no further change to this subsection.

SECTION 2. Amends Section 651.302, Occupations Code, as follows:

Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL LICENSE. (a) Requires the Texas Funeral Service Commission (TFSC) to issue a provisional license to practice funeral directing to an applicant who:

(1) and (2) Makes no change to these subdivisions;

(3) is employed by a funeral establishment to learn funeral directing, rather than is employed by a funeral director to learn funeral directing or embalming, under the instruction and supervision of a, rather than the, funeral director;

(4) and (5) Makes a nonsubstantive change; and

(6) complies with the requirements of this chapter and of TFSC.

(b) Requires TFSC to issue a provisional license to practice embalming to an applicant who:

(1) and (2) Makes no change to these subdivisions;

(3) is employed by a funeral establishment or commercial embalming facility to learn embalming under the instruction and supervision of an embalmer;

(4) files an application for a provisional license on a form provided by TFSC and verified under oath by the applicant;

(5) Redesignates existing Subdivision (4) as Subdivision (5) and makes no further change;

(6) Redesignates existing Subdivision (5) as Subdivision (6) and makes no further change.

(c) Authorizes TFSC to waive the requirements of Subsection (a)(2) (has completed certain requirements or is enrolled in an accredited school or college of mortuary science) or (b)(2) (has completed certain requirements or is enrolled in an accredited school or college of mortuary science) for a period not to exceed 12 months for an applicant who is otherwise qualified and issue to an applicant a provisional license that expires at the end of that period.

(d) Requires an applicant to submit to a criminal background check before submitting an application for a license.

SECTION 3. Amends Section 651.303, Occupations Code, by adding Subsections (a-1), (e-1), and (g) and amending Subsection (d), as follows:

(a-1) Authorizes a provisional license holder to work only:

(1) in a funeral establishment or commercial embalming facility licensed by TFSC; and

(2) under the direct and personal supervision of a funeral director or embalmer, as applicable.

(d) Requires that the provisional license program include assisting with at least 45, rather than 60, cases. Makes no further change to this subsection.

(e-1) Requires TFSC by rule to prescribe case reporting requirements for provisional license holders. Requires TFSC to provide case report forms to be used by a provisional license holder.

(g) Requires a provisional license holder, when conducting funeral arrangements, to inform family members and other persons with whom the arrangements are being made that the license holder has a provisional license and works under the personal supervision of a licensed funeral director.

SECTION 4. Amends Section 651.3035(a), Occupations Code, as follows:

(a) Authorizes a funeral directing or embalming case completed for credit while attending an accredited mortuary school or college to serve as credit toward the provisional license holder program, rather than providing that a case completed under Section 651.303(d) may serve as credit for both mortuary school or college and the provisional license holder program.

SECTION 5. Amends the heading to Section 651.304, Occupations Code, to read as follows:

Sec. 651.304. EMPLOYMENT NOTIFICATION.

SECTION 6. Amends Section 651.304, Occupations Code, by amending Subsections (a) and (d) and adding Subsection (b), as follows:

(a) Requires a provisional license holder, on entering employment with a funeral establishment or commercial embalming facility, rather than on entering employment with a funeral director or embalmer, to immediately notify TFSC of the name of the establishment or facility where the provisional license holder will train, rather than to immediately notify TFSC of the name and place of business of the funeral director or embalmer under whom the provisional license holder will train. Requires the funeral director or embalmer in charge to sign the notification. Makes a nonsubstantive change.

(b) Requires a provisional license holder to be employed by a funeral establishment or commercial embalming facility, as applicable, during the term of the provisional license. Requires TFSC, if a provisional license holder is not employed as required by this subsection, to cancel the provisional license.

(d) Requires the funeral director or embalmer in charge, if a provisional license holder leaves the employment of the funeral establishment or commercial embalming facility, rather than if a provisional license holder leaves the employment of a funeral director or embalmer, to prepare an affidavit showing the length of time the provisional license holder was employed and the number of cases handled while employed by the funeral establishment or facility, rather than while employed by the funeral director or embalmer. Requires the funeral director or embalmer to file the original affidavit with the commission as a matter of record. Requires the funeral director or embalmer to provide a copy of the affidavit to the provisional license holder. Makes nonsubstantive changes.

SECTION 7. Amends Subchapter G, Chapter 651, Occupations Code, by adding Section 651.3045, as follows:

Sec. 651.3045. TERM OF PROVISIONAL LICENSE. (a) Provides that, except as provided by Subsection (c), a provisional license is valid for 12 consecutive months and may be renewed only once for a period not to exceed an additional 12 consecutive months.

(b) Requires TFSC to cancel a provisional license if the license holder fails to complete the licensing requirements of the provisional license program within 24 consecutive months.

(c) Provides that, if a provisional license holder holds a provisional license issued under Section 651.302(c), the provisional license may be renewed for a period not to exceed 24 consecutive months and requires the provisional license holder to complete the licensing requirements of the provisional license program within 36 consecutive months.

(d) Authorizes a provisional license holder who completes the requirements of the provisional license program and is otherwise eligible for a funeral director's or embalmer's license to receive that license regardless of the date the provisional license is due to expire.

SECTION 8. Amends Section 651.305, Occupations Code, by amending Subsections (c) and (d) and adding Subsections (d-1), (d-2), and (d-3), as follows:

(c) Requires TFSC, if a provisional license holder fails to renew the provisional license, rather than if a provisional license holder fails to timely pay the renewal fee, to:

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

(d) Makes no change to this subsection.

(d-1) Creates this subsection from existing text. Authorizes the provisional license holder, if the license is canceled under Subsection (d), rather than this subsection, to apply for reinstatement not later than the date the license would have expired if the license had been renewed, rather than not later than 18 months after the date of cancellation. Makes no further change to this subsection.

(d-2) Provides that a reinstated license expires on the date the license would have expired if the license had been timely renewed.

(d-3) Prohibits a provisional license holder from working as a funeral director or embalmer while the license is suspended or canceled.

SECTION 9. Amends Subchapter G, Chapter 651, Occupations Code, by adding Section 651.3055, as follows:

Sec. 651.3055. REAPPLICATION FOR PROVISIONAL LICENSE. (a) Authorizes a person who does not complete the provisional license program within the prescribed period to reapply for a provisional license.

(b) Requires a person who reapplies for a provisional license to comply with the requirements to Section 651.303 (Provisional License Program). Prohibits casework performed under a previous provisional license from being counted toward the requirements for the new provisional license. Authorizes TFSC to adopt rules to allow casework performed under a previous provisional license to transfer to a new provisional license if the license holder requests a hardship exemption.

(c) Authorizes a person to reapply for a provisional license under this section only once.

SECTION 10. Repealer: Sections 651.303(b) (requiring TFSC to by rule define the terms of employment for a provisional license holder) and (c) (requiring that the term of the provisional license program be at least 12 consecutive months but not more than 24 consecutive months), Occupations Code.

Repealer: Section 651.304(e) (requiring TFSC by rule to prescribe reporting requirements for provisional license holders), Occupations Code.

Repealer: Sections 651.305(e) (authorizing a provisional license to be renewed after a prescribed period of time) and (f) (relating to the requirements for reinstating a provisional license), Occupations Code.

SECTION 11. Effective date: September 1, 2015.