

By: Raymond, Keough

H.B. No. 1219

A BILL TO BE ENTITLED

AN ACT

relating to a provisional license to practice funeral directing or embalming; amending provisions subject to a criminal penalty.

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

SECTION 1. Section 651.253(a), Occupations Code, is amended to read as follows:

(a) To be eligible for a funeral director's license or an embalmer's license, an applicant must:

(1) be at least 18 years of age;

(2) have graduated from an accredited high school or passed an examination prescribed by the Texas Education Agency;

(3) have graduated from an accredited school or college of mortuary science;

(4) unless the applicant holds a reciprocal ~~[embalmer's]~~ license, have completed the requirements of the provisional license program ~~[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]~~; and

(5) have successfully completed the applicable written examination described by Section 651.255 or 651.256.

SECTION 2. Section 651.302, Occupations Code, is amended to read as follows:

Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL LICENSE. (a) The commission shall issue a provisional license to

1 practice funeral directing to an applicant who:

2 (1) is at least 18 years of age;

3 (2) has completed the educational requirements of  
4 Section 651.253 or is enrolled in an accredited school or college of  
5 mortuary science;

6 (3) is employed by a funeral establishment ~~[director]~~  
7 to learn funeral directing ~~[or embalming]~~ under the instruction and  
8 supervision of a ~~[the]~~ funeral director;

9 (4) files an application for a provisional license on  
10 a form provided by the commission and verified under oath by the  
11 applicant; ~~[and]~~

12 (5) pays any required application or license fee; and

13 (6) complies with the requirements of this chapter and  
14 of the commission.

15 (b) The commission shall issue a provisional license to  
16 practice embalming to an applicant who:

17 (1) is at least 18 years of age;

18 (2) has completed the educational requirements of  
19 Section 651.253 or is enrolled in an accredited school or college of  
20 mortuary science;

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

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

27 (5) ~~[(4)]~~ pays any required application or license

1 fee; and

2 (6) [~~45~~] complies with the requirements of this  
3 chapter and of the commission.

4 (c) The commission shall waive the requirements of  
5 Subsection (a)(2) or (b)(2) for a period not to exceed 12 months for  
6 an applicant who is otherwise qualified and shall issue to the  
7 applicant a provisional license that expires at the end of that  
8 period.

9 (d) An applicant must submit to a criminal background check  
10 before submitting an application for a license.

11 SECTION 3. Section 651.303, Occupations Code, is amended by  
12 adding Subsections (a-1), (e-1), and (g) and amending Subsection  
13 (d) to read as follows:

14 (a-1) A provisional license holder may work only:

15 (1) in a funeral establishment or commercial embalming  
16 facility licensed by the commission; and

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

19 (d) The provisional license program must include assisting  
20 with at least 45 [~~60~~] cases. Not more than two provisional license  
21 holders may receive credit for work done on any one body. The  
22 commission by rule shall:

23 (1) define the standards for a case;

24 (2) set the number of cases a provisional license  
25 holder is required to complete during the program; and

26 (3) establish guidelines for supervision under which a  
27 provisional license holder is granted increased responsibilities

1 during the course of the provisional license program.

2 (e-1) The commission by rule shall prescribe case reporting  
3 requirements for provisional license holders. The commission shall  
4 provide case report forms to be used by a provisional license  
5 holder.

6 (g) When conducting funeral arrangements, a provisional  
7 license holder shall inform family members and other persons with  
8 whom the arrangements are being made that the license holder has a  
9 provisional license and works under the personal supervision of a  
10 licensed funeral director.

11 SECTION 4. Section 651.3035(a), Occupations Code, is  
12 amended to read as follows:

13 (a) A funeral directing or embalming case completed for  
14 credit while attending an accredited [~~under Section 651.303(d) may~~  
15 ~~serve as credit for both~~] mortuary school or college may serve as  
16 credit toward [~~and~~] the provisional license holder program.

17 SECTION 5. The heading to Section 651.304, Occupations  
18 Code, is amended to read as follows:

19 Sec. 651.304. EMPLOYMENT NOTIFICATION [~~REPORTS~~].

20 SECTION 6. Section 651.304, Occupations Code, is amended by  
21 amending Subsections (a) and (d) and adding Subsection (b) to read  
22 as follows:

23 (a) On entering employment with a funeral establishment or  
24 commercial embalming facility [~~director or embalmer~~], a  
25 provisional license holder shall immediately notify the commission  
26 of the name of the establishment or facility where [~~and place of~~  
27 ~~business of the funeral director or embalmer under whom~~] the

provisional license holder will train. The funeral director or embalmer in charge must ~~[shall]~~ sign the notification.

(b) A provisional license holder must be employed by a funeral establishment or commercial embalming facility, as applicable, during the term of the provisional license. If a provisional license holder is not employed as required by this subsection, the commission shall cancel the provisional license.

(d) If a provisional license holder leaves the employment of the funeral establishment or commercial embalming facility ~~[a funeral director or embalmer]~~, the funeral director or embalmer in charge shall prepare an affidavit showing the length of time the provisional license holder was employed and the number of cases handled while employed by the establishment or facility ~~[funeral director or embalmer]~~. The funeral director or embalmer shall file the original affidavit ~~[shall be filed]~~ with the commission as ~~[and made]~~ a matter of record. The funeral director or embalmer shall provide a ~~[A]~~ copy of the affidavit ~~[shall be furnished]~~ to the provisional license holder.

SECTION 7. Subchapter G, Chapter 651, Occupations Code, is amended by adding Section 651.3045 to read as follows:

Sec. 651.3045. TERM OF PROVISIONAL LICENSE. (a) 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) The commission shall cancel a provisional license if the license holder fails to complete the licensing requirements of the provisional license program within 24 consecutive months.

1        (c) If a provisional license holder holds a provisional  
2 license issued under Section 651.302(c), the provisional license  
3 may be renewed for a period not to exceed 24 consecutive months and  
4 the provisional license holder must complete the licensing  
5 requirements of the provisional license program within 36  
6 consecutive months.

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

12        SECTION 8. Section 651.305, Occupations Code, is amended by  
13 amending Subsections (c) and (d) and adding Subsections (d-1),  
14 (d-2), and (d-3) to read as follows:

15        (c) If a provisional license holder fails to renew the  
16 provisional license [~~timely pay the renewal fee~~], the commission  
17 shall:

18                (1) impose a late payment penalty equal to the amount  
19 of the license renewal fee;

20                (2) suspend the license for nonpayment; and

21                (3) notify the provisional license holder of the  
22 suspension.

23        (d) If the renewal fee and penalty are not paid before the  
24 91st day after the date of the notice of suspension, the commission  
25 shall cancel the license.

26        (d-1) If the license is canceled under Subsection (d) [~~this~~  
27 ~~subsection~~], the provisional license holder may apply for

1 reinstatement not later than the date the license would have  
2 expired if the license had been renewed [~~not later than 18 months~~  
3 ~~after the date of cancellation~~]. The commission may reinstate the  
4 canceled license if:

5 (1) all other commission requirements are satisfied;  
6 and

7 (2) the license fee and a late payment penalty equal to  
8 the amount of the license fee for the period of the cancellation are  
9 paid.

10 (d-2) A reinstated license expires on the date the license  
11 would have expired if the license had been timely renewed.

12 (d-3) A provisional license holder may not work as a funeral  
13 director or embalmer while the license is suspended or canceled.

14 SECTION 9. Subchapter G, Chapter 651, Occupations Code, is  
15 amended by adding Section 651.3055 to read as follows:

16 Sec. 651.3055. REAPPLICATION FOR PROVISIONAL LICENSE. (a)  
17 A person who does not complete the provisional license program  
18 within the prescribed period may reapply for a provisional license.

19 (b) A person who reapplies for a provisional license must  
20 comply with the requirements of Section [651.303](#). Casework performed  
21 under a previous provisional license may not be counted toward the  
22 requirements for the new provisional license. The commission may  
23 adopt rules to allow casework performed under a previous  
24 provisional license to transfer to a new provisional license if the  
25 license holder requests a hardship exemption.

26 (c) A person may reapply for a provisional license under  
27 this section only once.

1       SECTION 10. The following sections of the Occupations Code  
2 are repealed:

3               (1) Sections 651.303(b) and (c);

4               (2) Section 651.304(e); and

5               (3) Sections 651.305(e) and (f).

6       SECTION 11. This Act takes effect September 1, 2015.