

By: Goldman

H.B. No. 2717

A BILL TO BE ENTITLED

AN ACT

relating to the deregulation of hair braiding.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.002, Occupations Code, is amended to read as follows:

Sec. 1601.002. DEFINITION OF BARBERING. In this chapter, "barbering," "practicing barbering," or the "practice of barbering" means:

(1) performing or offering or attempting to perform for compensation or the promise of compensation any of the following services:

(A) treating a person's mustache or beard by arranging, beautifying, coloring, processing, shaving, styling, or trimming;

(B) treating a person's hair by:

(i) arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, or waving;

(ii) providing a necessary service that is preparatory or ancillary to a service under Subparagraph (i), including bobbing, clipping, cutting, or trimming; or

(iii) cutting the person's hair as a separate and independent service for which a charge is directly or

1 indirectly made separately from a charge for any other service;

2 (C) cleansing, stimulating, or massaging a
3 person's scalp, face, neck, arms, or shoulders:

4 (i) by hand or by using a device, apparatus,
5 or appliance; and

6 (ii) with or without the use of any cosmetic
7 preparation, antiseptic, tonic, lotion, or cream;

8 (D) beautifying a person's face, neck, arms, or
9 shoulders using a cosmetic preparation, antiseptic, tonic, lotion,
10 powder, oil, clay, cream, or appliance;

11 (E) treating a person's nails by:

12 (i) cutting, trimming, polishing, tinting,
13 coloring, cleansing, manicuring, or pedicuring; or

14 (ii) attaching false nails;

15 (F) massaging, cleansing, treating, or
16 beautifying a person's hands;

17 (G) administering facial treatments;

18 (H) weaving a person's hair by using any method
19 to attach commercial hair to a person's hair or scalp;

20 (I) shampooing or conditioning a person's hair;

21 or

22 (J) servicing in any manner listed in Paragraph
23 (B) a person's wig, toupee, or artificial hairpiece on a person's
24 head or on a block after the initial retail sale; ~~or~~

25 ~~[(K) braiding a person's hair, trimming hair~~
26 ~~extensions only as applicable to the braiding process, and~~
27 ~~attaching commercial hair only by braiding and without the use of~~

1 ~~chemicals or adhesives,]~~

2 (2) advertising or representing to the public in any
3 manner that a person is a barber or is authorized to practice
4 barbering; or

5 (3) advertising or representing to the public in any
6 manner that a location or place of business is a barbershop,
7 specialty shop, or barber school.

8 SECTION 2. Section 1601.003, Occupations Code, is amended
9 to read as follows:

10 Sec. 1601.003. APPLICATION OF CHAPTER. This chapter does
11 not apply to a person who:

12 (1) does not represent or advertise to the public
13 directly or indirectly that the person is authorized by the
14 department to practice barbering; and

15 (2) is:

16 (A) a physician or registered nurse licensed in
17 this state and operating within the scope of the person's license;

18 (B) a commissioned or authorized medical or
19 surgical officer of the United States armed forces;

20 (C) a person regulated under Chapter 1602, if the
21 person practices within the scope of a permit, license, or
22 certificate issued by the department under that chapter; ~~[or]~~

23 (D) an inmate in the institutional division of
24 the Texas Department of Criminal Justice who performs barbering
25 during the person's incarceration; or

26 (E) a person who performs only natural hair
27 braiding, including braiding a person's hair, trimming hair

1 extensions only as applicable to the braiding process, and
2 attaching commercial hair by braiding and without the use of
3 chemicals or adhesives.

4 SECTION 3. Section 1601.254(c), Occupations Code, is
5 amended to read as follows:

6 (c) The commission shall adopt rules for the licensing of
7 specialty instructors to teach specialty courses in the practice of
8 barbering as defined by Sections 1601.002(1)(C)-(H) [~~and (K)~~].

9 SECTION 4. Section 1601.265(a), Occupations Code, is
10 amended to read as follows:

11 (a) The department shall issue a license or certificate to
12 an applicant for a license or certificate issued under Section
13 1601.253, 1601.256, or 1601.258 [~~, or 1601.259~~] if the applicant:

14 (1) submits an application on a form prescribed by the
15 department;

16 (2) pays the application fee; and

17 (3) provides proof that the applicant holds a current
18 license to engage in the same or a similar activity issued by
19 another jurisdiction that has license requirements substantially
20 equivalent to those of this state.

21 SECTION 5. Section 1601.304(a), Occupations Code, is
22 amended to read as follows:

23 (a) A person who holds a specialty shop permit may maintain
24 an establishment in which only barbering as defined by Section
25 1601.002(1)(E), (F), or (H) [~~, or (K)~~] is performed.

26 SECTION 6. Section 1602.002(a), Occupations Code, is
27 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 a person's hair or shaving a person's neck with a safety razor; 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) ~~braiding a person's hair,~~

~~(3)~~ shampooing and conditioning a person's hair;

(3) ~~(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);

(4) ~~(5)~~ treating a person's mustache or beard by arranging, beautifying, coloring, processing, styling, trimming, or shaving with a safety razor;

(5) ~~(6)~~ cleansing, stimulating, or massaging a person's scalp, face, neck, or arms:

(A) by hand or by using a device, apparatus, or

1 appliance; and

2 (B) with or without the use of any cosmetic
3 preparation, antiseptic, tonic, lotion, or cream;

4 (6) [~~(7)~~] beautifying a person's face, neck, or arms
5 using a cosmetic preparation, antiseptic, tonic, lotion, powder,
6 oil, clay, cream, or appliance;

7 (7) [~~(8)~~] administering facial treatments;

8 (8) [~~(9)~~] removing superfluous hair from a person's
9 body using depilatories, preparations, or tweezing techniques;

10 (9) [~~(10)~~] treating a person's nails by:

11 (A) cutting, trimming, polishing, tinting,
12 coloring, cleansing, or manicuring; or

13 (B) attaching false nails;

14 (10) [~~(11)~~] massaging, cleansing, treating, or
15 beautifying a person's hands or feet;

16 (11) [~~(12)~~] applying semipermanent, thread-like
17 extensions composed of single fibers to a person's eyelashes; or

18 (12) [~~(13)~~] weaving a person's hair.

19 SECTION 7. Section 1602.003(b), Occupations Code, is
20 amended to read as follows:

21 (b) This chapter does not apply to a person who:

22 (1) provides a service in an emergency;

23 (2) is licensed in this state to practice medicine,
24 dentistry, podiatry, chiropractic, or nursing and is operating
25 within the scope of the person's license;

26 (3) is in the business of or receives compensation for
27 makeup applications only;

1 (4) acts as a barber under Chapter 1601, if the person
2 does not hold the person out as a cosmetologist;

3 (5) provides a cosmetic service as a volunteer or an
4 employee performing regular duties at a licensed nursing or
5 convalescent custodial or personal care home to a patient residing
6 in the home;

7 (6) owns, operates, or manages a licensed nursing or
8 convalescent custodial or personal care home that allows a person
9 with an operator license to perform cosmetic services for patients
10 residing in the home on an occasional but not daily basis; ~~or~~

11 (7) provides an incidental cosmetic service, or owns,
12 operates, or manages the location where that service is provided,
13 if the primary purpose of the service is to enable or assist the
14 recipient of the service to participate as the subject of:

15 (A) a photographic sitting at a fashion
16 photography studio;

17 (B) a television appearance; or

18 (C) the filming of a motion picture; or

19 (8) performs only natural hair braiding, including
20 braiding a person's hair, trimming hair extensions only as
21 applicable to the braiding process, and attaching commercial hair
22 by braiding and without the use of chemicals or adhesives.

23 SECTION 8. Section 1602.255(c), Occupations Code, is
24 amended to read as follows:

25 (c) The commission shall adopt rules for the licensing of
26 specialty instructors to teach specialty courses in the practice of
27 cosmetology defined in Sections 1602.002(a)(6), (8), (9), and (11)

1 ~~[1602.002(a)(7), (9), (10), and (12)]~~.

2 SECTION 9. Section 1602.256(a), Occupations Code, is
3 amended to read as follows:

4 (a) A person holding a manicurist specialty license may
5 perform only the practice of cosmetology defined in Section
6 1602.002(a)(9) or (10) ~~[1602.002(a)(10) or (11)]~~.

7 SECTION 10. Section 1602.257(a), Occupations Code, is
8 amended to read as follows:

9 (a) A person holding an esthetician specialty license may
10 perform only the practice of cosmetology defined in Sections
11 1602.002(a)(5), (6) ~~[1602.002(a)(6)]~~, (7), (8), ~~[(9)]~~ and (11)
12 ~~[(12)]~~.

13 SECTION 11. Section 1602.2571(a), Occupations Code, is
14 amended to read as follows:

15 (a) A person holding a specialty license in eyelash
16 extension application may perform only the practice of cosmetology
17 defined in Section 1602.002(a)(11) ~~[1602.002(a)(12)]~~.

18 SECTION 12. Section 1602.259(a), Occupations Code, is
19 amended to read as follows:

20 (a) A person holding a hair weaving specialty certificate
21 may perform only the practice of cosmetology defined in Sections
22 1602.002(a)(2) ~~[(3)]~~ and (12) ~~[(13)]~~.

23 SECTION 13. Section 1602.260(a), Occupations Code, is
24 amended to read as follows:

25 (a) A person holding a wig specialty certificate may perform
26 only the practice of cosmetology defined in Section 1602.002(a)(3)
27 ~~[1602.002(a)(4)]~~.

SECTION 14. Section 1602.261(a), Occupations Code, is amended to read as follows:

(a) A person holding a manicurist/esthetician specialty license may perform only the practice of cosmetology defined in Sections 1602.002(a)(5) [~~1602.002(a)(6)~~] through (10) [~~(11)~~].

SECTION 15. Section 1602.267(a), Occupations Code, is amended to read as follows:

(a) A person holding a shampoo apprentice permit may perform only the practice of cosmetology defined by Section 1602.002(a)(2) [~~1602.002(3)~~].

SECTION 16. Section 1602.305(a), Occupations Code, is amended to read as follows:

(a) A person holding a specialty shop license may maintain an establishment in which only the practice of cosmetology as defined in Section 1602.002(a)(3), (6), (8), (9), or (11) [~~1602.002(a)(2), (4), (7), (9), (10), or (12)~~] is performed.

SECTION 17. Section 1603.352(a), Occupations Code, is amended to read as follows:

(a) A person who holds a license, certificate, or permit issued under this chapter, Chapter 1601, or Chapter 1602 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) [~~1602.002(a)(10) or (11)~~] shall, 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

1 clippers, cuticle pushers, cuticle nippers, and other metal
2 instruments, used to perform the service.

3 SECTION 18. Sections 1601.259 and 1602.258, Occupations
4 Code, are repealed.

5 SECTION 19. (a) The Texas Department of Licensing and
6 Regulation shall issue a refund of fees to a person holding a barber
7 or cosmetology hair braiding specialty certificate, hair braiding
8 instructor license, or hair braiding specialty shop license
9 immediately before the effective date of this Act.

10 (b) The Texas Department of Licensing and Regulation shall
11 prorate fees on a monthly basis so that each license or certificate
12 holder described by Subsection (a) of this section receives a
13 refund for the amount of the fee that is allocable to the number of
14 months from the month in which this Act takes effect until the month
15 in which the license or certificate was scheduled to expire.

16 SECTION 20. This Act takes effect immediately if it
17 receives a vote of two-thirds of all the members elected to each
18 house, as provided by Section 39, Article III, Texas Constitution.
19 If this Act does not receive the vote necessary for immediate
20 effect, this Act takes effect September 1, 2015.