Texas Civil Statutes
Articles 6813 to End, Index

As Amended through the 1983 Regular and First Called Sessions of the 68th Legislature

WEST PUBLISHING CO.
ST. PAUL, MINNESOTA
PREFACE

This Pamphlet contains the text of the Civil Statutes, from Article 6813 to the end, including the Final Title, as amended through the 1983 Regular and First Called Sessions of the 68th Legislature.

The Civil Statutes are followed by a descriptive word Index to facilitate the search for specific textual provisions.

Comprehensive coverage of the judicial construction and interpretations of the Civil Statutes, together with cross references, references to law review commentaries discussing particular provisions, and other editorial features, is provided in the volumes of Vernon's Texas Statutes and Codes Annotated.

THE PUBLISHER

August, 1984
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* No legislation for which the ninety day effective date is applicable.
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6819a–19c. Additional Compensation of District Court Judges in Bexar County.
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6819a–21. First Judicial District; Additional Compensation for District Judge.
6819a–22. District Judges of 65th, 98th and 125th Judicial Districts and Criminal District Court of Travis County; Additional Compensation.
6819a–23. Additional Compensation of District Court Judges of 49th Judicial District.
6819a–23a. Additional Compensation of District Court Judges of 49th Judicial District.
6819a–24. Additional Compensation of District Court Judges of Pecos, Upton, Crockett and Sutton Counties.
6819a–25. Additional Compensation of Judges of District and Criminal District Courts in Counties With Population of 600,000 or More.
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6819a–27. Additional Compensation of District Court Judge of 142nd Judicial District.
6819a–29. Additional Compensation of District Court Judge of 94th Judicial District.
6819a–30. Additional Compensation of District Court Judge of 79th Judicial District.
6819a–32. Additional Compensation of District Court Judge of 64th Judicial District.
6819a–33. Additional Compensation of District Court Judges of 126th, 162nd and 268th Judicial Districts.
6819a–34. Additional Compensation of District Court Judges of 72nd, 99th and 140th Judicial Districts.
6819a–35. Additional Compensation of District Court Judges of 85th and 13th Judicial Districts.
6819a–37. Additional Compensation of District Court Judges of 89th and 84th Judicial Districts.
6819a–38. Repealed.
### Art. 6813a

**Agriculture—Commissioner of** ........................................ $3000

**Chief Clerk Department of Agriculture** .......................... 2000

**Plant Pathologist Department of Agriculture** .................... 2100

**Nursery Inspector Department of Agriculture** .................... 2000

**Attorney General** .................................................. 2000

**Banking Commissioner** .............................................. 6000

**Deputy Banking Commissioner** ...................................... 3000

**Comptroller** ....................................................... 2500

**Control—Executive Secretary** ....................................... 5000

**Governor** .......................................................... 4000

**Health Officer—State** ............................................... 4500

**Assistant State Health Officer** ..................................... 2400

**Chemist in Health Department** ...................................... 2500

**Industrial Accident Board—Chairman** .............................. 4500

**Other Members of Industrial Accident Board** ..................... 4000

**Insurance—Commissioner of** ........................................ 4000

**Each Other Member of State Insurance Commission** ............... 3600

**Land Commissioner** ................................................ 2500

**Librarian—State** ................................................... 2000

**Live Stock Sanitary Commission—Chairman of** .................... 2500

**Other Members of Live Stock Sanitary Commission** ............... 1500

**Markets and Warehouses—Commissioner of** ....................... 3600

**Chief Clerk Markets and Warehouse Department** .................. 2000

**Mining Inspector—State** ........................................... 2000

**Pardons—Each Member of Board of** ................................ 3000

**Prosecuting Attorney—State** ....................................... 3600

**Assistant State Prosecuting Attorney** ............................. 3000

**Public Instruction—State Superintendent of** ..................... 3600

**Railroad Commission—Each Member of** ............................ 4000

**Reclamation Engineer—State** ...................................... 3600

**State—Secretary of** ............................................... 2500

**Tax Commissioner—State** .......................................... 2500

**Treasurer—State** .................................................. 2500

**Vital Statistics—Registrar of** .................................... 2400

**Deputy Registrar of Vital Statistics** ............................... 1500

**Water Engineers—Each Member of Board of** ....................... 3600

**Game Commissioner** ................................................. 3600

[Acts 1925, S.B. 84.]

### Art. 6813a. Members of Railroad Commission

From and after the passage of this Act the salary of the members of the Railroad Commission of Texas, in addition to the salary at present fixed by law, shall be two thousand ($2000.00) Dollars each per annum, one thousand ($1000.00) Dollars each per annum payable out of the fund created under Article 6032 of the Revised Civil Statutes of the State of Texas, and one thousand ($1000.00) Dollars each per annum payable out of the fund created under Article 6060 of the Revised Civil Statutes of the State of Texas. This sum shall be paid in monthly installments, as other state salaries are paid, and shall be appropriated by the Legislature, as provided by law. The sum of Three Thousand Six Hundred ($3600.00) Dollars is hereby appropriated proportionately out of the two respective funds.

### Art. 6813. Enumeration

The following named officers, deputies, clerks and assistants in the employ of the State Government shall receive for their services the annual salaries set opposite their respective names:

<table>
<thead>
<tr>
<th>Position</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adjutant General</td>
<td>$3600</td>
</tr>
<tr>
<td>Assistant Adjutant General</td>
<td>2000</td>
</tr>
<tr>
<td>Quartermaster</td>
<td>2000</td>
</tr>
<tr>
<td>Assistant Quartermaster General</td>
<td>2000</td>
</tr>
</tbody>
</table>

[Acts 1925, S.B. 84.]
to cover the increase in salary for the remainder of the fiscal year ending August 31, 1927.
[Acts 1927, 40th Leg., p. 416, ch. 277, § 1.]

Art. 6813b. Salaries of State Officers and Employees for Biennium; Exceptions

Sec. 1. From and after the effective date of this Act, all salaries of all State officers and State employees, including the salaries paid any individual out of the General Revenue Fund, shall be in such sums or amounts as may be provided for by the Legislature in the biennial Appropriations Act. It is specifically declared to be one of the intents hereof that the Legislature shall also fix the amount of supplemental salaries hereafter, out of court fees and receipts, to be paid to the clerks and other employees of the Courts of Appeals, the Supreme Court and the Court of Criminal Appeals. It is further provided that in instances where the biennial Appropriations Act does not specify or regulate the salaries or compensation of a State official or employee, the law specifying or regulating the salary or compensation of such official or employee is not suspended by this Act.

Sec. 2. All laws and parts of laws fixing the salaries of all State officers and employees, saving only the exception specified in Section 1 of this Act and the Position Classification Act of 1961 (Chapter 123, Acts 1961, Fifty-seventh Legislature, Regular Session),1 are hereby specifically suspended insofar as they are in conflict with this Act. It is specifically declared to be one of the intents hereof that any and all laws authorizing payment of supplemental salaries from court receipts and fees to clerks and other employees of the Courts of Appeals, the Supreme Court, and the Court of Criminal Appeals, are suspended insofar as they are in conflict with this Act.

Sec. 3. (a) Effective September 1, 1953, and notwithstanding any other provision of this Act, the associate justices of the Courts of Appeals of the State of Texas shall each be paid by the State an annual salary that is 10 percent less than the salary provided in the General Appropriations Act for the Chief Justice of the Supreme Court. The combined salary of each of the associate justices of the Courts of Appeals from all State and county sources must be at least $1,000 less than the salary provided for a justice of the Supreme Court, and in the case of the chief justices of the Courts of Appeals, the differential shall be $500 less than the salary provided for a justice of the Supreme Court.

(b) For the purpose of salary payments by the State, the Comptroller of Public Accounts shall determine from sworn statements filed by the justices of the Courts of Appeals that the required salary differential set out in Subsection (a) of this section is maintained. In the event the salary, with its county supplement, is in excess of the differential provided by Subsection (a), the comptroller shall reduce the State’s portion of that salary by the amount of the excess.


1 Article 6259-11.

Art. 6813c. Travel Expense Reimbursements and Group Insurance Premiums for State Officers and Employees

Travel expense reimbursements and the state’s participation in group insurance premiums for all state officers and employees shall be in such sums or amounts as may be provided for by the legislature in the General Appropriations Act.


Art. 6813d. Longevity Pay for State Employees

Except as provided by Chapter 477, Acts of the 64th Legislature, Regular Session, 1975 (Article 6252-20a, Vernon’s Texas Civil Statutes),1 each state employee covered by the Position Classification Act of 1961,2 each line item or exempt state employee, each regular full-time hourly employee of the state, and each regular full-time nonacademic employee of a state institution of higher education is entitled to longevity pay of a maximum of $4 per month for each year of service as an employee of the state up to and including 25 years of service. Such longevity pay is to commence at the end of the fifth year and to be increased at the end of each five years thereafter.

[Acts 1979, 66th Leg., p. 1770, ch. 718, § 1, eff. Sept. 1, 1979.]

1 Repealed.
2 Article 6252-11.
Art. 6813e. Deductions From Compensation of State Officers and Employees

Definition
Sec. 1. In this Act, "state governmental body" means:

(1) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Texas Education Code, as amended;

(2) the legislature or a legislative agency; or

(3) the Supreme Court, the Court of Criminal Appeals, a court of civil appeals, or the State Bar of Texas or another state judicial agency.

Prohibition of Salary Deductions
Sec. 2. A state governmental body may not make a deduction from the compensation paid to an officer or employee whose compensation is paid in full or in part from state funds unless the deduction is authorized by law.


Art. 6813f. Per Diem for State Board or Commission Members

Definition
Sec. 1. In this Act, "state board or commission" means a board, commission, committee, council, or other similar agency in the state government that is composed of two or more members.

Amount of Per Diem
Sec. 2. A member of a state board or commission is entitled to per diem relating to membership on a state board or commission. The amount of the per diem is the amount prescribed by the General Appropriations Act.

Suspension of Laws
Sec. 3. Each law prescribing the amount of per diem relating to membership on a state board or commission is suspended to the extent of a conflict with this Act. If the General Appropriations Act does not prescribe the amount of per diem to which a member of a state board or commission is entitled by law, the law prescribing the amount of per diem is not suspended by this Act. If a law imposes a limit on the number of days for which a member of a state board or commission is entitled to claim per diem, the limit is not suspended by this Act.


The Commissioner of Labor Statistics shall receive a salary of $3,000.00 per annum; and he shall be allowed a secretary at a salary of $1,800.00 per annum; an assistant secretary and stenographer at a salary of $1,500.00 per annum; a chief deputy at a salary of $2,000.00 per annum; six deputies at a salary of $1,500.00 each per annum; a chief of the Woman's Division at a salary of $2,000.00 per annum; and two women inspectors at a salary of $1,500.00 each per annum.

[Acts 1925, S.B. 84.]

Art. 6815. Repealed by Acts 1929, 41st Leg., p. 513, ch. 248, § 1

Art. 6816. Perquisites

The Governor shall have the use and occupation of the Governor's Mansion, fixtures and furniture. The Attorney General shall receive such fees as may be prescribed by law, not to exceed $2,000.00 annually. The Commissioner of Insurance shall receive an annual salary of $500.00 for his services to the State Insurance Commission. Said Commissioner shall receive $50.00 per annum for services as a member of the State Insurance Commission for services as to workmen's compensation insurance, and each of the other members of said Commission shall receive $100.00 per annum for such services.

[Acts 1925, S.B. 84.]

Art. 6817. Lieutenant Governor

The Lieutenant Governor shall, while he acts as president of the Senate, receive for his services the same compensation and mileage allowed to members of the Senate, and no more; and when acting as Governor, the same compensation which the Governor would have received had he been employed in the duties of his office, and no more.

[Acts 1925, S.B. 84.]

Art. 6818. Repealed by Acts 1931, 42nd Leg., p. 8, ch. 6, § 1


Salaries of justices of Courts of Appeals, see, now, art. 6813b, § 50a.

Art. 6819a. Repealed by Acts 1947, 50th Leg., p. 54, ch. 42, § 2


Art. 6819a-2. Salaries of District Judges in Counties of 325,000 to 350,000

The District Judges of counties having a population of 325,000 and not over 350,000 according to the last proceeding Federal Census shall receive the salary of Seven Thousand and Five Hundred ($7,500.00) Dollars per year including the salary as Juvenile officers; providing that only Five Thousand ($5,000.00) Dollars be paid out of State Funds
Art. 6819a-2  

and Two Thousand Five Hundred ($2,500.00) Dollars out of County Funds.


Art. 6819a-3. Additional Compensation of Judges of District Court; Counties of 159,000 to 600,000; Counties on International Boundary

Sec. 1. In all counties in this State having a population of not less than one hundred fifty-nine thousand (159,000) nor more than six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census, the Judges of the several District Courts and Criminal District Courts shall each receive annually, payable in monthly installments, the sum of Two Thousand, Nine Hundred ($2,900.00) Dollars to be paid by said counties out of the General Fund thereof, as compensation for all judicial and administrative services now rendered by them, and any additional judicial and administrative services hereafter to be assigned to them, in addition to all salary paid or hereafter to be paid to them by the State of Texas out of State revenues.

Sec. 2. It is expressly declared that nothing in this Act shall be construed to repeal all or any part of Article 5139, Revised Civil Statutes of Texas of 1925, as amended, or Article 5142a, Civil Statutes of Texas, as amended by Chapter 27, Acts 51st Legislature, 1949, or Article 5142b, Civil Statutes of Texas, as amended by Chapters 66 and 339, Acts 51st Legislature 1949, except insofar as the same now apply to counties having a population of not less than one hundred fifty-nine thousand (159,000) nor more than six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census; provided, however, that the several Judges of the District Courts and Criminal District Courts in said counties shall not receive any salary as provided in Article 5139, Revised Civil Statutes of Texas of 1925, with amendments thereto, or under Article 5142a, Civil Statutes of Texas as amended by Chapter 27, Acts 51st Legislature, 1949, or under Article 5142b, Civil Statutes of Texas, as amended by Chapters 66 and 339, Acts 51st Legislature, 1949, for any month wherein they shall have received the salary herein provided to be paid out of the General Fund of said counties; and provided further, that no District Judge in counties having a population of not less than one hundred fifty-nine thousand (159,000) nor more than six hundred thousand (600,000) inhabitants, shall receive from any county funds as supplemental pay to his salary from the State, a sum in excess of Two Thousand, Nine Hundred ($2,900.00) Dollars per annum from the county for judicial and administrative duties assigned to them.


Sec. 3. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the Courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, or subsection, or clause so declared unconstitutional.


Art. 6819a-5. Additional Compensation of Judges of District Courts and Criminal District Court in Counties Having Eight Courts

Sec. 1. In all counties in this State having eight (8) or more District Courts, the Judges of the several District Courts and Criminal District Courts shall each receive annually, payable in monthly installments, the sum of Three Thousand, Nine Hundred Dollars ($3,900), to be paid by said counties out of the General Fund thereof, as compensation for all judicial and administrative services now rendered by them and any additional judicial and administrative services hereafter to be assigned to them, in addition to all salary paid or hereafter to be paid to them by the State of Texas out of State revenues.

Sec. 2. It is expressly declared that nothing in this Act shall be construed to repeal all or any part of Article 5139, Revised Civil Statutes of Texas of 1925, as amended by the Acts of 1945, Chapter 285, p. 422, Regular Session Laws of the Forty-ninth Legislature), or Article 5142-A, Section 1-a (same being Section 1-a of the Acts of 1935, Forty-fourth Legislature, Regular Session, Chapter 156, p. 401, or Article 6819a-3, Revised Civil Statutes, same being Chapter 200, p. 271 of the Acts of 1945, Forty-ninth Legislature, Regular Session) in so far as same now apply to counties having eight (8) or more District Courts; provided, however, that the several Judges of the District Courts and Criminal District Courts in said counties shall not receive any salary as provided in Article 5139, Revised Civil Statutes of Texas of 1925, as amended by the Acts of 1945, Chapter 285, p. 422, Regular Session Laws of the Forty-ninth Legislature), or Article 5142-A, Section 1-a, (same being Section 1-a of the Acts of 1935, Forty-fourth Legislature, Regular Session, Chapter 156, p. 401, or Article 6819a-3, Revised Civil Statutes, same being Chapter 200, p. 271 of the Acts of 1945, Forty-ninth Legislature, Regular Session) for any month wherein they shall have received the salary herein provided to be paid out of the General Fund of said counties.

Sec. 3. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the Courts, it shall not affect the constitutionality or validity of the remain-
der thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, or subsection, or clause so declared unconstitutional.

[Acts 1949, 51st Leg., p. 178, ch. 96.]

Art. 6819a-6. Repealed by Acts 1951, 52nd Leg., p. 669, ch. 386, § 2

Art. 6819a-7. Additional Compensation of District Judges in Judicial Districts of Five Counties, Two of Which Have Two or More District Courts

Sec. 1. In every county in this State which comprises a part of a judicial district consisting of not less than five (5) counties, of which two (2) of said counties have two (2) or more district courts, the district judge, or district judges, may receive annually, payable in monthly installments, a salary to be fixed by the Commissioners Court of each county, to be paid by said county out of the general fund thereof, as compensation for all judicial and administrative services now rendered by said judge, or judges, and any additional judicial and administrative services hereafter to be assigned to said judge, or judges, as compensation for all administrative services now rendered by said judge, or judges, by the State of Texas out of State revenues; provided, however, that the salary herein authorized to be paid by any county Commissioners Court to any judge shall not exceed the sum of One Thousand, Two Hundred Dollars ($1,200) per annum; and provided that the total remuneration to be received by any judge under the provisions hereof shall not exceed the sum of Two Thousand Nine Hundred Dollars ($2,900) per annum.

Sec. 2. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, or subsection, or clause so declared unconstitutional.

[Acts 1951, 52nd Leg., p. 394, ch. 255.]

Art. 6819a-9. Repealed by Acts 1957, 55th Leg., p. 606, ch. 272, § 3


Art. 6819a-11. Salaries of District Court Judges in Counties Comprising Judicial District of Not Less Than Four Counties

In every county in this State which comprises a part of a judicial district consisting of not less than four (4) counties, of which two (2) of said counties have two (2) or more district courts, the district judge, or district judges, may receive annually, payable in monthly installments, a salary to be fixed by the Commissioners Court of each county, to be paid by said county out of the general fund thereof, as compensation for all judicial and administrative services now rendered by said judge, or judges, and any additional judicial and administrative services hereafter to be assigned to said judge, or judges, in addition to all salary paid or hereafter to be paid to said judge, or judges, by the State of Texas out of State revenues; provided, however, that the salary herein authorized to be paid by any county Commissioners Court to any judge shall not exceed the sum of One Thousand, Two Hundred Dollars ($1,200) per annum; and provided that the total remuneration to be received by any judge under the provisions hereof shall not exceed the sum of Two Thousand, Nine Hundred Dollars ($2,900) per annum.

[Acts 1955, 54th Leg., p. 1234, ch. 493, § 1.]

Art. 6819a-12. Salary of District Judge in 106th Judicial District

In the 106th Judicial District, the district judge may receive annually, payable in monthly install-
ments, a salary to be fixed by the Commissioners Court of each county, to be paid by said county out of the general fund thereof, as compensation for all administrative services rendered by said judge, in addition to all salaries paid to said judge by the State of Texas out of state revenues. The salary herein authorized to be paid shall be a reasonable sum for performing such duties, not to exceed the sum of $8,000 per annum.


Art. 6819a-12a. Salary of District Court Judge in 109th Judicial District

In the 109th Judicial District, the District Judge may receive annually, payable in monthly installments, a salary to be fixed by the Commissioners Court of each county, to be paid by said county out of the General Fund thereof, as compensation for all judicial and administrative services now rendered by said Judge, and any additional judicial or administrative services hereafter to be assigned to said Judge, in addition to all salaries paid or hereafter to be paid to said Judge by the State of Texas, out of state revenues; provided, however, that the salary herein authorized to be paid by any County Commissioners Court to any Judge shall not exceed the sum of $5,000 per annum.


Sec. 1. In addition to the compensation provided by law and paid by the state, the commissioners court of Liberty County is hereby authorized to pay the district judge of the 75th Judicial District, for services rendered to the county and for performing administrative duties, a reasonable sum not to exceed $5,000 per annum.


Art. 6819a-13a. Additional Compensation for District Judge of 75th Judicial District

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid to each of the judges of the district courts having jurisdiction in Ector County. [Acts 1957, 55th Leg., p. 205, ch. 88. Amended by Acts 1979, 66th Leg., p. 201, ch. 110, § 1, eff. Aug. 27, 1979.]

Art. 6819a-15. Additional Compensation of District Court Judges in El Paso County

Sec. 1. For all services rendered to the county and for performing administrative services, the judges of the district courts having jurisdiction in El Paso County shall receive, in addition to the salary paid to them by the state and in lieu of all the compensation now paid or authorized to be paid by the county to the district judges, the sum of $9,000 per annum, subject to the provisions of Section 2 of this Act, to be paid in equal monthly installments out of the general fund or officers salary fund of the county. The commissioners court shall make proper budget provisions for the payment thereof. A district judge of the state who may be assigned to sit for the judge of a district court in El Paso County under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of the visiting judge from all sources and the pay received from all sources by district judges in El Paso County, such amount to be paid by the county on approval of the presiding judge of the administrative judicial district.

Sec. 2. The combined yearly salary rate from state and county sources of the judges of the district courts in El Paso County may not exceed an amount which is $1,000 less than the combined yearly salary rate from state and county sources received by the judges of the court of civil appeals in whose district El Paso County is located.

Sec. 3. The provisions of this Act do not affect the salary and compensation authorized to be paid to the County Judge of El Paso County as a member of the El Paso County Juvenile Board and do not affect the existence or the functions of the juvenile board.

Sec. 4. This Act is cumulative of existing laws and any laws in conflict are repealed to the extent of conflict only.


Art. 6819a-16, 6819a-17. Repealed by Acts 1975, 64th Leg., p. 346, ch. 147, § 2, eff. May 8, 1975

See, now, art. 6819a-15.
Salaries of justices of Courts of Appeals, see, now, art. 6813b, § 30a.

Art. 6819a-18a. Additional Compensation for Justices of Courts of Appeals
Sec. 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Courts in the counties of each of the fourteen Supreme Judicial Districts of Texas are hereby each authorized to pay to each of the Justices of the Courts of Appeals residing within said Supreme Judicial Districts for all judicial and administrative services performed by them a sum not to exceed Fifteen Thousand Dollars ($15,000) per annum, to be paid in twelve equal monthly installments; provided, however, that the total of all sums so authorized to be paid to the individual Justices of the Courts of Appeals shall not exceed the total additional compensation authorized to be paid to any District Judge residing within such affected Supreme Judicial District.

Sec. 2. The compensation provided for in Section 1 shall be in addition to the compensation provided by law and paid by the State of Texas to the various Justices of the Courts of Appeals.


Art. 6819a-19. Judges of District Courts in Counties of 800,000 or More Having 12 or More Civil District Courts and 3 or More Criminal District Courts
In any county in this state having a population of eight hundred thousand (800,000) or more, according to the last preceding federal census, and having twelve (12) or more Civil District Courts and three (3) or more Criminal District Courts, the Judges of the several District and Criminal District Courts of such counties shall receive in addition to the salary paid by the state to them and to other District Judges of this State, a sum not less than Six Thousand Dollars ($6,000.00) annually, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of such counties, such salary to be so authorized as compensation for all judicial and administrative services performed by them. The Commissioners Court may make proper budget provision for the payment thereof.

Art. 6819a-19b. Judges of District Courts in Counties of Not Less Than 600,000 Nor More Than 700,000
In any county in this state having a population of not less than six hundred thousand (600,000) nor more than seven hundred thousand (700,000), according to the last preceding Federal Census, the Judges of the several District Courts of such counties shall receive, in addition to the salary paid by the State to them and to other District Judges of this state, a sum of money, to be approved by the Commissioners Court of said counties, of not less than Four Thousand, Five Hundred Dollars ($4,500.00) nor more than Six Thousand Dollars ($6,000.00) annually, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of such counties. The Commissioners Court may make proper budget provision for the payment thereof.

[Acts 1961, 57th Leg., p. 39, ch. 25, § 1.]

Art. 6819a-19c. Judges of District Courts in Counties of 1,600,000 or More
In any county in this State having a population of 1,600,000 or more, according to the last preceding Federal Census, and having twenty-five or more district courts of general jurisdiction, the judges of the several district courts of such counties shall receive, in addition to the salary paid by the State to them, and to other district judges of this State, a sum not less than $12,000 nor more than $25,000 annually, to be paid in equal monthly installments out of the General Fund or Officers' Salary Fund of such counties, such salary to be as compensation for all judicial and administrative services performed by them. The Commissioners Court shall make proper budget provision for the payment thereof. Any district judge of the State who may be assigned to sit for the judge of any district court in such counties under the provisions of Article 200-A, Vernon's Texas Civil Statutes, as amended, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by district judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding judge in which said court is located.


Section 146(b) of Acts 1981, 67th Leg., p. 600, ch. 237, provides:
Art. 6819a-19b

**SALARIES**

"To the extent that a law enacted by the 67th Legislature, Regular Session, conflicts with this Act, the other law prevails, regardless of relative date of enactment or relative effective date."

**Art. 6819a-19c. Additional Compensation of District Court Judges in Bexar County**

Sec. 1. The judges of the district courts of Bexar County shall receive, in addition to the salary paid by the State to them and to other District Judges of this State, the sum of $12,000 annually subject to the provisions of Section 2 of this Act, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of the county, for all services rendered to the county and for performing administrative services. The Commissioners Court shall make proper budget provisions for the payment thereof. Any District Judge of the State who may be assigned to sit for the judge of any district court in Bexar County under the provisions of Article 200a, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by District Judges in Bexar County, such amount to be paid by the county upon approval of the presiding judge.

Sec. 2. The combined yearly salary rate from state and county sources of the judges of the district courts of Bexar County may not exceed an amount which is $1,000 less than the combined yearly salary rate from state and county sources received by the judges of the Court of Civil Appeals in whose district Bexar County is located.


**Art. 6819a-20. Additional Compensation of District Court Judge of 16th Judicial District**

Sec. 1. In addition to the compensation provided by law and paid by the State, the Commissioners Court of Denton County is hereby authorized to pay the District Judge of the 16th Judicial District for services rendered to Denton County and for administrative duties, a reasonable sum not less than Two Thousand Four Hundred Dollars ($2,400) per annum; and in addition to the compensation provided by law and paid by the State, the Commissioners Court of Cooke County is hereby authorized to pay the said District Judge of the 16th Judicial District for services rendered to Cooke County and for administrative duties, a reasonable sum not less than One Thousand Two Hundred Dollars ($1,200) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 16th Judicial District.

[Acts 1959, 56th Leg., p. 121, ch. 69. Amended by Acts 1979, 66th Leg., p. 1061, ch. 491, § 1, eff. Aug. 27, 1979.]

**Art. 6819a-21. First Judicial District; Additional Compensation for District Judge**

Sec. 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Court of Newton, Sabine, Jasper and San Augustine Counties, Texas, is hereby authorized to pay the District Judge of the 1st Judicial District for services rendered to Newton, Sabine, Jasper and San Augustine Counties, and for performing administrative duties, a reasonable sum not to exceed Three Thousand Dollars ($3,000.00) per annum, provided, however, that such sum shall be apportioned by the aforesaid four counties.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 1st Judicial District.

[Acts 1959, 56th Leg., p. 129, ch. 75.]

**Art. 6819a-22. District Judges of 53rd, 98th and 126th Judicial Districts and Criminal District Court of Travis County; Additional Compensation**

Sec. 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Court of Travis County, Texas is hereby authorized to pay the District Judges of the 53rd Judicial District, 98th Judicial District, 126th Judicial District, and the Criminal District Court of Travis County, respectively, for services rendered to Travis County, and for performing administrative duties, a reasonable sum not to exceed Six Thousand Dollars ($6,000.00) per annum to each of the judges of said courts.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the Judges of the 53rd Judicial District, 98th Judicial District, 126th Judicial District, and the Criminal District Court of Travis County, respectively.

Sec. 3. Any district judge of the state who may be assigned to sit for the Judge of the 53rd Judicial District, the 98th Judicial District, the 126th Judicial District or the Criminal District Court of Travis County, under the provisions of Article 200a, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds in an amount to be set by the Commissioners Court not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by the District Judges in Travis County, such amount to be paid by the county upon approval of the presiding Judge of the Administrative Judicial District in which said court is located.

[Acts 1959, 56th Leg., p. 141, ch. 83.]
Art. 6819a-23. Additional Compensation of District Court Judges of 49th Judicial District.

Sec. 1. In addition to the compensation provided by law and paid by the State, the Commissioners Court of Zapata County is hereby authorized to pay the District Judge of the 49th Judicial District, for additional services rendered to Zapata County as Judge of the Juvenile Court in such County and for performing administrative duties, a reasonable sum not to exceed Two Thousand, Four Hundred Dollars ($2,400) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation now paid or authorized to be paid the District Judge of the 49th Judicial District.

[Acts 1969, 56th Leg., p. 481, ch. 210.]

Art. 6819a-23a. Additional Compensation of District Court Judge of 49th Judicial District.

Sec. 1. In addition to the compensation provided by law and paid by the State, the Commissioners Court of Jim Hogg County is hereby authorized to pay the District Judge of the 49th Judicial District, for additional services rendered to Jim Hogg County and for performing additional administrative duties, a reasonable sum not to exceed Two Thousand, Four Hundred Dollars ($2,400) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation now paid or authorized to be paid the District Judge of the 49th Judicial District.

[Acts 1963, 56th Leg., p. 1006, ch. 412.]


In addition to the compensation provided by law and paid by the State, the Commissioners Courts of Pecos, Upton, Crockett, and Sutton Counties may pay, and the District Judge, having jurisdiction in such County may receive annually, payable in monthly installments, a salary to be fixed by the Commissioners Court of such County out of the general fund thereof, as compensation for all judicial and administrative services rendered by said judge, or judges, in addition to all salaries paid or hereafter to be paid to said judge, or judges, by the State of Texas, out of State revenues; provided, however, that the salary herein authorized to be paid by any County Commissioners Court to the judge shall not exceed the sum of Two Thousand, Four Hundred Dollars ($2,400) per annum; and provided that the total remuneration to be received by said judge under the provisions hereof shall not exceed the sum of Eight Thousand Dollars ($8,000) per annum.

[Acts 1969, 56th Leg., 2nd C.S., p. 148, ch. 33, § 1.]
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ed by the provisions of this Act, such amount to be paid by the county upon approval of the presiding Judge of the Administrative District in which said Court is located.


Art. 6819a-25. Additional Compensation of Judges of District and Criminal District Courts of Tarrant County

Sec. 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Court of Tarrant County, Texas, shall pay the sum of Eight Thousand Dollars ($8,000) per annum, to be paid out of the general fund of said County, in equal monthly installments, to each of the judges of the District Courts and of the Criminal District Courts whose districts are comprised solely of Tarrant County, Texas, respectively, for all services rendered to Tarrant County, Texas, and for performing administrative duties.

Sec. 2. The compensation provided for in Section 1 hereof shall be in addition to all other compensation paid or authorized to be paid by the County for services heretofore allowed to be received by district judges from Tarrant County, Texas.

Sec. 2a. If the Chief Probation Officer of Tarrant County serves as Secretary to the Juvenile Board of Tarrant County, he may receive as compensation for this additional service the sum of One Thousand Dollars ($1,000) per year, such amount to be paid in addition to his regular salary.

Sec. 3. Any district judge of the State of Texas who may be assigned to sit for any one (1) of the judges of the District Courts or of the Criminal District Courts of Tarrant County, Texas, under the provisions of Chapter 156, Acts of the 40th Legislature, 1927, as amended, codified as Article 200a, Revised Civil Statutes of Texas, or Chapter 99, Acts of the 51st Legislature, 1949, as amended, codified as Article 6228b, Revised Civil Statutes, may, while so serving, receive in addition to his necessary expenses, additional compensation from county funds, in an amount to be set by the Commissioners Court of said county not to exceed the difference between the pay of such visiting judge from all sources and the pay received from all sources by the district judges in Tarrant County, such amount to be paid by the county upon approval of the presiding judge of the Administrative Judicial District in which said court is located.


Art. 6819a-27. Additional Compensation of District Court Judge of 142nd Judicial District

Sec. 1. In addition to the compensation provided by law and paid by the state, the Commissioners Court of Midland County is hereby authorized to pay the District Judge of the 142nd Judicial District for services rendered to Midland County and for administrative duties, a reasonable sum not to exceed Three Thousand, Six Hundred Dollars ($3,600) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 142nd Judicial District.

[Acts 1961, 57th Leg., p. 24, ch. 14.]

Art. 6819a-28. Additional Compensation of Judges of District Courts of Galveston County

Sec. 1. In addition to the compensation provided by law and paid by the State and any other compensation authorized to be paid by the county, the Commissioners Court of Galveston County may pay to the judges of the district courts having jurisdiction in Galveston County, for services rendered to the county and for performing administrative duties, a sum to be set by the commissioners court, subject to Section 2 of this Act, and to be paid in equal monthly installments from funds of the county.

Sec. 2. The combined yearly salary from state and county sources of the judges of the district courts having jurisdiction in Galveston County may not exceed an amount that is $1,000 less than the combined yearly salary rate from state and county sources received by the associate justices of the courts of appeals of the supreme judicial districts in which Galveston County is located.


Art. 6819a-29. Additional Compensation of District Court Judge of 49th Judicial District

Sec. 1. In addition to the compensation provided by law and paid by the State, the Commissioners Court of Dimmit County is hereby authorized to pay the District Judge of the 49th Judicial District, for additional services rendered to Dimmit County and for performing additional administrative duties, a reasonable sum not to exceed Twenty-four Hundred Dollars ($2,400) per annum.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation now
paid or authorized to be paid the District Judge of the 49th Judicial District.

[Acts 1961, 57th Leg., p. 176, ch. 93.]

Art. 6819a–30. Additional Compensation of District Court Judge of 79th Judicial District

Sec. 1. In addition to the compensation provided by law and paid by the State of Texas, the Commissioners Courts of Brooks, Duval, Jim Wells and Starr Counties are hereby each authorized respectively to pay to the District Judge of the 79th Judicial District for services rendered to the County, and for performing administrative duties, the sum of One Thousand, Two Hundred Dollars ($1,200) per annum, to be paid in twelve equal monthly installments.

Sec. 2. The compensation provided for in Section 1 shall be in addition to the compensation provided by law and paid by the State of Texas to district judges and shall be in lieu of all other compensation now paid or authorized to be paid by said counties to the District Judge of the 79th Judicial District.

[Acts 1961, 57th Leg., 1st C.S., p. 197, ch. 58.]

Art. 6819a–31. Additional Compensation of District Court Judges of 121st and 286th Judicial Districts

In addition to compensation provided by law and paid by the State, each of the Commissioners Courts in the 121st and 286th Judicial Districts may pay the judge of the District Court having jurisdiction in its county, for services rendered in performing administrative duties in the district, a sum to be set by the Commissioners Court in each county and to be paid in equal monthly installments.


Art. 6819a–32. Additional Compensation of District Court Judge of 64th Judicial District

In addition to the compensation provided by law and paid by the State, the Commissioners Court of Castro, Hale or Swisher County, or any or all of said counties, are hereby authorized to pay the District Judge of the 64th Judicial District, for services rendered to such counties and for performing administrative duties, a reasonable sum not to exceed Three Thousand Dollars ($3,000) per annum. Such sum may be apportioned by the three (3) counties and shall be in addition to all other compensation paid or authorized to be paid the District Judge of the 64th Judicial District. The total maximum additional compensation allowed under this Act shall be Three Thousand Dollars ($3,000).  

[Acts 1963, 58th Leg., p. 420, ch. 146, § 1.]  

Art. 6819a–33. Additional Compensation of District Court Judges of 128th, 163rd and 260th Judicial Districts

In addition to the compensation provided by law and paid by the state, the Commissioners Court of Orange County is hereby authorized to pay each of the judges of the 128th, 163rd, and 260th Judicial Districts, for services rendered to the county and for performing administrative duties, a reasonable sum to be set by the commissioners court. Such sum shall be in addition to all other compensation paid or authorized to be paid to each of the judges of the district courts having jurisdiction in Orange County.


Art. 6819a–34. Additional Compensation of District Court Judges of 72nd, 99th and 140th Judicial Districts

Sec. 1. (a) The Commissioners Court of Lubbock County shall pay to each of the Judges of the 99th and 140th Judicial Districts, for services rendered in performing administrative duties in Lubbock County, the sum of Thirty-five Hundred Dollars ($3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers salary fund of Lubbock County and the Commissioners Court of Lubbock County shall make proper budget provisions therefor.

(b) The Commissioners Courts of Lubbock and Crosby Counties shall pay to the Judge of the 72nd Judicial District, for services rendered in performing administrative duties therein, the sum of Thirty-five Hundred Dollars ($3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers salary fund of Lubbock and Crosby Counties as apportioned by the two (2) counties and the Commissioners Courts of Lubbock and Crosby Counties shall make proper budget provisions therefor.

Sec. 2. The compensation provided for in Section 1 shall be in addition to the compensation provided by law and paid by the State of Texas to District Judges and all other compensation now paid or authorized to be paid to the District Judges of the 72nd, 99th, and 140th Judicial Districts.

[Acts 1963, 58th Leg., p. 703, ch. 290.]

Art. 6819a–35. Additional Compensation of District Court Judges of 85th and 13th Judicial Districts

Sec. 1. In addition to the compensation provided by law and paid by the state, the Commissioners Court of Brazos County shall pay the district judge of the 85th Judicial District not less than Four Thousand Dollars ($4,000) per annum for performing administrative duties in Brazos County.

Sec. 2. In addition to the compensation provided by law and paid by the state, the Commissioners...
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Court of Navarro County shall pay the district judge of the 13th Judicial District, Four Thousand Dollars ($4,000) per annum for performing the duties of judge of the juvenile court.

[Acts 1963, 58th Leg., p. 916, ch. 347. Amended by Acts 1979, 66th Leg., p. 69, ch. 43, § 1, eff. April 11, 1979.]

Art. 6819a-36. Additional Compensation of District Court Judges of 47th, 108th and 181st Judicial Districts

Sec. 1. In addition to the compensation otherwise provided by law, the district judges of the 47th, 108th, and 181st Judicial Districts shall be paid for services rendered to the county or counties comprising each such district a sum of not less than $3,500 per annum and may be paid not more than $6,000 per annum. The minimum additional compensation of $3,500 shall be paid from the funds of the county or counties comprising each of the judicial districts by the commissioners courts of the counties in the same proportion as the population in each county bears to the total population of the counties comprising such judicial district, according to the last preceding federal census. The total additional remuneration paid to any one judge of the above-listed judicial districts under the provisions of this Act shall not exceed the sum of $6,000 per annum. The additional compensation provided for herein shall be paid in equal monthly installments.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation paid or authorized to be paid to the judges of the 47th, 108th, and 181st Judicial Districts.

Sec. 3. The compensation provided for in Sections 1 and 2 shall be in addition to all other compensation paid or authorized to be paid to the judges of the 47th and 108th Judicial Districts.

Sec. 4. Any District Judge of the state who may be assigned to sit for the judge of the 47th or 108th Judicial District, under the provisions of Article 200a, Revised Civil Statutes, may, while so serving, in addition to his necessary expenses, receive additional compensation from county funds in an amount not to exceed the difference between the pay of such visiting judge from all sources and that pay received from all sources by district judges in the counties affected by the provisions of this Act, such amount to be paid by the county upon approval of the presiding judge in which said court is located.


Art. 6819a-37. Additional Compensation of District Court Judges of 69th and 84th Judicial Districts

Sec. 1. The commissioners courts of Dallam, Deaf Smith, Hartley, Moore, Oldham and Sherman counties may pay to the District Judge of the 69th Judicial District, for services rendered in performing administrative duties therein, the sum of $9,000 annually. The sum provided for herein, if payment is approved, shall be paid by the counties composing such Judicial District in accordance with the proportion that the population of each county bears to the total population of the Judicial District, as shown by the last preceding federal census. The salary shall be paid in equal monthly installments, and may be paid out of the general fund or any other fund available for such purpose, as may be determined by the commissioners court of each county.

Sec. 2. The commissioners courts of Hansford, Hutchinson and Ochiltree counties may pay to the District Judge of the 84th Judicial District, for services rendered in performing administrative duties therein, the sum of $3,500 annually. The sum provided for herein, if payment is approved, shall be paid by the counties comprising such Judicial District in accordance with the proportion that the population of each county bears to the total population of the Judicial District, as shown by the last preceding federal census. The salary shall be paid in equal monthly installments and may be paid out of the general fund or any other fund available for such purpose as may be determined by the commissioners court of each county.

Sec. 3. The compensation provided for in Sections 1 and 2 shall be in addition to the compensation provided by law and paid by the State of Texas to District Judges.

[Acts 1965, 69th Leg., p. 385, ch. 185, eff. May 17, 1965.]


Art. 6819a-39. Additional Compensation for District Court Judges of 58th, 60th, 136th, 172nd Judicial Districts and Criminal District Court of Jefferson County

Sec. 1. In addition to the compensation paid by the State of Texas to the District Judges, the Commissioners Court of Jefferson County may pay District Judges of the 58th Judicial District, the 60th Judicial District, the 136th Judicial District, the 172nd Judicial District, and the Criminal District Court of Jefferson County, respectively, for services rendered to Jefferson County and for performing administrative duties, an annual sum of not more than Fifteen Thousand Dollars ($15,000) to each of said Judges, to be paid in equal monthly installments out of the General Fund or Officers Salary Fund of Jefferson County. Such compensation shall be for all judicial and administrative services now rendered by such Judges, and any additional judicial and administrative services hereafter to be assigned to them, and in addition to all salaries paid or hereafter to be paid to them by the State of Texas out of state revenues.

Sec. 3. The salary and compensation provided by this Act for the Judges of the aforesaid District Courts, Criminal District Court and Court of Domestic Relations shall be in lieu of the salary and compensation provided for said Judges as members of the Jefferson County Juvenile Board established by Chapter 68, Acts of the 56th Legislature, Regular Session, 1957 (Article 5139P, Vernon’s Texas Civil Statutes), provided, however, this Act shall not affect the salary and compensation authorized to be paid to the County Judge of Jefferson County as a member of the said Jefferson County Juvenile Board, nor shall this Act affect the existence or functions of said Board.

Sec. 1 of this Act is in addition to all other salary $5,000
functions of said Board.


Art. 6819a-40. Additional Compensation of County and District Court Judges in McLennan County

Sec. 1. (a) The Commissioners Court of McLennan County shall supplement the salary of the District Court Judges whose jurisdiction lies in McLennan County, the Judge of the County Court at Law of McLennan County, and the salary of the County Judge of McLennan County in an amount not less than $1,500 nor more than $5,000 a year for services rendered to the Juvenile Board of McLennan County.

(b) The Commissioners Court may also supplement District Judges’ salary by not more than $5,000 a year for administrative services rendered to the County.

Sec. 2. The supplemental salary described in Section 1 of this Act is in addition to all other salary now paid or authorized to be paid by the State to the Judges of the District Courts, of the County Court at Law and of the County Court of McLennan County.


Art. 6819a-41. Additional Compensation for District Court Judge of 137th Judicial District

Sec. 1. The Commissioners Court of Lubbock County shall pay to the Judge of the 137th Judicial District, for services rendered in performing administrative duties in Lubbock County, the sum of Three Thousand, Five Hundred Dollars ($3,500) annually. The sum provided for herein shall be paid in equal monthly installments out of the general fund or officers’ salary fund of Lubbock County and the Commissioners Court of Lubbock County shall make proper budget provisions therefor.

Sec. 2. The compensation provided for in Section 1 shall be in addition to the compensation provided by law and paid by the State of Texas to District Judges and all other compensation now paid or authorized to be paid to the District Judge of the 137th Judicial District.

[Acts 1965, 59th Leg., p. 979, ch. 473.]

Art. 6819a-42. Additional Compensation for District Court Judges in Webb County

Sec. 1. In addition to the compensation now paid or authorized to be paid by law, the judges of the district courts having jurisdiction in Webb County shall each be paid by the Commissioners Court of Webb County, Texas, a sum to be set by the commissioners in an amount not less than $2,000 per annum, payable in monthly installments out of the general fund, officers’ salary fund, jury fund, or any fund available for that purpose, for additional judicial and administrative services, and especially additional services rendered to Webb County in the trial of all criminal and civil cases ordinarily tried by a county court at law.

Sec. 2. The compensation provided for in Section 1 shall be in addition to all other compensation now paid or authorized to be paid to the judges of the district courts having jurisdiction in Webb County.


Art. 6819a-43. Additional Compensation for Judge of the 143rd Judicial District

In the 143rd Judicial District the district judge may receive annually, payable in monthly installments, a salary to be fixed by the commissioners court of each county, to be paid by the county out of the general or any other fund, as compensation for all judicial and administrative services rendered by the judge, and any additional judicial or administrative services hereafter to be assigned to the judge, in addition to all salaries paid or hereafter to be paid to the judge by the State of Texas out of state revenues. The salary fixed shall be a reasonable sum for performing such services not to exceed $6,000 per year, apportioned by the counties of the district on the basis of population according to the last preceding federal census.

[Acts 1971, 62nd Leg., p. 1192, ch. 291, § 1, eff. May 19, 1971.]

Art. 6819a-44. Additional Compensation for Juvenile Judges of the 23rd and 130th Judicial Districts

The commissioners court in each county in the 23rd Judicial District and the 130th Judicial District may pay the juvenile judge a sum not to exceed $1,500 per annum for performing the duties of judge of the juvenile court. The compensation provided for in this section shall be in addition to all

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Judges of the 24th Judicial District and the 135th Judicial District may receive from each of the counties, a reasonable sum to be set by the commissioners court, subject to the provisions of Section 2 of this Act, to be paid in equal monthly installments out of the general fund or officers salary fund of the respective counties. The commissioners courts shall make proper budget provisions for the payment thereof.

Sec. 2. The combined yearly salary from state and county sources of the District Judges of the 24th Judicial District and the 135th Judicial District may not exceed an amount which is $1,000 less than the combined yearly salary rate from state and county sources received by the judges of the court of civil appeals in whose district the aforementioned judicial districts are located.

[Acts 1977, 65th Leg., p. 312, ch. 146, eff. Aug. 29, 1977.]

Art. 6819a-47. Additional Compensation for Judges of the 51st and 119th Judicial Districts

Sec. 1. In addition to the compensation provided by law and paid by the state, the commissioners court of each county in either the 51st Judicial District or the 119th Judicial District may pay each district judge having jurisdiction in the county, for services rendered to the county and for performing administrative duties, an annual salary not to exceed that county’s proportionate share of $8,000 determined by the proportion that its population bears to the total population of the judicial district as shown by the last preceding federal census.

Sec. 2. The compensation provided for in Section 1 of this Act shall be in addition to all other compensation paid or authorized to be paid the district judges in each county in either the 51st or the 119th Judicial District.


Art. 6819a-48. Additional Compensation of District Court Judges in Montgomery County

Sec. 1. In addition to the compensation provided by law and paid by the State of Texas, and any other compensation authorized to be paid by any county, the Commissioners Court of Montgomery County may pay to the judges of the district courts having jurisdiction in Montgomery County, for services rendered to Montgomery County and for performing administrative duties, a sum to be set by the commissioners court, subject to the provisions of Section 2 of this Act, and to be paid in equal monthly installments out of the general fund or officers salary fund of the county. The commissioners court shall make proper budget provisions for the payment of the compensation authorized by this Act.

Sec. 2. The combined yearly salary from state and county sources of the judges of the district courts having jurisdiction in Montgomery County
may not exceed an amount which is $1,000 less than the combined yearly salary rate from state and county sources received by the associate justices of the court of civil appeals in whose district the district courts of Montgomery County are located.

[Acts 1979, 66th Leg., p. 1026, ch. 468, eff. June 7, 1979.]

Art. 6819a-49. Additional Compensation of District Court Judges in Fort Bend County

Sec. 1. In addition to the compensation provided by law and paid by the state and any other compensation authorized to be paid by the county, the Commissioners Court of Fort Bend County may pay to the judges of the district courts having jurisdiction in Fort Bend County, for services rendered to the county and for performing administrative duties, a sum to be set by the commissioners court, subject to the provisions of Section 2 of this Act, and to be paid in equal monthly installments from funds of the county.

Sec. 2. The combined yearly salary from state and county sources of the judges of the district courts having jurisdiction in Fort Bend County may not exceed an amount that is $1,000 less than the combined yearly salary rate from state and county sources received by the associate justices of the courts of appeals of the supreme judicial districts in which Fort Bend County is located.


Art. 6819a-50. Additional Compensation for Judge of 229th Judicial District

Sec. 1. In addition to the compensation provided by law and paid by the state, the commissioners court of each county in the 229th Judicial District may pay the judge of the 229th District Court, for judicial, administrative, and all other services, an annual salary not to exceed that county's proportionate share of $5,000, determined by the proportion that its population bears to the total population of the judicial district as shown by the last preceding federal census.

Sec. 2. Notwithstanding any other provision of the law, the compensation provided for in Section 1 of this Act shall be the total compensation paid the judge of the 229th District Court by the counties in the district, but shall be in addition to all compensation paid by the state to the judge of the 229th District Court.


Art. 6819a-51. Additional Compensation of District Court Judges in Hidalgo County

In addition to the salary paid by the state, the commissioners court of Hidalgo County may pay each judge of the district courts having jurisdiction in Hidalgo County, for services rendered to the county and for performing administrative duties, a sum to be set by the commissioners court and to be paid in equal monthly installments from funds of the county. A district judge may not receive any other compensation from that county.


Art. 6819a-52. Additional Compensation of District Court Judge in Kleberg County

(a) In addition to the compensation provided by law and paid by the state and any other compensation authorized to be paid by any county, the Commissioners Court of Kleberg County may pay the judges of the district courts having jurisdiction in Kleberg County, for services rendered to the county and for performing administrative duties, a sum to be set by the commissioners court in an amount not less than $6,000 per year, but subject to the provisions of Subsection (b) of this section.

(b) The combined yearly salary from state and county sources of the judges of the district courts having jurisdiction in Kleberg County may not exceed an amount that is $1,000 less than the combined yearly salary rate from state and county sources received by the associate justices of the court of appeals in whose district the district courts of Kleberg County are located.

[Acts 1983, 68th Leg., p. 4632, ch. 794, § 2.]

Section 3 of the 1983 Act provides:

"This Act takes effect on the date a county court at law or a circuit court in Kleberg County is created or January 1, 1986, whichever date occurs first."

Art. 6819a-53. Additional Compensation for Judge of 118th Judicial District

Sec. 1. In addition to the compensation provided by law and paid by the state and all other compensation paid or authorized to be paid by the county to the judge of the 118th Judicial District, the Commissioners Court of Howard County may pay the judge of the 118th Judicial District a sum, to be set by the commissioners court, for services rendered in performing administrative duties.

Sec. 2. The compensation authorized by this Act shall be paid in equal monthly installments from county funds.

Sec. 3. The combined annual salary from state and county sources, including the compensation authorized by this Act, of the judge of the 118th Judicial District may not exceed an amount that is equal to $1,000 less than the combined annual salary from state and county sources of the judges of the court of appeals in whose district Howard County is located.


Art. 6819a-54. Additional Compensation for District Court Judge in Polk County

In addition to the salary paid by the state, the Commissioners Court of Polk County may pay each judge of the district courts having jurisdiction in
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Polk County, for services rendered to the county and for performing administrative duties, a sum to be set by the commissioners court and to be paid in equal monthly installments from county funds.

[Aets 1933, 68th Leg., p. 5082, ch. 921, § 4, eff. Aug. 23, 1933.]

Art. 6819b. Salaries of Court Officers

The salaries of the District Attorneys of the State of Texas, the State's Attorney before the Court of Criminal Appeals, the clerks of the Supreme Court, Court of Criminal Appeals and Courts of Appeals and the salaries of the other officers and employees of the Supreme Court of the State of Texas, the Court of Criminal Appeals and the Courts of Appeals, shall be as determined by the Legislature in its various appropriation Acts for the support of the Judiciary of this State.


Art. 6819c. Expenditures for Law Books for Courts of Civil Appeals

All amounts appropriated in this Act 1 for law books, or expended therefor under authority of this Act, shall be paid out of the special accounts in the General Revenue Fund provided for in Section 6 2 hereof. Annual expenditures for law books shall not however, exceed the respective itemized amounts appropriated for each of said courts.

[Aets 1935, 44th Leg., p. 908, ch. 355, § 4.]

1 Articles 6819a to 6819d.

2 Article 6819d.

Art. 6819d. Fees Deposited in General Revenue Fund

All fees paid to any court for which appropriations are made herein or to any of the clerks, officers or employees of any such court, whether such fees are for official or unofficial copies of opinions, or for other services or documents, shall be deposited at the close of each month in the General Revenue Fund of the State Treasury and shall be carried as a special account in said Fund for the court depositing same, and none of such fees shall be retained by or paid to said clerks, officers or employees. Each court employing whose salary is provided for therein has been filed for that month.

[Aets 1935, 44th Leg., p. 908, ch. 355, § 6.]

Art. 6819e. Repealed by Acts 1947, 50th Leg., p. 54, ch. 42, § 2

Art. 6820. Judicial District Expenses

All district judges and district attorneys when engaged in the discharge of their official duties in any county in this state other than the county of their residence, shall be allowed their traveling and other necessary expenses, as provided by the Travel Regulations Act of 1959, while actually engaged in the discharge of such duties. Such officers shall also receive the actual and necessary postage, telegraph and telephone expenses incurred by them in the actual discharge of their duties. Such expenses shall be paid by the state upon the sworn and itemized account of each district judge or attorney entitled thereto, showing such expenses.


Art. 6821. Special Judges

The salaries of special judges commissioned by the Governor in obedience to Section 11, Article 5, of the Constitution, or elected by the practicing lawyers or agreed upon by the parties as provided by law, shall be determined and paid as follows:

1. Each special judge shall receive the same pay as district judges for every day that he may be occupied in performing the duties of judge, and those commissioned by the Governor shall also receive the same pay as district judges for every day they may be necessarily occupied in going to and returning from the place where they may be required to hold court.

2. The amount of such salary shall be ascertained by dividing the salary allowed a district judge by three hundred and sixty-five, and then multiplying the quotient by the number of days actually served by the special judge.

3. A judge so commissioned shall, in order to obtain his salary, present his sworn account to the Comptroller, showing the number of days necessarily occupied in going to and returning from such place, accompanied by evidence that he was duly commissioned. Such account shall be certified to be correct by the judge of the district, or by the clerk of the court in which the services were performed.

4. A judge so elected or agreed upon shall be paid for his services on presentation to the Comptroller of the certificate of the clerk of the court in which such services were performed, showing the record of such election or appointment and services, and accompanied by the sworn account of such judge showing the number of days actually served by him as such special judge.

[Aets 1925, S.B. 84.]
Art. 6822. Salaries of Employees

Any deputy, assistant clerk or any employee authorized by the laws of this State to be appointed by the head of any department of the State Government, shall, when his salary is not fixed or provided for by law, receive such salary as the Legislature shall from time to time appropriate.

[Acts 1925, S.B. 84.]

Art. 6822a. State Employees Injured or Killed in Performance of Governmental Functions or While Exposed to Unavoidable Dangers; Payment of Expenses

Sec. 1. The Legislature is hereby authorized to appropriate public funds for the purpose of paying for drugs and medical, hospital, laboratory, and funeral expenses of state employees injured or killed while engaged in performance of a necessary governmental function assigned to the employee, or where the duties of such employee require the employee to expose himself to unavoidable dangers peculiar to the performance of a necessary governmental function.

Sec. 2. Agencies of the state are hereby authorized to expend appropriated funds for the purpose of paying for drugs and medical, hospital, laboratory, and funeral expenses to those state employees under their jurisdiction and control only when such employees are engaged in the activities described in Section 1 of this Act, and only to the extent authorized by appropriations made by the Legislature.

Sec. 3. The payment of the expenses provided for in Section 1 of this Act is authorized to be made in addition to other prerequisites of employment now authorized by law.

[Acts 1934, 59th Leg., p. 938, ch. 377.]


Art. 6823a. Travel Regulations Act of 1959

Short Title

Sec. 1. This Act is the "Travel Regulations Act of 1959."

Application of Act

Sec. 2. The provisions of this Act shall apply to all officers, heads of state agencies, state employees, and prospective state employees incurring expenses when requested to visit a state agency, department, or institution of higher education for the purpose of being interviewed and evaluated for employment. Heads of state agencies shall mean elected state officials, excluding members of the Legislature who shall receive travel reimbursement as provided by the Constitution, appointed state officials, appointed state officials whose appointment is subject to Senate confirmation, directors of legislative interim committees or boards, heads of state hospitals and special schools, and heads of state institutions of higher education.

Basis of Reimbursement or Advance; Per Diem and Transportation Allowance: Rate and Computation; Revolving Petty Cash Fund

Sec. 3. a. A reimbursement or advance from funds appropriated by the Legislature for traveling and other necessary expenses incurred by the various officials, heads of state agencies, and employees of the state in the active discharge of their duties shall be on the basis of either a per diem or actual expenses as specifically fixed and appropriated by the Legislature in General Appropriation Acts. A per diem allowance shall mean a flat daily rate payment in lieu of actual expenses incurred for meals and lodging and as such shall be legally construed as additional compensation for official travel purposes only.

b. The rate of per diem and transportation allowance and method of computing those rates shall be those set forth in General Appropriation Acts providing for the expenses of the state government from year to year.

c. All agencies, boards, commissions, departments, and institutions are authorized to establish a revolving petty cash fund out of funds in the State Treasury or local funds in accordance with Section 6, Subsection g of this Article. The sole purpose of the petty cash fund shall be to advance projected travel expense. This fund shall be reimbursed by warrants drawn and approved by the Comptroller of Public Accounts out of funds in the State Treasury or checks drawn against funds held outside the treasury.

Acceptance of Money From Corporation or Person Under Examination; Violation

Sec. 4. Unless otherwise provided by law, officers and employees traveling to the performance of their official duties shall not accept any sums of money for wages or expenses, from any corporation, firm, or person who may be or is being audited, examined, inspected or investigated, and must receive their travelling expenses from the amounts appropriated in the Appropriation Acts. The Comptroller is hereby prohibited from paying the salary of any employee of the state who violates these provisions.

Advanced Approval of Governor; Travel Outside United States

Sec. 5. Any travel connected with official business of the state for which reimbursement for travel expenses incurred is claimed or for which an advance for travel expenses to be incurred is sought, with the exception of travel to, in, and from the several states, United States possessions, Mexico, and Canada, must have the advance written approval of the Governor. Blanket authority by the Governor may be given to the International Trade Development Division personnel of the Texas Indus-
trial Commission and to the Department of Public Safety to law enforcement personnel.

Rules and Regulations; Standard Expense Account Forms; Reimbursement or Advance Payment for Travel by Private Conveyance; Overpayment

Sec. 6. a. The Comptroller of Public Accounts is to promulgate rules and regulations to facilitate the execution of the travel regulations, as defined in this Act or as may hereafter be contained in General Appropriations Acts, and shall, with the concurrence of the State Auditor, prescribe the form on which travel expenses are to be submitted. The Comptroller shall approve claims for travel expense and issue warrants on basis of approved claims.

Such rules and regulations as are prescribed by the Comptroller shall be subject to final approval by the Attorney General. After such approval has been given, official copies of the rules and regulations, including administrative policies and/or interpretations of these rules and regulations, shall be filed with the Secretary of State.

b. Standard expense account forms shall be used by all state agencies in preparing the expense accounts for traveling state employees. Such forms shall contain information stating (1) the point of origin and the town, place or point of destination of each trip and the reimbursable mileage travelled, or projected, between each point, town, or place. This provision shall also apply to intra-city mileage; (2) the actual period of time the employee is away, or plans to be away, from his designated headquarters entitling him to travel expenses; and (3) a brief statement which clearly shows the purpose of the trip and the character of official business performed or to be performed.

c. In determining transportation reimbursement or advance payment for travel by private conveyance, the Comptroller shall determine the mileage by shortest highway distance between point of origin and the destination via intermediate points at which official state business is conducted and other necessary mileage at points where official state business is conducted. In determining the amounts of reimbursement or advance payment for transportation by personal car within the State, the Comptroller shall compute all distances according to the shortest route between points. In determining the amount of reimbursement or advance payment for transportation by personal car within this state, the Comptroller shall adopt a mileage guide including a chart of distances showing the shortest route between points, and which shall include all Farm-to-Market roads and shall be reissued annually.

d. When two or more employees travel in a single private conveyance, only one shall receive a transportation allowance, but this provision shall not preclude each traveler from receiving a per diem allowance.

e. When two, three, or four officials or employees of the same state agency with the same itinerary on the same dates are required to travel on the same official state business for which travel reimbursement for mileage in a personal car is claimed, or for which an advance payment is sought, a payment will be claimed and allowed for only one of the employees except as provided hereafter. To the extent of mileage claimed, the Comptroller shall consider such travel claims as multiple claims and may pay only one such claim. If more than four employees attend such meeting or conference in more than one car, full mileage shall be allowed for one car for each four employees and for any fraction in excess of a multiple of four employees. If, in any instance, it is not feasible for these officials or employees to travel in the same car, then prior official approval from the head of the state department or agency shall be obtained and shall be considered as authorization and the basis for reimbursement, or advance payment, for travel for each person authorized to use his personal car in such travel.

f. Should an officer or employee of the state receive an overpayment for travel expenses from money appropriated in the Appropriations Acts, he is to reimburse the state for such overpayment.

g. The Comptroller shall, by promulgation of appropriate rules and regulations, establish a procedure by which a state officer or employee may receive in advance the projected travel expense to be incurred in a particular exercise of official duties. The Comptroller shall require a final accounting after the actual travel expense has been determined to provide for reimbursement and adjustment, as necessary, to equalize the allowance and the actual expense incurred.

Double Travel Expense Payments; Compensation by Non-State Agency

Sec. 7. Double travel expense payments to state officials or employees are prohibited. When an employee engages in travel for which he is to be compensated by a non-state agency, he shall not receive any reimbursement, and may not seek an advance payment, for such travel from authorized amounts in the General Appropriation Acts.

Local Transportation Allowance; Limits

Sec. 8. An employee whose duties customarily require travel within his designated headquarters may be authorized a local transportation allowance for this travel. Such allowance, however, may not exceed the transportation allowance for use of a privately owned automobile as set by the Legislature in the General Appropriations Acts, except that an employee with a physical handicap which precludes his personal operation of a privately owned automobile may, without regard to the standard otherwise set in the General Appropriations Acts, be authorized a reasonable transportation allowance not to exceed the amount to which such handicapped employee would be entitled for similar travel occurring outside of his designated headquarters.
Sec. 11. None of the provisions of this Act shall apply to reimbursement for travel expenses incurred by officials or employees of athletic departments of the institutions of higher education, to reimbursement for travel expenses to officials or employees of athletic departments of the institutions of higher education from post of duty and the hour and date he returned to said post of duty.

Public Conveyances; Courtesy Cards

Sec. 10. The provisions of this Act shall not preclude reimbursement of claims, or requests for advance payments, by officials or employees for use of public conveyances. Transportation is authorized by courtesy cards for air, rail and bus lines.

Exclusions

Sec. 11. None of the provisions of this Act shall apply to reimbursement for travel expenses incurred by officials or employees of athletic departments of the institutions of higher education, to reimbursement for travel expenses to officials or employees of institutions of higher education from gifts or bequests, or to reimbursement for travel expenses of officials or employees when expenses for such travel are paid or reimbursed to the institutions of higher education under provisions of contracts between the institutions and the Federal Government or other contracting agencies. The governing boards of the respective institutions of higher education shall make such necessary rules and regulations as may be deemed advisable for the administration and control of such travel.


Art. 6824. Change in Salary

The salaries of officers shall not be increased nor diminished during the term of office of the officers entitled thereto, provided, however, that the members of the Legislature by majority vote may at any time set their salaries at any amount within the Constitutional limit.

[Acts 1931, 42nd Leg., p. 9, ch. 7, § 1.]

Art. 6825. Salary of Women

All women performing public service for this State shall be paid the same compensation for their service as is paid to men performing the same kind, grade and quantity of service, and there shall be no distinction in compensation on account of sex.

[Acts 1925, S.B. 84.]

Art. 6826. How Paid

Sec. 1. Except as provided by Section 2 of this article, annual salaries provided for in this title shall be paid monthly on warrants drawn by the Comptroller on the Treasurer.

Sec. 2. An employee of the Texas Department of Mental Health and Mental Retardation, State Department of Highways and Public Transportation, Texas Department of Human Resources, or Texas Employment Commission or of any other state agency designated by the Comptroller is entitled to be paid his employment compensation twice a month if:

(1) the employee holds a classified position under the state's position classification plan;

(2) the position is classified below salary group 12 under the classification salary schedule prescribed by the General Appropriations Act;

(3) the employee's agency meets the requirements established by the Comptroller relating to the payment of compensation twice a month; and

(4) at least 30 percent of the eligible employees of the agency participate in the program to pay compensation twice a month.


Art. 6825a. Expired

This article, derived from Acts 1943, 48th Leg., p. 3, ch. 3, § 1, authorized compliance with the Federal Victory Income Tax, to be in force and effect only so long as the United States was at war with Germany, Japan or Italy.

Art. 6827. Evidence of Qualification

Upon demand of any citizen of this State, the Comptroller, Treasurer, commissioners courts, county treasurers and all other officers of this State or of any municipal division thereof, who are authorized or required by law to audit, pay or order to be paid, claims due from the State, or any county or municipal division thereof, to any person as salary, fees, compensation, perquisites or emoluments for official services rendered by such person as an officer thereof, before auditing, paying or ordering payment of such claim, shall require such claimant to produce the certificate of his election or appointment to such office directed by the laws of this
State to be issued to such officer, or if his claim be founded upon the judgment or decree of a court of this State authorized by law to hear and determine the claims of persons to office, then a copy of the record of such judgment or decree certified under the hand and seal of the legal custodian of such record to be a true copy thereof.

[Acts 1925, S.B. 84.]

Art. 6828. Unauthorized Officers

It shall be unlawful for any officer or court of this State, or of any municipal division thereof, to allow, audit, pay or order to be paid, the claim of any person for salary, compensation, fees, perquisites, emoluments or services, as an officer of the State or of any municipal division thereof, except to such person as has been duly elected such officer by the qualified voters of this State, and whose election has been ascertained and certified or declared in the manner required by law, or who has been appointed such officer by the lawful appointing power under the Constitution and laws of this State, or who has been adjudged entitled thereto by a State court of competent jurisdiction, and has qualified as such officer by the lawful appointing power under the Constitution and laws of this State, or who has been adjudged entitled thereto by a State court of competent jurisdiction, and has qualified as such officer in accordance with law. Any person not so elected, appointed and qualified shall not be entitled to receive pay for services as such officer, or to exercise the powers or jurisdiction of such officer. The official acts of any person claiming a right to exercise such power or jurisdiction contrary to the provisions of this law shall be void.

[Acts 1925, S.B. 84.]

Art. 6829. Other Salaries

The enumeration of various officers and their salaries in this title shall not operate to repeal or affect provisions of law found elsewhere in the statutes, or in any appropriation bill permitting or authorizing the existence, or prescribing the compensation of other officers.

[Acts 1925, S.B. 84.]

Art. 6829a. Waiver of Pay by State or District Officers While on Military Duty

Sec. 1. Any person holding a State or District office in the State of Texas, whether as a member of the executive, legislative or judicial departments, when called into the military service of either the State or National Governments, is hereby authorized to file with the Comptroller of Public Accounts of the State, a statement or certificate in writing, to the effect that he waives the payment of his salary or pay or the emoluments of his said office during the period of his military service and authorizing the payment of such salary, pay or emoluments of his office to any other person, who, under the provisions of any law of this State is appointed or elected to temporarily fill such civil office during the absence of such officer, such waiver or assignment to terminate immediately upon the release or discharge of said officer from such military service.

Sec. 2. Such waiver or assignment shall be sufficient authority for the Comptroller of Public Accounts of the State of Texas to issue State warrants and to pay such person so holding such officer's position during his absence in military service out of appropriations made by the Legislature for such office.

Sec. 3. The filing with the Comptroller of Public Accounts of the State of Texas of such waiver or assignment provided for in this Act shall never be construed by any Court of this State to be a resignation from his office by the person entering the military service of the State or National Governments or that his office is vacant by reason thereof.

[Acts 1943, 48th Leg., p. 693, ch. 384.]
TITLE 118
SEAWALLS

Art. 6830. Commissioners' Court May Construct Levees.
6830a. Seawall Commission.
6831. May Use Streets and Alleys.
6832. Eminent Domain.
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6839f. Cooperation and Contracts With United States or Agencies Thereof.
6839g. Commissioners' Courts Authorized to Construct Breakwaters; Certain Gulf Counties Exempted.

Art. 6830a. Seawall Commission

Sec. 1. (a) The commissioners court of Matagorda County and the governing body of a city in the county may by resolution establish a seawall commission to perform the functions described by Article 6830, Revised Statutes.

(b) The jurisdiction of the commission extends only to county commissioner precinct number three in Matagorda County, as the precinct existed on December 31, 1959, but excluding the city of Bay City, Texas.

Sec. 2. (a) The resolution of the commissioners court and the resolution of the governing body of the city shall specify the date of the creation of the seawall commission.

(b) A seawall commission shall be composed of three members who hold office for staggered terms of six years with one member's term expiring every two years. The governing body of the city shall appoint one member to the commission, and the commissioners court shall appoint one member to the commission. The third member shall be appointed by the commissioners court and the governing body of the city acting jointly as an appointive body. On the expiration of the term of office of a member, the office shall be filled by the authority that originally appointed a person to the office. A vacancy on the commission shall be filled for the remainder of the term of the vacant office by the authority that originally appointed a person to the office.

(c) The members of the commission annually shall elect one member as chairman, who shall preside over meetings of the commission. Two members constitute a quorum.

Sec. 3. (a) The commission may impose a tax on the real property located in the area under the commission's jurisdiction.

(b) The rate of the tax is 10 cents per $100 valuation of property.

(c) The tax revenue may be used only to finance the functions of the commission.

(d) The commission shall submit a report to the county and the city once each year describing its financial condition and its operations during the preceding year and proposing a budget for the next year. The report shall contain a general description of the work proposed to be done during the next year.

Sec. 4. The commission may enter into a contract relating to the performance of any of the functions described by Article 6830, Revised Statutes. To perform its functions, the commission may disburse funds set aside by the city and the county for that purpose. The chairman of the commission...
Art. 6830a

shall sign all contracts, warrants, and other instruments made or issued by the commission.

[Acts 1925, 68th Leg., p. 6237, ch. 458, § 1, eff. June 17, 1925.]

Section 2 of the 1983 Act provides:

“The term of office of the initial city-appointed member of the commission expires on the date that is two years from the date of the commission’s creation. The term of office of the initial county-appointed member expires on the date that is four years from the date of the commission’s creation. The term of office of the initial member appointed jointly by the city and county expires on the date that is six years from the date of the commission’s creation.”

Art. 6831. May Use Streets and Alleys

Said county commissioners’ court, and municipal authorities, shall have the power to impose such additional uses and burdens upon all streets, alleys, public highways and other public grounds as they may deem necessary for the location, erection, construction and maintenance of seawalls, breakwaters, levees, dikes, floodways and drainways, and to license, regulate or grant such additional uses of said seawalls, breakwaters, levees, dikes, floodways or drainways as will not impair their efficiency.

[Acts 1925, S.B. 84.]

Art. 6832. Eminent Domain

Said counties and cities shall have the power to take and appropriate such land and other property as may be deemed necessary for the establishment, location, construction and maintenance of said seawalls, breakwaters, levees, dikes, floodways and drainways, and to define the area of land needed, and to acquire, take, hold and enjoy the same for the purposes aforesaid, and to that end shall have the right to exercise the right of eminent domain and to condemn lands for the uses and purposes aforesaid, in the manner and under the conditions provided by law in case of railroad corporations; provided, nevertheless, that said county commission­ers’ court, or said municipal authorities, shall be empowered to take the fee simple estate to the land condemned or acquired hereunder, whenever deemed necessary for the purposes of this Act; and, provided, further, that before exercising the power of eminent domain hereunder said county commis­sioners’ court, or said municipal authorities, shall, by order, ordinance, or resolution duly entered on the minutes of the county commissioners’ court, of the city council, define and describe lands needed, and determine whether an easement or fee simple estate in said land shall be taken.

[Acts 1925, S.B. 84.]

Art. 6833. Bonds: Election

Before issuing said bonds the commissioners court or governing body shall prescribe the amount to be issued, the rate of interest thereon, and provide for an election to vote for or against the proposed taxation.

[Acts 1925, S.B. 84.]

Art. 6834. Election: Commissioners’ Court to Secure List of Voters

For the purpose of ascertaining whether two-thirds majority of the qualified voters voting thereon who are resident property taxpayers in said county or city have voted in favor of said proposed taxation, the Commissioners Court or governing body shall secure from the Tax Collector of the county a list of all the qualified voters in said county or city, as the case may be, and in addition to any other notice required by law, the Commissioners Court or governing body shall mail to each qualified voter therein a copy of such proposition as submitted at least ten (10) days before the date of such election. Before any bonds shall be issued hereunder, the proposition to levy a tax to pay the interest and sinking fund on such bonds shall be submitted to the qualified voters who are property taxpayers of such county or city; said election to be held and said bonds issued and sold as provided in Article 1, Title 22, Revised Civil Statutes of Texas, 1925. The ballots in said election shall contain the words in substance: “In Favor of the Proposed Tax,” or “Against the Proposed Tax.”


Art. 6835. Result of Election

The Commissioners Court or governing body, as soon as practicable after said election, shall meet and canvass the returns thereof and ascertain and record in the Minutes the result as shown by said returns. If said Commissioners Court or governing body shall find that due notice of said election and submission of said question has been made to all of the qualified voters who are taxpayers in said county or city as herein provided and that in said election two-thirds majority of the qualified voters who are resident property taxpayers voting thereon in said election voted in favor of the said tax, such Commissi­oners Court, or governing body shall be authorized to issue the bonds and levy the tax for the purposes provided in this Title.

[Acts 1925, S.B. 84. Amended by Acts 1930, 41st Leg., 4th C.S., p. 73, ch. 35; Acts 1933, 43rd Leg., p. 375, ch. 146.]

Art. 6836. Sinking Fund

Whenever bonds are issued under this title, the commissioners court, or governing body, shall annually levy, assess and collect, in the mode prescribed by law for other county or municipal taxes, a tax on the real estate and personal or mixed property in said county or city, sufficient to pay the interest and provide a sinking fund of not less than two per cent of the principal of all of said bonds. All taxes collected by virtue hereof shall be held in trust by
said county, or city, as a special and inviolable fund for the payment of interest and principal of said bonds; provided, that any surplus above the amount required to meet the annual interest may be invested for the benefit of the sinking fund in the bonds issued hereunder, or in the bonds of the State of Texas, or of the United States.

[Acts 1925, S.B. 84.]

Art. 6837. Cession of State Lands

The right to the use and control for the purposes prescribed by this title, of so much of the land and sea bottom below high tide as may be deemed necessary by said commissioners court or governing body, is hereby ceded by the State, or the Governing Body of any city, district, or political subdivision, to the county, or city, as a special and inviolable fund for the payment of the annual interest may be invested, as provided by this title, of such county, or city, or the governing body of such county, or city, or political subdivision.

[Acts 1925, S.B. 84.]

Art. 6838. Custodians of Funds

All funds, revenues and moneys derived from the sale of the bonds herein authorized shall be deposited with the County or City Treasurer, as the case may be, and shall be held in trust exclusively for the purposes named in this title. All moneys derived from the assessment and levy of taxes as aforesaid are declared to be a trust fund for the payment of principal and interest of bonds to be issued under this title.


Art. 6839. General Laws to Govern

All bonds issued hereunder shall be issued under and subject to the provisions of the laws regulating bonds issued by cities and counties, in so far as said laws do not conflict with the provisions of this title. The provisions of this title shall apply to all cities bordering on the coast of the Gulf of Mexico, whether incorporated by general or special laws.

[Acts 1925, S.B. 84.]

Art. 6839a. Grant of Seawall Right of Way

Any county may donate and grant to the State of Texas or to any eleemosynary institution incorporated under the laws of the State of Texas and operating without profit, but for the benefit of the public, such portions of any seawall right of way as may have been heretofore acquired by such county, and by the Commissioners' Court of such county deemed proper to be so granted, and upon any such Commissioners' Court so determining, the county judge of such county may convey such property in accordance with the order of said Commissioners' Court.

[Acts 1929, 41st Leg., p. 398, ch. 144, § 1.]

Art. 6839b. Validating Seawall Bonds

Sec. 1. Wherever the Commissioners' Court of any County, or the Governing Body of any City, District or political subdivision of this State has ordered an election for the issuance of Seawall Bonds, pursuant to Section 7 of Article 11 of the State Constitution, and a two-thirds majority of the qualified property tax paying voters of such County, City, District, or Political Subdivision, voting at such election, authorize the issuance of said bonds and the levy of the tax in payment thereof, and the Commissioners Court of such County, or the Governing Body of such City, District or Political Subdivision, has canvassed the returns of the election held for such purpose, and by order, ordinance or resolution, duly passed and entered of record, has found and declared that such bonds were authorized by a two-thirds majority of the qualified property tax paying voters, voting at such election, and, thereupon, by proper order, ordinance or resolution, has authorized the issuance of bonds for the construction of such Seawalls and levied an ad valorem tax to pay the principal and interest thereof at maturity, and has prescribed the date, maturity, rate of interest such bonds are to bear, the place of payment of principal and interest, each such election and all acts and proceedings had and taken in connection therewith by such Commissioners' Court, or the Governing Body of any City, District or Political Subdivision in this State, the levy of taxes and the provision made for the payment of the interest and the sinking fund for the payment of the principal of such bonds, are hereby legalized, approved and validated, and such bonds so authorized are hereby validated and constituted the legal obligations of such County, City, District or Political Subdivision, and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and the Commissioners' Court, or the Governing Body of any such City, District or Political Subdivision, is hereby expressly authorized and directed to provide for the payment of the interest and principal of any such bonds by the levy of taxes and appropriations of revenues in the time and manner prescribed by statute.

Sec. 2. The Legislature hereby specifically exercises the power vested in it by Section 7 of Article 11 of the State Constitution to provide for the authorization upon a two-thirds vote of the taxpayers in Counties and Cities bordering on the Coast of the Gulf of Mexico, and hereby finds that the manner in which any such County, City, District, or Political Subdivision has ascertained that a two-thirds vote of such taxpayers was had, is legal and valid. The Legislature specifically finds that where two-thirds of the taxpayers voting at such election voted for the levy and collection of such taxes and the issuance of bonds, said taxes and bonds have been validly and legally authorized.

[Acts 1930, 41st Leg., 5th C.S., p. 119, ch. 6.]

Art. 6839c. Validating Bond Authorization for Seawall Construction

Sec. 1. Wherever the Commissioners' Court of any county, or the governing body of any city, district, or political subdivision of this State has ordered an election for the issuance of Seawall.
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Bonds, pursuant to Section 7 of Article 11 of the State Constitution, and a two-thirds majority of the qualified property tax paying voters of such county, city, district, or political subdivision, voting at such election, authorize the issuance of said bonds and the levy of the tax in payment thereof, and the Commissioners' Court of such county, or the governing body of such county, district, or political subdivision, has canvassed the returns of the election held for such purpose, and by order, ordinance, or resolution, duly passed and entered of record, has found and declared that such bonds were authorized by a two-thirds majority of the qualified property tax paying voters, voting at such election, and thereupon, by proper order, ordinance, or resolution, has authorized the issuance of bonds for the construction of such seawalls and levied an ad valorem tax to pay the principal and interest thereof at maturity, and has prescribed the date, maturity, rate of interest such bonds are to bear, the place of payment of principal and interest, each such election and all acts and proceedings had and taken in connection therewith by such Commissioners' Court, or the governing body of any city, district, or political subdivision in this State, the levy of taxes and the provision made for the payment of the interest and the sinking fund for the payment of the principal of such bonds, are hereby legalized, approved and validated and constituted the legal obligations of such county, city, district, or political subdivision, and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and such bonds so authorized are hereby validated and constituted the legal obligations of such county, city, district, or political subdivision, and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and the Commissioners Court of such county, or the governing body of any such county, city, district, or political subdivision in this State, the levy of taxes and the provision made for the payment of the interest and the sinking fund for the payment of the principal of such bonds, are hereby legalized, approved and validated, and such bonds so authorized are hereby validated and constituted the legal obligations of such county, city, district, or political subdivision, and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and the Commissioners Court, or the governing body of any such city, district, or political subdivision, is hereby expressly authorized and directed to provide for the payment of the interest and principal of any such bonds by the levy of taxes and appropriations of revenue in the time and manner prescribed by Statute.

Sec. 2. The Legislature hereby specifically exercises the power vested in it by Section 7 of Article 11 of the State Constitution to provide for the authorization upon a two-thirds vote of the taxpayers in counties and cities bordering on the Coast of the Gulf of Mexico, and hereby finds that the manner in which any such county, city, district, or political subdivision has ascertained that a two-thirds vote of such taxpayers was had, is legal and valid. The Legislature specifically finds that where two-thirds of the taxpayers voting at such election voted for the levy and collection of such taxes and the issuance of bonds, said taxes and bonds have been validly and legally authorized.

[Acts 1931, 42nd Leg., 1st C.S., p. 82, ch. 38.]

Art. 6539d. Validation of County or Municipal Seawall Bonds

Sec. 1. Wherever the Commissioners' Court of any county, or the governing body of any city, district or political subdivision of this State has ordered an election for the issuance of sea wall bonds, pursuant to Section 7 of Article 11 of the State Constitution, and a two-thirds majority of the qualified property tax paying voters of such county, city, district, or political subdivision, voting at such election, authorize the issuance of said bonds and the levy of the tax in payment thereof, and the Commissioners Court of such county, or the governing body of such county, district or political subdivision, has canvassed the returns of the election held for such purpose, and by order, ordinance or resolution, duly passed and entered of record, has found and declared that such bonds were authorized by a two-thirds majority of the property tax paying voters, voting at such election, and, thereupon, by proper order, ordinance or resolution, has authorized the issuance of bonds for the construction of such sea walls and levied an ad valorem tax to pay the principal and interest thereof at maturity, and has prescribed the date, maturity, rate of interest such bonds are to bear, the place of payment of principal and interest, each such election and all Acts and proceedings had and taken in connection therewith by such Commissioners Court or the governing body of any city, district, or political subdivision in this State, the levy of taxes and the provision made for the payment of the interest, and the sinking fund for the payment of the principal of such bonds, are hereby legalized, approved and validated, and such bonds so authorized are hereby validated and constituted the legal obligations of such county, city, district, or political subdivision, and all acts of such bodies in respect to the issuance of such bonds are hereby legalized and validated, and the Commissioners Court, or the governing body of any such city, district, or political subdivision, is hereby expressly authorized and directed to provide for the payment of the interest and principal of any such bonds by the levy of taxes and appropriations of revenues in the time and manner prescribed by Statute.

Sec. 2. The Legislature hereby specifically exercises the power vested in it by Section 7 of Article 11 of the State Constitution to provide for the authorization upon a two-thirds vote of the taxpayers in counties and cities bordering on the Coast of the Gulf of Mexico, and hereby finds that the manner in which any such county, city, district or political subdivision has ascertained that a two-thirds vote of such taxpayers was had, is legal and valid. The Legislature specifically finds that where two-thirds of the taxpayers voting at such election voted for the levy and collection of such taxes and the issuance of bonds, said taxes and bonds have been validly and legally authorized.

[Acts 1933, 43rd Leg., p. 173, ch. 80.]

Art. 6839e. Validation of Bonds and Proceedings for Renewal or Refunding

Sec. 1. Any and all bonds of any county or city bordering on the coast of the Gulf of Mexico heretofore issued to construct a seawall and breakwater under Title 118 of the Texas Civil Statutes or any
special or local Act of the Legislature, and all renewals and refundings thereof issued before the effective date of this Act, whether of the whole or part of the bonds outstanding of a single or of two or more issues, which bonds or renewals or refundings were originally acquired from the issuer by the United States government or any of its agencies, are validated and declared to be negotiable instruments, despite any irregularity or lack of statutory authority in their authorization, issuance or delivery.

Sec. 2. Any and all proceedings had before the effective date of this Act for renewal or refunding of any of such bonds, including without limitation provisions for their security and payment, and the pledging of operating revenues therefor, are validated, and the refunding bonds are declared to be, when issued, valid negotiable instruments, despite any irregularity of such proceedings or lack of statutory authority therefor.

Sec. 3. Any and all such bonds and all renewals and refundings thereof, whether issued before or after the effective date of this Act, may be renewed or refunded from time to time in accordance with the laws applicable to the issuance of seawall bonds.

Sec. 4. This Act shall not have the effect of validating any securities the validity of which is being attacked directly in litigation instituted prior to and pending at the time this Act becomes effective.

Sec. 5. The invalidity of any provision of this Act under any circumstances shall not affect the validity of such provision under any other circumstance nor the validity of any other provision. [Acts 1949, 51st Leg., p. 218, ch. 121.]

Art. 6839f. Cooperation and Contracts With United States or Agencies Thereof

Sec. 1. In addition to the powers heretofore granted by law, the county commissioners courts of all counties and the municipal authorities of all cities, bordering on the Coast of the Gulf of Mexico, shall have the power and are authorized to cooperate with and contract with the United States of America or with any agency thereof, for grants, loans or advancements to carry out any of the powers or to further any of the purposes set forth in Title 118 of the Revised Civil Statutes of Texas and to receive and use said moneys for such purposes; or to contribute and pay over to the United States of America or any of its agencies all or any part of the proceeds of sale of any bonds, issued and sold by said counties or cities under said Title 118, in connection with any project undertaken by the Federal Government affecting or relating to the construction or maintenance of such sea wall, boulevard, and other projects authorized under said Title 118.

Sec. 2. It is the purpose and intent of this Act to confer upon counties and municipal authorities of all cities bordering on the Coast of the Gulf of Mexico interested in sea-wall projects and other projects enumerated in said Title 118, when approved by the Government of the United States by Act of Congress, the fullest possible power of contract with regard to such projects of common interest.

Sec. 3. If any section, word, phrase, clause, or sentence in this Act shall be declared unconstitutional for any reason, the remainder of this Act shall not be affected thereby. [Acts 1951, 52nd Leg., p. 131, ch. 80.]

Art. 6839g. Commissioners' Courts Authorized to Construct Breakwaters; Certain Gulf Counties Excepted

Authority; Exempted Counties; Payment

Sec. 1. The Commissioners Court of any county bordering on the coast of the Gulf of Mexico, except Nueces, Kleberg, Kenedy, Jefferson, Orange, and Willacy Counties, is hereby authorized to construct breakwaters. Payment for the same shall be made from the Constitutional Permanent Improvement Fund.

Bonds; Time Warrants; Certificates of Indebtedness; Taxation

Sec. 2. To pay for the improvements authorized by Section 1, the Commissioners Court is hereby authorized from time to time to issue negotiable bonds, time warrants, and certificates of indebtedness of the county and to levy and collect taxes in payment therefor.

Issuance of Bonds; Levy of Taxes

Sec. 3. Bonds shall be issued and taxes shall be levied and collected in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1955, as amended, governing the issuance of bonds by cities, towns, and/or counties in this State. Time warrants shall be issued and taxes shall be levied and collected in accordance with the provisions of Chapter 163, Acts, Forty-second Legislature, 1931, as amended (Bond and Warrant Law of 1931). Certificates of indebtedness shall be authorized by order of the Commissioners Court; shall mature in not to exceed thirty-five (35) years from their date or dates; shall bear interest at a rate not to exceed five per cent (5%) per annum, which interest may be evidenced by coupons; shall be signed by the County Judge and attested by the County Clerk, provided that the interest coupons may be executed by the facsimile signatures of said officers; and shall be sold for not less than par value plus accrued interest. When said certificates are issued, it shall be the duty of the Commissioners Court to levy and have assessed and collected a tax sufficient to pay the principal of and interest on the certificates as the same become due. The certificates and the record relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if they have been issued in accordance with the Constitution and this Act, he shall
approve them, and thereupon they shall be regist-
tered by the Comptroller of Public Accounts of
Texas, and after said certificates have been so ap-
proved and registered and delivered to the purchas-
ers, they shall be incontestable. Said certificates
shall be fully negotiable and are hereby declared to
be negotiable instruments under the laws of Texas.

Refunding Bonds

Sec. 4. Said Commissioners Court shall have the
right at all times to issue refunding bonds for the
refunding of bonds and certificates issued under the
terms of this Act, subject to the general laws appli-
cable to the issuance of refunding bonds by counties
and without the necessity of any notice or right to
referendum vote. Said Commissioners Court shall
also have the right to refund into bonds time war-
rants issued under the terms of this Act, subject to
the provisions of the Bond and Warrant Law of
1931, as amended.

Cumulative of Other Laws

Sec. 5. This Act shall be cumulative of all other
laws, general and special, relating to the subject
matter hereof.

[Acts 1955, 54th Leg., p. 820, ch. 304.]
TITLE 119
SEQUESTRATION

Art. 6840. Grounds for Issuance and Dissolution.  Sec. 1. (a) Judges of the district and county courts and justices of the peace shall, at the commencement or during the progress of any civil suit, before final judgment, have power to issue writs of sequestration, returnable to their respective courts, in the cases and upon the grounds provided for in Subsections (b) through (e) of this section.

(b) When a person sues for the title or possession of any personal property or fixtures of any type or kind or sues for the foreclosure or enforcement of a mortgage or lien or security interest upon personal property or fixtures of any type or kind, a writ of sequestration may be issued if a reasonable conclusion may be drawn that there is immediate danger that the defendant or party in possession thereof will conceal, dispose of, ill-treat, waste, or destroy such property, or remove the same out of the limits of the county during the pendency of the suit.

(c) When a person sues for the title or possession of real property or sues for the foreclosure or enforcement of a mortgage or of a lien on real property, a writ of sequestration may be issued if a reasonable conclusion may be drawn that there is immediate danger that the defendant or party in possession thereof will conceal, dispose of, ill-treat such property or waste or convert to his own use the timber, rents, fruits, or revenue thereof.

(d) A writ of sequestration may be issued when any person sues for the title or possession of any property from which he has been ejected by force or violence.

(e) A writ of sequestration may be issued when any person sues to try the title to any real property, or to remove cloud upon the title to such real property, or to foreclose a lien upon any such real property, or for a partition of real property, and makes oath that the defendant or either of them, in the event there be more than one defendant, is a nonresident of this state.

Sec. 2. The application for the issuance of the writ shall be made under oath and shall set forth specific facts stating the nature of the plaintiff's claim, the amount in controversy, if any, and the facts justifying the issuance.

Sec. 3. (a) When a writ of sequestration has been issued as provided in this article and the rules of civil procedure, the defendant may seek a dissolution of the writ by written motion filed with the court.

(b) A hearing on the motion to dissolve the writ shall be held and the issue determined not later than 10 days after the motion to dissolve is filed, unless the parties agree to an extension of time. At the hearing, the writ shall be dissolved unless the party who secured the issuance of the writ proves the specific facts alleged and the grounds relied upon for its issuance.

(c) If the writ is dissolved, the action shall proceed as if no writ had been issued except that an action for damages for wrongfully securing the issuance of the writ must be brought as a compulsory counterclaim. In addition to all other elements of damages, the party moving to dissolve the writ may recover his reasonable attorney's fees incurred in the dissolution of the writ.

(d) If the writ is dissolved and the personal property sought to be subjected to the writ is consumer goods, as that term is defined in the Texas Business and Commerce Code, the defendant or the party in possession shall be entitled to damages which shall be reasonable attorney's fees and the greatest of One Hundred Dollars ($100.00), the finance charge contracted for, or actual damages. No damages may be awarded for the failure of the plaintiff to prove by a preponderance of the evidence the specific facts alleged and such failure is a result of a bona fide error. For a bona fide error to be available as a defense, the plaintiff must prove the use of reasonable procedures to avoid such error.

(e) A motion to dissolve the writ is cumulative of the right of replevy, and the filing of the motion to dissolve shall stay any further proceedings under the writ until a hearing is had, and the issue is determined.

Sec. 4. Requisites of Writ of Sequestration. There shall be prominently displayed on the face of the writ, in 10-point type and in a manner calculated to advise a reasonably attentive person of its contents, the following:

4489
Art. 6840

SEQUESTRATION

YOU HAVE A RIGHT TO REGAIN POSSESSION OF THE PROPERTY BY FILING A "REPLEVY" BOND.

YOU HAVE A RIGHT TO SEEK TO REGAIN POSSESSION OF THE PROPERTY BY FILING WITH THE COURT A MOTION TO DISSOLVE THIS WRIT.

[Acts 1925, S.B. 84. Amended by Acts 1975, 64th Leg., p. 1246, ch. 470, § 1, eff. Sept. 1, 1975.]

Arts. 6841 to 6843. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 6844. On Claim Not Due

When any person has a mortgage or lien upon personal property of any description, and makes affidavit and gives bond as required by law, the writ of sequestration may issue, although the right of action upon such mortgage or lien has not accrued. The same proceeding shall be had thereon as in other cases of sequestration, except that no final judgment shall be rendered against the defendant until such right shall have accrued.

[Acts 1925, S.B. 84.]

Art. 6845. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 6846. Duty of Officer

The officer executing a writ of sequestration, while he retains custody of the property sequestered, shall take care of and manage the same in a prudent manner, and if he confides the same to the custody of other persons he shall be responsible for their acts in regard thereto, and shall be responsible to the party injured for any neglect or mismanagement by himself, or by those to whom he has confided the custody or management of the property.

[Acts 1925, S.B. 84.]

Art. 6847. Compensation of Officer

The officer retaining custody of property by virtue of a writ of sequestration shall be entitled to receive a just compensation and all reasonable charges therefor, to be determined by the judge or justice from whose court the writ issued, to be taxed in the bill of costs against the party cast in the suit, and collected in the same manner as the other costs in the case.

[Acts 1925, S.B. 84.]

Art. 6848. Officer Expending Money

If the officer be compelled to expend any sum in the security, management or care of the property, he may retain possession of said property until said money be refunded by the party offering to replevy said property, his agent or attorney.

[Acts 1925, S.B. 84.]

Arts. 6849 to 6857. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 6858. Defendant Need Not Account for Hire, etc.

In suits for the enforcement of a mortgage or lien upon property, the defendant, should he replevy the property, shall not be required to account for the fruits, hire, revenue or rent of the same, but this exemption shall not apply to the plaintiff in case he shall replevy the property.

[Acts 1925, S.B. 84.]

Arts. 6859 to 6864. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1
TITLE 120
SHERIFFS AND CONSTABLES

1. SHERIFFS

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1. SHERIFFS

Art. 6865. Election and Term

The qualified voters of each county at each general election shall elect one sheriff for a term of two years.

[Acts 1925, S.B. 84]

Increase in Term of Office

Constitution Art. 5, § 23, was amended in November, 1951, to increase the term of office of sheriffs from two to four years.

Art. 6866. Oath and Bond

Every person elected to the office of sheriff shall, before entering upon the duties of his office, give a bond with two or more good and sufficient sureties, to be approved by the Commissioners' Court of his county, for such sum as may be directed by such Court, not less than Five Thousand ($5,000.00) Dollars nor more than Thirty Thousand ($30,000.00) Dollars payable to the Governor and his successors in office, conditioned that he will account for and pay over to the persons authorized by Law to receive the same, all fines, forfeitures and penalties that he may collect for the use of the State or any county, and that he will well and truly execute and make due return of all process and precepts to him lawfully directed, and pay over all sums of money collected by him by virtue of any such process or precepts, to the persons to whom the same are due, or their lawful attorney, and that he will faithfully perform all such duties as may be required of him by Law, and further conditioned that he will pay over to his county all moneys illegally paid to him out of county funds, as voluntary payments or otherwise, and said sheriff shall also take and subscribe the official oath, which shall be indorsed on said bond, together with the certificate of the officer administering the same. When any person elected or appointed sheriff, in accordance with this Article, shall have given bond and taken the official oath, he may enter at once upon the discharge of his duties, and his acts shall be as valid in law before receiving his commission as afterwards; said bond shall not be void on the first recovery, but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered; provided, however, that no sheriff or his
Art. 6866. **SHERIFFS AND CONSTABLES**

**Neglect to Qualify**

When any person elected sheriff shall neglect, refuse or fail from any cause whatever to give bond and take the official oath within twenty days after notice of his election, the office shall be deemed vacant.

[Acts 1925, S.B. 84. Amended by Acts 1931, 42nd Leg., p. 430, ch. 260, § 1.]

**Failure to Give New Bond**

Whenever any of the sureties of a sheriff shall die, remove permanently from the State, become insolvent, or be released from liability in accordance with law, or whenever the commissioners court shall deem the sheriff's bond insufficient, said court shall cite said sheriff to appear at a time to be named in such citation, not less than ten nor more than thirty days after issuing such citation and give such bond on or before the designated time he shall cease to exercise the functions of his office, and shall be removed from office by the judge of the district court in the mode prescribed by law for the removal of county officers.

[Acts 1925, S.B. 84.]

**May Appoint Deputies, etc.**

Sheriffs shall have the power, by writing, to appoint one or more deputies for their respective counties, to continue in office during the pleasure of the sheriff, who shall have power and authority to perform all the acts and duties of their principals; and every person so appointed shall, before he enters upon the duties of his office, take and subscribe the official oath, which shall be indorsed on his appointment, together with the certificate of the officer administering the same; and such appointment and oath shall be recorded in the office of the County Clerk and deposited in said office. The number of deputies appointed by the sheriff of any one county shall be limited to not exceeding three in the Justice precinct in which is located the county site of such county, and one in each Justice precinct, and a list of these appointments shall be posted up in a conspicuous place in the Clerk's office. An indictment for a felony of any deputy sheriff appointed shall operate a revocation of his appointment as such deputy sheriff. Provided further, that if in the opinion of the Commissioners' Court fees of the sheriff's office are not sufficient to justify the payment of salaries of such deputies, the Commissions' Court shall have the power to pay the same out of the General Fund of said county.


Art. 6869.1. **Reserve Deputy Sheriffs and Constables**

Sec. 1. (a) The Commissioners Court of any county in the State may authorize the sheriff of the county to appoint reserve deputy sheriffs, or any constable of the county to appoint reserve deputy constables, who shall be subject to serve as peace officers during the actual discharge of their official duties upon call of the sheriff, in the case of deputy sheriffs, or of the constable, in the case of deputy constables.

(b) The Commissioners Court may limit the number of reserve deputy sheriffs or reserve deputy constables who may be appointed.

(c) Such reserve deputy sheriffs shall serve at the discretion of the sheriff and may be called into service at any time the sheriff considers it necessary to have additional officers to preserve the peace and enforce the law; and such reserve deputy constables shall serve at the discretion of the constable and may be called into service at any time the constable considers it necessary to have additional officers to preserve the peace and enforce the law.

(d) The Commissioners Court may compensate reserve deputy sheriffs and reserve deputy constables for reasonable and necessary expenses incurred in the performance of their official duties.

(e) Such reserve deputy sheriffs and deputy constables, prior to their entry upon duty and simultaneously with their appointments, shall file an oath and bond in the amount of Two Thousand Dollars ($2,000), payable to the sheriff, in the case of reserve deputy sheriffs, and payable to the constable, in the case of reserve deputy constables, and filed with the county clerk of the county in which said appointment is made.

(f) Such reserve deputy sheriffs, while on active duty at the call of the sheriff and while actively engaged in their assigned duties; and reserve deputy constables, while on active duty at the call of the constable and while actively engaged in their assigned duties, shall be vested with the same rights, privileges, obligations and duties of any other peace officer of the State of Texas.

(g) The sheriff of any county bordering the Gulf of Mexico may organize a portion of the reserve deputy sheriffs within such county for special service as marine reserve deputy sheriffs and life guards for beach and water safety purposes and
related functions as may be determined by the sheriff.

Reserve deputies organized for marine and life-guard beach and water safety purposes shall be subject to all provisions of the laws of this state relating to reserve deputy sheriffs except that they shall not be authorized in the performance of their duties to carry firearms.

(h) Any organization authorized hereunder for marine safety and life-guards purposes in a county bordering the Gulf of Mexico may include both paid and unpaid deputy sheriffs and reserve deputy sheriffs, and such organization may accept contributions and gifts from foundations, individuals, corporations, and other governmental entities including appropriations which may be made by the State of Texas on a direct or matching fund basis to assist such county in the performance of water safety programs in the interest of the health, safety, and welfare of persons using the coastal waters of this state.

Sec. 2. The county and/or the sheriff or constable shall not incur any liability by reason of the appointment of any such reserve deputy sheriff or deputy constable who incurs any personal injury while serving in such capacity.


Art. 6869a. Appointment and Number of Deputies in Certain Counties

Text as added by Acts 1931, 42nd Leg., p. 809, ch. 332, § 1

Provided that in any county having a population of more than one hundred and thirty thousand (130,000) and less than one hundred and fifty thousand (150,000) inhabitants, as shown by the latest United States Census, and containing two cities of fifty thousand (50,000) population, or more, each, as shown by the said Census, said county comprising two or more Judicial Districts, the sheriff shall have power, by writing, to appoint sixteen (16) deputies for his said county, to continue in office during the pleasure of the sheriff, who shall have power and authority to perform all the acts and duties of their principal; and every person so appointed shall, before he enters upon the duties of his office, take and subscribe to the official oath which shall be endorsed on his appointment, together with the certificate of the officer administering the same; and such appointment and oath shall be recorded in the office of the county clerk and deposited in said office. A list of these appointments shall be posted up in a conspicuous place in the county clerk's office. An indictment for a felony of any deputy sheriff appointed shall operate a revocation of his appointment as such deputy sheriff. The salaries of the deputies herein provided for shall be paid monthly by the sheriff out of the Fees of Office as provided in Article 3891 and Article 3902, Revised Civil Statutes, Texas, 1925.

[Acts 1931, 42nd Leg., p. 809, ch. 332, § 1]

For text as added by Acts 1921, 42nd Leg., p. 818, ch. 337, § 1, see art. 6869a, post.

Art. 6869a. May Appoint Additional Deputies

Text as added by Acts 1931, 42nd Leg., p. 818, ch. 337, § 1

The sheriff in any county in this State may employ not to exceed three (3) additional deputies in addition to those now authorized by law, for the purpose of enforcing the law in counties with a population of three hundred forty thousand (340,000) or over, according to the last Federal Census; the compensation of such deputies shall be fixed by the Commissioners' Court of said County, and the same shall be paid out of the general fund of said county. Provided that said deputies when so appointed shall each before entering upon his duty execute a good and sufficient bond with two or more sureties, to be approved by the Commissioners' Court of said County in the sum of $2,500.00 each, payable to the County Judge of the County and his successors in office, conditioned that he will well, truly and faithfully execute and return make of all process and precepts to him lawfully directed, and pay over all sums of money collected by him by virtue of such process or precept to the persons to whom the same are due, or to their lawful attorney, that he will fairly and faithfully perform all such duties as may be required of him by law, which bond when so executed shall be recorded in the office of the Clerk of the County Court and deposited in said office. Said bond shall not be void on the first recovery, but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered.

[Acts 1931, 42nd Leg., p. 818, ch. 337, § 1]

For text as added by Acts 1931, 42nd Leg., p. 809, ch. 332, see art. 6869a, ante.

Art. 6869b. Appointment of Deputies in Counties of Less Than 20,000 Population and Property Valuation of Over $100,000,000

Provided that in counties having a population of less than twenty thousand (20,000), according to the last preceding Federal Census, and having a property valuation in excess of One Hundred Million Dollars ($100,000,000), according to the approved State and County tax rolls for the preceding year, the sheriff, in the manner now prescribed by law, shall have the authority to appoint not to exceed fourteen (14) deputies, said number to include Court bailiffs and jailers, and said deputies to receive the compensation now allowed by law.

[Acts 1939, 46th Leg., Spec.L., p. 944, § 1]
Art. 6869c. Number of Deputies in Counties of 197,000 or Over

In counties having a population in excess of one hundred ninety-seven thousand five hundred (197,500) according to the last preceding Federal Census, the provisions of Article 6869, Revised Civil Statutes of Texas, of 1923, as amended, insofar as such limits the number of deputies allowable to sheriffs shall not apply, but the sheriff in such county shall have the number of deputies allowed him by the Commissioners’ Court of such county.

[Acts 1934, 43rd Leg., 2nd C.S., p. 121, ch. 56, § 1.]

Art. 6869d. County Police Force in Counties of 210,000 or More

Sec. 1. In every county of this state having a population of two hundred ten thousand (210,000) or more, according to the last preceding United States census, there is hereby created a county police force, to be composed of such number of patrolmen not less than six, as may be fixed by the Commissioner’s Court. All of said patrolmen shall be appointed by the sheriff, subject to approval by the Commissioner’s Court, and one of their number shall be so appointed chief of the county police.

Sec. 2. Each of said patrolmen shall be deputized by the sheriff and shall have the power and authority of a Deputy Sheriff, and all laws of this state applicable to deputy sheriffs shall apply to such patrolmen, except where they may be in conflict with this Act. They shall hold their position until removed by the sheriff, with the approval of the Commissioner’s Court.

Sec. 3. The salary of the patrolmen and of the chief of county police shall be fixed by the Commissioner’s Court and paid out of the General Fund of the county. It shall be the duty of each patrolman to carefully patrol, either in a motor car or in a motorcycle all the highways of the county located outside the corporate limits of the county seat thereof, and they shall each be required to furnish a motorcycle or motorcar, and their salary shall include their compensation for furnishing such car and the cost of maintaining and operating the same. Such patrolmen shall perform their duties under rules and regulations prescribed and promulgated by the Commissioners’ Court. Such patrolmen shall devote their entire time when on duty to patrolling that part of the county outside of the corporate limits of the county seat and to matters pertaining to that service.

Sec. 4. All fees earned by such patrolmen or accruing to the sheriff by reason of their services shall be paid to the county for the use of the general county fund.

[Acts 1929, 41st Leg., p. 326 ch. 150.]

Art. 6869e. Counties of 500,000 or More; “Night Chief Deputy” Appointment and Salary of

In all counties having a population of five hundred thousand (500,000) or more, according to the last preceding Federal Census, in addition to all other deputies, assistants and employees which he is authorized to appoint, the Sheriff shall be entitled to appoint for the appointment of a second first assistant, or Chief Deputy, who shall be known as “Night Chief Deputy.” Such additional first assistant or Chief Deputy shall be appointed in the method, manner and under the conditions now provided by law for other deputies, and the same rules and regulations fixed by law with respect to the authority and duties of other deputies of this class shall apply to them. This deputy shall receive a salary within the limits now fixed by law for chief deputy, subject to the laws and regulations governing the appointment, employment and payment of other chief deputies. Provided no person shall be appointed Night Chief Deputy who shall not have served as a deputy sheriff for at least two (2) years prior to the date of such appointment.

[Acts 1943, 48th Leg., p. 77, ch. 61, § 1.]

Art. 6869f. Deputies, Including Bailiffs and Jailors, in Certain Counties of 27,000 to 30,000 and 36,000 to 37,500

Provided that in all counties having a population of not less than twenty-seven thousand (27,000) nor more than thirty thousand (30,000), according to the last preceding Federal Census, and having a property valuation in excess of Ninety Million ($90,000,000.00) Dollars, according to the approved state and county tax rolls for the preceding year; and in all counties having a population of not less than thirty-six thousand (36,000) nor more than thirty-seven thousand five hundred (37,500) according to the last preceding Federal Census, and having a property valuation in excess of Fifty Million ($50,000,000.00) Dollars, according to the approved state and county tax rolls for the preceding year, the sheriff of said counties, in the manner now prescribed by law, shall have the authority to appoint not to exceed thirty (30) deputies, said number to include court bailiffs and jailors, and said deputies shall receive such compensation as may be fixed and allowed by the Commissioners Court of any such county.

[Acts 1947, 50th Leg., p. 835, ch. 315, § 1.]

Art. 6870. Responsible for Their Acts

Sheriffs shall be responsible for the official acts of their deputies, and they shall have power to require from their deputies bond and security; and they shall have the same remedy against their deputies and sureties as any person can have against a sheriff and his sureties.

[Acts 1925, S.B. 84.]
Art. 6871. May Employ Guards

Whenever in any county it becomes necessary to employ guards for the safekeeping of prisoners and the security of jails, the Sheriff may, with the approval of the Commissioners Court, or in case of emergency, with the approval of the County Judge, employ such number of guards as may be necessary; and his account therefor, duly itemized and sworn to, shall be allowed by said Court, and paid out of the County Treasury. Provided further, that in all counties in this State, having a population of more than one hundred and forty thousand (140,000) inhabitants and less than two hundred and ninety thousand (290,000) inhabitants, according to the last preceding Federal Census, no guard, matron, jailer, or turnkey shall work more than eight (8) hours in one day. In all counties coming under the provisions of this Act, 1 at least one man shall be on guard on each floor of said jail where male prisoners are kept, and at least one matron shall be on guard on each floor where female prisoners are kept; and that not less than two (2) employees shall be on guard in the main office of said jail at any one time. In case of emergency, those coming under the provisions of the Act shall be subject to the call of the Sheriff.


1 This article and art. 6871a.

Art. 6871a. Violation of Act; Penalty

Anyone charged with the responsibility of enforcing this Act 1 shall be guilty of a misdemeanor if convicted of violating any of the provisions of this Act, and upon conviction thereof shall be fined not less than Fifty Dollars ($50) nor more than Two Hundred Dollars ($200).


1 This article and art. 6871.

Art. 6872. Control of Courthouses

Sheriffs shall have charge and control of the courthouses of their respective counties, subject to such regulations as the commissioners court may prescribe; and the official bonds shall extend to all the duties of their office.

[Acts 1925, S.B. 84.]

Art. 6873. Shall Execute Process

Each sheriff shall execute all process and precepts directed to him by legal authority, and make return thereof to the proper court, on or before the day to which the same is returnable; and any sheriff who shall fail so to do, or who shall make a false return on any process or precept shall, for every such offense, be liable to be fined by the court to which such process is returnable, as for a contempt, not exceeding one hundred dollars at the discretion of the court, which fine shall go to the county treasury; and such sheriff shall also be liable to the party injured for all damages he may sustain.

[Acts 1925, S.B. 84.]

Art. 6874. Legislative Process

Sheriffs are required also to execute all subpoenas and other process issued by the Speaker of the House of Representatives, or the President of the Senate, or chairman of a committee of either house of the Legislature, to them directed, under like pains and penalties as are incurred by failure to execute process issued by a court; and for such services they shall receive the fees prescribed by law for similar services in the courts, to be paid on the certificate of the authority issuing such process.

[Acts 1925, S.B. 84.]

Art. 6875. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1


Art. 6877. Unfinished Business

When any sheriff or any constable shall from any cause vacate his office, all unfinished business whatsoever in his hands shall be transferred to his successor, and be completed by him in the same manner as if commenced by himself.

[Acts 1925, S.B. 84.]

Art. 6877-1. Transportation of Sheriffs and Deputies; Allowance for Expenses

The County Commissioners Courts of this State are directed to supply and pay for transportation of sheriffs of their respective counties and their deputies to and from points within this State, under one of the four (4) following Sections:

(a) Such sheriffs and their deputies shall be furnished adequate motor transportation including all expense incidental to the upkeep and operation of such motor vehicles.

(b) Motor vehicles shall be furnished to such sheriffs and their deputies who may furnish gas and oil, wash and grease, incidental to the operation of such vehicles; for which gas and oil, wash and grease, such sheriffs and deputies shall be compensated at a rate not to exceed six cents (6¢) per mile for each mile such vehicle is operated in the performance of the duties of his office.

(c) Alternatively such County Commissioners Courts may allow sheriffs and their deputies in their respective counties to use and operate cars on official business which cars are personally owned by them for which such officers shall be paid not less than eight cents (8¢) per mile nor more than fifteen cents (15¢) per mile for each mile traveled in the performance of official duties of their office.
Art. 6877–1 SHERIFFS AND CONSTABLES

(d) All compensation paid under the provisions of this Act shall be upon a sworn statement of such sheriff.


Art. 6877–2. Automobile Allowance to Sheriffs and Deputies in Counties of 350,000 Inhabitants

In each county in this State having a population of three hundred fifty thousand (350,000) inhabitants, or more, according to the last preceding Federal Census, where the county does not furnish the sheriff or his deputies automobiles, the sheriff and the deputy sheriffs may each be allowed an automobile allowance in a sum to be determined by the Commissioners Court, provided it shall not exceed Ten ($10.00) Cents per mile for each mile traveled on official business outside the county. Such automobile allowance shall be paid upon a sworn statement of the sheriff or his deputies.

[Acts 1953, 53rd Leg., p. 685, ch. 261, § 1.]

Art. 6877–3. Duty Hours of Peace Officers in Counties of 160,000 to 170,000

(a) No sheriff, deputy, constable, or other peace officer of any county, or of any city, town, or village located within a county, such county having a population of not less than 160,000 nor more than 170,000, according to the last preceding federal census, shall be required to be on duty more than 48 hours a week.

(b) Subsection (a) shall not apply to a peace officer who is called on by a superior officer to serve during an emergency situation as determined by the superior officer.

(c) Any hours of duty over 48 hours a week compiled by a peace officer under Subsection (b) may be treated as “overtime” and may be deducted from required hours of duty in some future week. In no event, however, shall “overtime” be used more than one year after it is compiled, and permission of the superior officer must be obtained by the peace officer who is seeking to use the “overtime.”


Art. 6877–4. Petty Cash Fund for Sheriff’s Department in Counties Over 1,000,000

The commissioners court of every county in the state which has a population of more than 1,000,000, according to the last preceding federal census, may establish a petty cash fund not to exceed $5,000 for the sheriff’s department. This amount shall be appropriated from the general funds of the county. Unless otherwise authorized by resolution of the commissioners court, the petty cash fund may only be used to permit the advancement of funds to officers and employees of the sheriff’s department who are required to travel outside the county to investigate or to obtain custody of prisoners.

[Acts 1973, 63rd Leg., p. 705, ch. 300, § 1, eff. June 11, 1973.]

2. CONSTABLES

Art. 6878. Election

Sec. 1. The qualified voters of each justice precinct at each general election shall elect a constable for such precinct for a term of four years.

Sec. 2. A person who has served as constable for 10 or more consecutive years preceding a change in boundaries of the precinct is not ineligible for reelection in the precinct because of residence outside the precinct as long as the constable’s residence is within the boundaries of the precinct as they existed before they were changed.


See, now, art. 6879a.

Art. 6879a. Appointment of Deputies

Sec. 1. The duly elected Constable in each Justice Precinct may appoint Deputies in accordance with the provisions of Section 2 of this Act, and each every instance said Deputy Constables shall qualify as required of Deputy Sheriffs.

Sec. 2. When the Constable in each and every instance named and described in the preceding section of this Act shall desire to make appointment of a Deputy or Deputies, as the case may be, said Constable shall first make written application to the Commissioners’ Court of his County showing that it is necessary for such Constable to have the Deputy or Deputies requested in order to properly handle the business of his office originating in the Precinct in which such Constable has been elected, giving the name of each proposed appointee; and if the Commissioners’ Court shall find that the Constable is in need of the Deputy or Deputies requested to handle the business originating in his Precinct, then in that event, and in that event only, the Commissioners’ Court shall approve and confirm the appointment of the Deputy or Deputies provided by this Act.

Sec. 3. Any person who serves as a Deputy Constable without the provisions hereof having been complied with relative to his appointment or any Constable who issues a Deputyship without the consent and approval of the Commissioners’ Court shall be fined not less than Fifty Dollars ($50.00) nor more than One Thousand Dollars ($1,000.00).

Art. 6879b. Responsible for Deputies’ Acts

Constables shall be responsible for the official acts of their deputies, and they shall have power to require from their deputies bond and security; and they shall have the same remedies against their deputies and the sureties of said deputies as any person can have against a constable and his sureties.

[Acts 1935, 44th Leg., p. 544, ch. 231, § 1.]

Art. 6880. Unorganized Counties

The commissioners courts of the several counties to which unorganized counties are attached for judicial purposes shall have power to appoint a constable for each unorganized county attached to said counties for judicial purposes, in accordance with the laws governing such appointments in organized counties.

[Acts 1925, S.B. 84.]

Art. 6881. Bond and Oath

Each person who may be elected to the office of constable shall, before entering upon the duties of the office, give a bond with two or more good and sufficient sureties, to be approved by the commissioners of said county, conditioned for the faithful performance of all the duties required of him by law; and shall also take and subscribe the oath of office prescribed by the Constitution, which shall be indorsed on said bond, together with the certificate of the officer administering the same; which bond and oath shall be recorded in the office of the Clerk of the county court, and deposited in said office; said bond shall not be void on the first recovery, but may be sued on from time to time in the name of the party injured until the whole amount thereof is recovered.

[Acts 1925, S.B. 84.] Amended by Acts 1933, 43rd Leg., p. 297, ch. 115.]

Art. 6882. De Facto Constable

Whenever any person is elected or appointed to the office of constable and has given bond and taken said oath, he may enter at once upon the duties of the office, and his acts shall be as valid in law as if he had been duly commissioned.

[Acts 1925, S.B. 84.]

Art. 6883. Neglect to Qualify

Whenever any person elected constable shall neglect or refuse to give bond and take the official oath within twenty days after notice of his election, the office shall be deemed vacant.

[Acts 1925, S.B. 84.]

Art. 6884. Failure to Give New Bond

Whenever any of the sureties of a constable shall die, remove permanently from the State or become insolvent, or are released from liability in accordance with law, or whenever the commissioners court shall deem the bond of any constable to be insufficient, said court shall cite said constable to appear at a time to be named in such citation, not less than ten nor more than thirty days after issuing such citation, and give a new bond, with good and sufficient security. If such constable shall neglect or refuse to appear and give such bond at the designated time, he shall cease to exercise the functions of his office, and shall be removed from office by the judge of the district court in the mode prescribed by law for the removal of county officers.

[Acts 1925, S.B. 84.]

Art. 6885. Duties in General

Each constable shall execute and return according to law all process, warrants and precepts to him directed and delivered by any lawful officer, attend upon all justice courts held in his precinct and perform all such other duties as may be required of him by law.

[Acts 1925, S.B. 84.]

Art. 6886. May Summon Posse

When any constable shall meet with resistance in the execution of any lawful process, or in the arrest of offenders, he may call to his aid any citizen of the county who may be convenient; and any person who shall fail or refuse to obey such call may be fined as for a contempt by any justice of the peace, in a sum not exceeding ten dollars, on motion of such constable, three days’ notice thereof having been given to the party accused.

[Acts 1925, S.B. 84.]

Art. 6887. Failure to Execute or Return Process

If any constable shall fail or refuse to execute and return, according to law, any process, warrant, or precept issued, not less than ten nor more than one hundred dollars, with costs; which fine shall be for the benefit of the party injured. Said constable shall have ten days’ notice of such motion.

[Acts 1925, S.B. 84.]

Art. 6888. Failure to Pay

If any constable shall receive from any person any bonds, bills, notes or accounts for collection, and shall give his receipt therefor, in his official capacity, and shall fail to pay to such person, on demand, any amount he may have collected on the same, such constable and his sureties shall be responsible on his official bond for all such amounts
Art. 6888 SHERIFFS AND CONSTABLES

as he may have collected on such bonds, bills, notes or accounts not paid over.
[Acts 1925, S.B. 84.]

Art. 6889. Jurisdiction

Every constable may execute any process, civil or criminal, throughout his county and elsewhere, as may be provided for in the Code of Criminal Procedure, or other law.
[Acts 1925, S.B. 84.]

Art. 6889a. Automobile Expense; Allowance to Constables in Certain Precincts in Counties Over 500,000

The constable of each precinct having a population of sixty-five thousand (65,000) or more situated in counties having a population of more than five hundred thousand (500,000), both according to the last preceding or any future Federal Census, may be allowed not exceeding Fifty Dollars ($50) per month out of the General Fund as automobile expense, to be determined by the Commissioners Court. Such allowance shall be paid and be subject to all of the laws, rules and regulations in such counties governing the accounting for expenses, budgets, approval, depositories and countersignatures of warrants, it being the intention of this Act merely to authorize such an allowance. This Law shall be cumulative of other laws relating to the constable in such counties, except where such Statutes conflict with this enactment, and in such cases this Law shall control.
[Acts 1947, 50th Leg., p. 391, ch. 219, § 1.]

Art. 6889b. Automobile Allowance in Counties of 220,000 to 350,000

In addition to the salaries now provided by law, for Constables and Deputy Constables, in counties having a population of not less than two hundred and twenty thousand (220,000) nor more than three hundred and fifty thousand (350,000), according to the last preceding or any future Federal Census, and having a Justice Precinct or precincts wherein is located a city or town of not less than one hundred and seventy-five thousand (175,000) nor more than two hundred and sixty-five thousand (265,000) population, according to the last preceding or any future Federal Census, and where the office of the Constable of such precinct or precincts is located in the Courthouse of such counties, there shall be paid to each regularly elected or appointed Constable, and to each regularly appointed Deputy Constable, the sum of Fifty Dollars ($50) monthly to be paid by warrant drawn on the officers' salary fund or general fund, to compensate said Constable and Deputies in the official discharge of their duties, said allowances to be paid upon the certificate of such Constables, that the automobiles of such Constables and Deputies were in official use.
[Acts 1949, 51st Leg., p. 619, ch. 284, § 1.]


Art. 6889d. Transportation or Automobile Allowance; All Counties

Sec. 1. The County Commissioners Courts of this State are hereby authorized to supply or pay for transportation of constables and deputy constables of the respective counties and justice precincts and from points within this State, under one of the four following subsections:

(a) Constables and deputy constables may be furnished adequate motor transportation including all expense incidental to the upkeep and operation of such motor vehicles.

(b) Motor vehicles may be furnished to constables and deputy constables who may furnish gas and oil, wash and grease, incidental to the operation of such vehicles; for which gas and oil, wash and grease, such constables and deputy constables may be compensated at a rate not to exceed six cents (6¢) per mile for each mile such vehicle is operated in the performance of the duties of his or their office.

(c) County Commissioners Courts may allow constables and deputy constables in the respective counties and justice precincts to use and operate cars on official business personally owned by them for which such officers may be paid not less than eight cents (8¢) per mile nor more than fifteen cents (15¢) for each mile traveled in the performance of official duties of their office.

(d) All compensation paid under the provisions of this Act shall be upon a sworn statement of such constable or deputy constable.

Sec. 2. If any section, subsection, paragraph, sentence or portion of this Act is held invalid, such holding shall not affect the validity of the remaining portions of this Act; and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

Art. 6889e. Counties Over 600,000; Two-Way Car Radios

Sec. 1. In each county in this State having a population of six hundred thousand (600,000) inhabitants or more according to the last preceding Federal Census, the Commissioners Court, in its discretion, may furnish all constables and/or deputy constables two-way radios to be used in connection with the performance of their official duties. It is expressly understood that the provisions of this Act shall be applicable to all constables and/or deputy constables in counties having a population of six hundred thousand (600,000) or more inhabitants regardless of whether the constables and/or deputy constables drive county owned vehicles or their own personal cars in the performance of the duties of their offices.
Sec. 2. The cost of the two-way radios, the installation and charges in connection therewith, all necessary repairs that may be made thereon and other expenses in connection therewith shall be paid out of the general fund of the county.

[Acts 1955, 54th Leg., p. 521, ch. 157.]
TITLE 120A
STATE AND NATIONAL DEFENSE

GENERAL PROVISIONS

Art. 6889-1. Expired.
6889-2. Military Zones Adjacent to Military Establishments; Regulations; Enforcement.

COMMUNISM
6889-3. Texas Communist Control Law.
6889-3A. Suppression of Communist Party and Related Organizations.

CIVIL DEFENSE
6889-4. Repealed.
6889-5. Interstate Civil Defense and Disaster Compact.
6889-6. Repealed.

GENERAL PROVISIONS
Art. 6889-1. Expired April 16, 1945
This article, derived from Acts 1943, 48th Leg., p. 223, ch. 142, effective April 16, 1943, and authorizing the creation of an organization for coordination of defense activities, provided that it should be in force only while the United States was at war and in no event for a longer period than two years from the date it became law.

Art. 6889-2. Military Zones Adjacent to Military Establishments; Regulations; Enforcement

Military Establishment
Sec. 1. For the purpose of this Act, any navy or coast guard base, camp, station, yard or section base shall be known as a military establishment.

Establishment of Military Zones
Sec. 2. The County Commissioners Courts having within the limits of said county any military establishments are hereby authorized to set up and create restricted military zones adjacent to such military establishment.

Limits of Military Zones
Sec. 3. The limits of said military zones shall be set forth in the minutes of said courts; that appropriate signs shall be placed by all roads or passageways leading into said zones showing that such zones are restricted areas. That such zones shall not extend more than one mile from the boundary lines of any military establishment.

Special Regulations
Sec. 4. The Commissioners Court shall be authorized to establish special regulations for such zones as to speed of motor vehicles, parking of vehicles, and taking of pictures.

Enforcement of Regulations
Sec. 5. In order to properly police said zones the Commissioners Court shall be authorized to empower the civilian or military guards at such military establishments to enforce the regulations established for such military zones.

Penalty
Sec. 6. Any person, association of persons, firm or corporation who shall violate any of the regulations prescribed for military zones, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than One Hundred ($100.00) Dollars or by imprisonment in the county jail for not less than ten (10) days, or more than two (2) years.

[Acts 1945, 48th Leg., p. 458, ch. 308.]

COMMUNISM
Art. 6889-3. Texas Communist Control Law

Communist Defined
Sec. 1. A “Communist” is a person who:
(A) Is a member of the Communist Party, notwithstanding the fact that he may not pay dues to, or hold a card in, said Party; or
(B) Knowingly contributes funds or any character of property to the Communist Party; or
(C) Commits or advocates the commission of any act reasonably calculated to further the overthrow of the Government of the United States of America, the Government of the State of Texas, or the government of any political subdivision of either of them, by force or violence; or
(D) Commits or advocates the commission of any act reasonably calculated to further the overthrow of the Government of the United States, the Government of the State of Texas, or the government of any political subdivision of either of them, by unlawful or unconstitutional means, and the substitution of a Communist government or a government intended to be substantially directed, dominated or controlled by the Union of Soviet Socialist Republics or its satellites.

Definition of Communist Party
Sec. 2. The “Communist Party” is any organization which is substantially directed, dominated or controlled by the Union of Soviet Socialist Republics
Definition of Communist Front Organization

Sec. 3. A "Communist Front Organization" is any organization the members of which are not all Communists, but which is substantially directed, dominated or controlled by Communists or by the Communist Party, or which in any manner advocates, or acts to further, the world Communist movement.

Registration

Sec. 4. (A) Each person remaining in this State for as many as five (5) consecutive days after the effective date of this Statute, who is a Communist or is knowingly a member of a Communist Front Organization, shall register with the Department of Public Safety of the State of Texas on or before the fifth consecutive day that such person remains in this State; and, so long as he remains in this State, shall reregister annually with said Department between the first and fifteenth days of January.

(B) Such registration shall be under oath and shall set forth the name (including any assumed name used or in use), address, business occupation, purpose of presence in the State of Texas, sources of income, place of birth, places of former residence, and features of identification, including fingerprints, of the registrant; organizations of which registrant is a member; names of persons known by registrant to be Communists or members of any Communist Front Organization; and any other information requested by the Department of Public Safety which is relevant to the purposes of this Statute.

(C) Each and every officer of the Communist Party and each and every officer of Communist Front Organizations, knowing said Organizations to be Communist Front Organizations, shall register or cause to be registered said Party or Organizations with the Department of Public Safety, if said Party or Organizations have any members who reside, permanently or for a period of time more than thirty (30) days, in the State of Texas. Such registration shall be under oath and shall include the name of the organization, the location of its principal office and of its offices and meeting places in the State of Texas; the names, real and assumed, of its officers; the names, real and assumed, of its members in the State of Texas and of any person who has attended its meetings in the State of Texas; a financial statement reflecting receipts and disbursements and by whom and to whom paid; and any other information requested by the Department of Public Safety which is relevant to the purposes of this Statute. Such registration shall be made within thirty (30) days after the effective date of this Statute, and thereafter at such intervals as are directed by the Department of Public Safety.

(D) Failure to register as herein required, or the making of any registration which contains any material false statement or omission, shall constitute a felony and shall be punishable by a fine of not less than One Thousand Dollars ($1,000) or more than Ten Thousand Dollars ($10,000), or by imprisonment of not less than two (2) or more than ten (10) years, or by both.

(E) Under order of any court of record, the registration records shall be open for inspection by any person in whose favor such order is granted; and the records shall at all times, without the need for a court order, be open for inspection by any law enforcement officer of this State, of the United States or of any State or Territory of the United States. At the discretion of the Department of Public Safety, such records may also be open for inspection by the general public or by any member thereof.

Sabotage

Sec. 5. It shall be a felony, punishable by a term in the penitentiary of not less than two (2) nor more than twenty (20) years for any person, with the intent to injure the United States, the State of Texas, or any facilities or property used for national defense, to sabotage or destroy, or to attempt to sabotage or destroy, any property, facility or service that is being used or is to be used in connection with national defense. Should any loss of life occur by reason of such sabotage or destruction, or by reason of any attempted sabotage or destruction of such character, the person committing or attempting to commit same shall be guilty of murder with malice aforethought and shall be punished by death, or by confinement in the penitentiary for life or for any term of years not less than two (2). The word "sabotage" as used herein means the wilful and malicious infliction of physical damage or injury to property. The penalty herein provided shall be cumulative of all other penalties which might be imposed by virtue of the fact that the acts constituting an offense under this Statute also constitute separate offenses under other laws of this State.

Elections

Sec. 6. The name of any Communist or of any nominee of the Communist Party shall not be printed upon any ballot used in any primary or general election in this State or in any political subdivision thereof.

Public Office

Sec. 7. No person may hold any nonelective position, job or office for the State of Texas, or any political subdivision thereof, where the remuneration of said position, job or office is paid wholly or in part by public moneys or funds of the State of Texas, or of any political subdivision thereof, where reasonable grounds exist, on all of the evidence, for the employer or other superior of such person to
believe that such person is a Communist or a knowing member of a Communist Front Organization.

Enforcement

Sec. 8. The Attorney General of the State of Texas, all District and County Attorneys, the Department of Public Safety, and all law enforcement officers of this State shall each be charged with the duty of enforcing the provisions of this Statute.

Partial Unconstitutionality

Sec. 9. If any section, subparagraph, sentence, phrase, part or application of this Statute shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions hereof, and the Legislature here declares that it would have enacted such remaining portions notwithstanding any holding of unconstitutionality with respect to any other portions of this Statute.

Cumulative Character

Sec. 10. This Statute is cumulative of all existing laws and does not repeal any such laws.

Short Title

Sec. 11. This Act may be cited as the "Texas Communist Control Law."

[Acts 1951, 52nd Leg., p. 10, ch. 8.]

Art. 6889-3A. Suppression of Communist Party and Related Organizations

Legislative Finding and Declaration

Sec. 1. Upon evidence and proof already presented before this Legislature, Congress, the courts of this State, and the courts of the United States, it is here now found and declared to be a fact that there exists an international Communist conspiracy which is committed to the overthrow of the government of the United States and of the several States, including that of the State of Texas, by force or violence, such conspiracy including the Communist Party of the United States, its component or related parts and members, and that such conspiracy constitutes a clear and present danger to the government of the United States and of this State.

Illegality of Communist Party and Component or Related Organizations; Dissolution; Forfeiture of Charter; Property, Etc.

Sec. 2. The Communist Party of the United States, together with its component or related parts and organizations, no matter under what name known, and all other organizations, incorporated or unincorporated, which engage in or advocate, abet, advise, or teach, or a purpose of which is to engage in or advocate, abet, advise, or teach, any activities intended to overthrow, destroy, or alter, or to assist in the overthrow, destruction, or alteration of, the constitutional form of the government of the United States, or of the State of Texas, or of any political subdivision of either of them, by force or violence, are hereby declared to be illegal and not entitled to any rights, privileges, or immunities attendant upon bodies under the jurisdiction of the State of Texas or any political subdivision thereof. It shall be unlawful for such Party or any of its component or related parts or organizations, or any such other organization, to exist, function, or operate in the State of Texas. Any organization which is found by a court of competent jurisdiction to have violated any provisions of this Section, in a proceeding brought for that purpose by the District Attorney, Criminal District Attorney, or County Attorney, shall be dissolved, and if it be a corporation organized and existing under the laws of this State or having a permit to do business in this State, its charter or permit shall be forfeited, and, whether incorporated or unincorporated, all funds, records, and other property belonging to such Party or any component or related part or organization thereof, or to any such other organization, shall be seized by and forfeited to the State of Texas, to escheat to the State as in the case of a person dying without heirs. All books, records, and files of any such organization shall be turned over to the Attorney General.

Registration Not Evidence

Sec. 3. The fact of the registration of any person under the provisions of Article 6889-3 of the Revised Civil Statutes of Texas as an officer or member of any Communist organization shall not be received in evidence against such person in any proceeding for any alleged violation of this Act.

Prima Facie Evidence

Sec. 4. As to any particular organization, proof of its affiliation with a parent or superior organization, inside or outside of this State, which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach, any activities intended to overthrow, destroy, or alter, or to assist in the overthrow, destruction, or alteration of, the constitutional form of the government of the United States, or of the State of Texas, or of any political subdivision of either of them, by force or violence, shall constitute prima facie evidence that such particular organization engages in or advocates, abets, advises, or teaches, or has as a purpose the engaging in or advocating, abetting, advising, or teaching of, the same activities with the same intent.

Unlawful Acts

Sec. 5. It shall be unlawful for any person knowingly or wilfully to:

1. Commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy, or alter, or to assist in the overthrow, destruction, or alteration of, the constitutional form of the government of the United States, or of the State of Texas, or of any political subdivision of either of them, by force or violence; or
(2) Advocate, abet, advise, or teach by any means any person to commit, attempt to commit, or aid in the commission of any such act, under such circumstances as to constitute a clear and present danger to the security of the United States, or of the State of Texas, or of any political subdivision of either of them; or

(3) Conspire with one or more persons to commit any of the above acts; or

(4) Assist in the formation of, or participate in the management of, or contribute to the support of, or become or remain a member of, or destroy any books or records or files of, or secrete any funds in this State of the Communist Party of the United States or any component or related part or organization thereof, or any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach, any activities intended to overthrow, destroy, or alter, or to assist in the overthrow, destruction, or alteration of, the constitutional form of the government of the United States, or of the State of Texas, or of any political subdivision of either of them, by force or violence, knowing the nature of such organization.

Punishment for Violations

Sec. 6. Any person who shall violate any of the provisions of Section 5 of this Act shall be guilty of a felony, and upon conviction thereof shall be fined not more than Twenty Thousand ($20,000) Dollars, or imprisoned not less than one (1) year nor more than twenty (20) years in the State penalitary, or may be both so fined and imprisoned. Provided that nothing in this Act shall be construed to repeal any part of Articles 83, 84, and 85 of the Penal Code of the State of Texas, relating to treason, nor any part of Articles 153 and 155 of the Penal Code of the State of Texas, relating to seditious writings and language; and provided further, that no person convicted of any violation of this Act shall ever be entitled to suspension or probation of sentence by the trial court.

Disqualification to Hold Office, Etc.

Sec. 7. Any person who shall be convicted finally by a court of competent jurisdiction of violating any of the provisions of this Act shall from the date of such final conviction automatically be disqualified and barred from holding any office, elective or appointive, or any other position of profit, trust, or employment with the government of the State of Texas or any agency thereof, or of any county, municipal corporation, or other political subdivision of the State.

Enforcement

Sec. 8. The District Courts of this State and the judges thereof shall have full power, authority, and jurisdiction, upon the application of the State of Texas, acting through the District Attorney, Criminal District Attorney, or County Attorney, to issue any and all proper restraining orders, temporary and permanent injunctions, and any other writs and processes appropriate to carry out and enforce the provisions of this Act; no injunction or other writ shall be granted, used or relied upon under the provisions of this Act in any labor dispute or disputes. Such proceedings shall be instituted, prosecuted, tried, and heard as other civil proceedings of like nature in such courts, provided that no such proceedings shall be instituted unless and until the Director of the Texas State Department of Public Safety or his assistant in charge has been notified by telephone, telegraph, or in person of the intention to institute such proceeding, and an affidavit of such notice filed with the application for such injunction proceedings shall be sufficient for the filing of the same.

Nothing in this Act shall be construed to alter in any way the powers now held by the courts of this State or of this nation under the laws of this State in labor disputes.

Search Warrants

Sec. 9. A search warrant may issue under Title 6 of the Code of Criminal Procedure for the purpose of searching for and seizing any books, records, pamphlets, cards, receipts, lists, memoranda, pictures, recordings, or any written instruments showing that a person or organization is violating or has violated any provision of this Act. Search warrants may be issued by any judge of a court of record in this State upon the written application of the District Attorney, Criminal District Attorney, or County Attorney, within their respective jurisdictions, accompanied by the affidavit of a credible person setting forth the name or description of the owner or person in charge of the premises to be searched, or stating that his name and description are unknown, the address or description of the premises, and showing that the described premises is a place where some specified phase or phases of this Act are violated or are being violated, or where are kept any books, records, pamphlets, cards, receipts, lists, memoranda, pictures, recordings, or written instruments of any kind showing a violation of some phase or phases of this Act; provided that if the premises to be searched constitute a private residence, such application for a search warrant shall be accompanied by the affidavits of two credible citizens. Except as herein provided, the application, issuance, and execution of any such warrant and all proceedings relative thereto shall conform to the applicable provisions of Title 6 of the Code of Criminal Procedure; provided that any evidence obtained by virtue of a search warrant issued under the provisions of this Act shall not be admissible in evidence in the trial of any proceeding, administrative or judicial, save and except those arising under this Act.
Art. 6889–3A  STATE AND NATIONAL DEFENSE

Enforcement of Law

Sec. 9a. The Internal Security Section of the Texas Department of Public Safety shall assist in the enforcement of the provisions of this Act, and for such purpose said Department may employ and pay the salaries and wages of such personnel and make such capital outlay purchases as it may deem necessary and pay necessary expenses, including but not limited to travel expenses (including automobile maintenance), all necessary operating expenses (including seasonal help), wages and salaries of employees, and make any and all other expenditures whatsoever necessary for the proper enforcement of the provisions of this Act; and for such purposes there is hereby appropriated out of the biennium ending August 31, 1955.


CIVIL DEFENSE


See, now, art. 6889-6.

Art. 6889–5. Interstate Civil Defense and Disaster Compact

Sec. 1. Whereas the Congress of the United States of America has granted its consent to civil defense compacts by an Act entitled "Federal Civil Defense Act of 1950" (Public Law 220, Eighty-first Congress, 2nd Session, Approved January 12, 1951), the Legislature of this State hereby ratifies a compact on behalf of the State of Texas with any other state legally joining therein in the form substantially as follows:

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

"Article 1. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors or Co-ordinators of Civil Defense of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

"Article 2. It shall be the duty of each party state to formulate civil defense plans and programs for application within such state. There shall be frequent consultation between the Representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party states shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party states;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

"Article 3. Any party state requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the civil defense forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges and immunities as if they were performing their duties in the state in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the opera-
tional control of the civil defense authorities of the state receiving assistance.

“Article 4. Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster and such state shall give due recognition to such license, certificate or other permit as if issued in the state in which aid is rendered.

“Article 5. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

“Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, rescue, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

“Article 7. Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

“Article 8. Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such request; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further that any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States Government may relieve the party state receiving aid from any liability and reimburse the party state supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

“Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, medical care, and burial services will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, medical care, and burial services. Such expenditures shall be reimbursed by the party state of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party state of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

“Article 10. This compact shall be available to any state, territory or possession of the United States, and the District of Columbia. The term ‘state’ may also include any neighboring foreign country or province or state thereof.

“Article 11. The committee established pursuant to Article 10 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

“Article 12. This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Civil Defense Agency and other appropriate agencies of the United States Government.

“Article 13. This compact shall continue in force and remain binding on each party state until the Legislature or the Governor of such party state takes action to withdraw therefrom. Such action shall not be effective until ninety (90) days after notice thereof has been sent by the Governor of the
party state desiring to withdraw to the Governors of all other party states.

"Article 14. This compact shall be construed to effectuate the purpose stated in Article 1, hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any persons or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

"Article 15. This compact shall become binding and obligatory when it shall have been signed by the Governors of the respective states enumerated in this compact; when it shall have been ratified by the Legislature of each state that requires ratification of said compact by the Legislature; and when ratified by the Congress of the United States. Failure of the United States Congress to ratify within sixty (60) days after transmission, the consent shall be considered as granted. Notice of ratification by each of the states which are a party to this compact shall be given by the Governor of that state to the Governor of the other states and to the President of the United States, and the President is hereby requested to give notice to the Governor of each state of approval by the Congress of the United States."

Sec. 1a. The office of Interstate Civil Defense and Disaster Compact Administrator for Texas is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the office is abolished, and this Act expires effective September 1, 1987.

Sec. 2. Duly authenticated copies of this Act shall, upon its approval, be transmitted to the Governor of each state, to the President of the Senate of the United States, to the Speaker of the House of Representatives, to the Federal Civil Defense Administration, to the Secretary of State of the United States, and to the Council of State Governments. [Acts 1951, 52nd Leg., p. 831, ch. 312. Amended by Acts 1977, 65th Leg., p. 1851, ch. 735, § 2.139, eff. Aug. 29, 1977.]

1 50 U.S.C.A.Appendix, § 2251 et seq.
2 Article 628b.

Art. 6889-6. Repealed by Acts 1975, 64th Leg., p. 731, ch. 289, § 19, eff. May 22, 1975
See, now, art. 6889-7.

Art. 6889-7. Disaster Act of 1975

Short Title
Sec. 1. This Act may be cited as the Texas Disaster Act of 1975.

Purposes
Sec. 2. The purposes of this Act are to:
(1) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action;
(2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
(3) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters;
(4) clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to, and recovery from disasters;
(5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;
(6) authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;
(7) provide an emergency management system embodying all aspects of predisaster preparedness and postdisaster response;
(8) assist in prevention of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and
(9) provide the authority and mechanism to respond to an energy emergency.

Limitations
Sec. 3. Nothing in this Act may be construed to:
(1) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this Act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
(2) interfere with dissemination of news or comment on public affairs, but any communications facility or organization, including radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster or potential disaster;
(3) affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any of their personnel when on active duty, but state, local, and interjurisdictional emergency management plans shall place reliance on the forces available for performance of functions related to disasters; or
(4) limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in him under the constitution or laws of this state independent of or in conjunction with any provisions of this Act.
Definitions
Sec. 4. In this Act

(1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or energy emergency.

(2) "Political subdivision" means a county or incorporated city.

(3) "Organized volunteer groups" means organizations such as the American National Red Cross, the Salvation Army, Civil Air Patrol, Radio Amateur Civil Emergency Services, and other similar organizations recognized by federal or state statute, regulation, or memorandum.

(4) "Temporary housing" means temporary housing as defined in the Federal Disaster Relief Act of 1974 (PL 93-288, 88 Stat. 149).1

(5) "Interjurisdictional agency" means a disaster agency maintained by and serving more than one political subdivision.

(6) "Energy emergency" means a temporary statewide, regional, or local shortage of petroleum or liquid fuels energy supplies that makes emergency measures necessary to reduce demand or allocate supply.

1 42 U.S.C.A. §§ 5121 et seq., 5174.

The Governor and Emergency Management
Sec. 5. (a) The governor is responsible for meeting the dangers to the state and people presented by disasters and disruptions to the state and people caused by energy emergencies.

(b) Under this Act, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.

(c) The governor may establish by executive order an Emergency Management Council to advise and assist him in all matters relating to disaster preparedness, emergency services, energy emergencies, and disaster recovery. The Emergency Management Council is composed of the heads of state agencies, boards, and commissions and representatives of organized volunteer groups.

(d) A state of disaster may be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that the occurrence or the threat of disaster is imminent. The state of disaster continues until the governor finds that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster by executive order, but no state of disaster may continue for longer than 30 days unless renewed by the governor. The legislature by law may terminate a state of disaster at any time. On termination by the legislature, the governor shall issue an executive order ending the state of disaster. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area threatened, and the conditions which have brought it about or which make possible termination of the state of disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant on the disaster prevent or impede, promptly filed with the Division of Emergency Management, the secretary of state, and the county clerk or city secretary in the area or areas to which it applies.

(e) An executive order or proclamation setting forth a state of disaster activates the disaster recovery and rehabilitation aspects of the state emergency management plan applicable to the area in question and is authority for the deployment and use of any forces to which the plan applies and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this Act or any other provision of law relating to disasters. The preparedness and response aspects of the plan shall be activated as provided in the plan.

(f) During the continuance of any state of disaster and the pursuant recovery period, the governor is commander-in-chief of state agencies, boards, and commissions having emergency responsibilities. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or plans, but nothing in this Act restricts his authority to do so by orders issued at the time of the disaster.

(g) In addition to any other powers conferred on the governor by law, he may:

(1) suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules, or regulations of any state agency if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster;

(2) utilize all available resources of the state government and of each political subdivision of the state which are reasonably necessary to cope with the disaster;

(3) temporarily reassign resources, personnel, or functions of state executive departments and agencies or their units for the purpose of performing or facilitating emergency services;

(4) subject to any applicable requirements for compensation under Section 12 of this Act, comman-
Art. 6889-7  STATE AND NATIONAL DEFENSE

deed or utilize any private property if he finds this necessary to cope with the disaster;

(5) recommend the evacuation of all or part of the population from any stricken or threatened area in the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(6) prescribe routes, modes of transportation, and destinations in connection with evacuation;

(7) control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area;

(8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles;

(9) enter into purchase, lease, or other arrangements with an agency of the United States for temporary housing units to be occupied by disaster victims and to make units available to any political subdivision of the state;

(10) assist any political subdivision which is the locus of temporary housing for disaster victims to acquire sites necessary for temporary housing and to do all things required to prepare the site to receive and utilize temporary housing units by advancing or lending funds available to the governor from any appropriation made by the legislature or from any other source; “passing through” funds made available by any agency, public or private; or becoming a copartner with the political subdivision for the execution and performance of any temporary housing for disaster victims project;

(11) under such regulations as he shall prescribe, temporarily suspend or modify for not to exceed 60 days any public health, safety, zoning, transportation within or across the state, or other requirement of law or regulation within this state when by proclamation he deems the suspension or modification essential to provide temporary housing for disaster victims;

(12) on his determination that a local government of the state has or will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, apply to the federal government on behalf of the local government for a loan, receive and disburse the proceeds of any approved loan to any applicant local government to restore or resume its governmental functions, certify that to the federal government provided that no application amount may exceed 25 percent of the financial assistance authorized in this subsection; and

(13) make rules and regulations as are necessary for carrying out the purposes of this Act, including standards of eligibility for persons applying for benefits, procedures for applying and administration, methods of investigation, filing, and approving applications, and formation of local or statewide boards to pass on applications and procedures for appeals.

(b) The governor may designate in the state emergency management plan the Department of Human Resources or other state agency to carry out the functions of providing financial aid to individuals or families qualified for disaster relief. The designated agency may employ temporary personnel for these functions to be paid from funds appropriated to the agency, federal funds, or the Disaster Contingency Fund. The merit system does not apply to the temporary positions. The governor may allocate funds appropriated under this Act to implement the purposes of this Act.

(6) Nothing in this Act may be construed to limit the governor's authority to apply for, administer, or

cluding additional disaster-related expenses of a municipal operation character;

(14) accept funds from the federal government and utilize the funds to make grants to any local government for the purpose of removing debris or wreckage from publicly or privately owned land or water;

(15) on his determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot be otherwise adequately met from other means of assistance, accept a grant by the federal government to fund financial assistance, subject to terms and conditions as may be imposed on the grant, and enter into an agreement with the federal government or any officer or agency of the United States pledging the state to participate in funding not more than 25 percent of the financial assistance authorized in this subsection;

(16) make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance, which shall not exceed an aggregate amount in excess of that established by federal statute to an individual or family in any single major disaster declared by the President of the United States; and

(17) make rules and regulations as are necessary for carrying out the purposes of this Act, including standards of eligibility for persons applying for benefits, procedures for applying and administration, methods of investigation, filing, and approving applications, and formation of local or statewide boards to pass on applications and procedures for appeals.
expend any grant, gift, or payment in aid of disaster prevention, preparedness, response, or recovery.

(j) No debris or wreckage from public or private property may be removed until the affected local government, corporation, organization, or individual presents an unconditional authorization for removal to the governor. No debris or wreckage may be removed from private property until the state is indemnified against any claim arising from removal. Whenever the governor provides for clearance of debris or wreckage under the provisions of this Act, state employees or other individuals acting by authority of the governor may enter on private land or water to perform tasks necessary to the removal or clearance operation. Except in cases of willful misconduct, gross negligence, or bad faith, a state employee or agent performing his duties while complying with orders of the governor issued under the provisions of this Act shall not be liable for the death of or injury to persons or damage to property.

(k) Any political subdivision of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims and to enter into whatever arrangements (including purchase of temporary housing units and payment of transportation charges) which are necessary to prepare or equip the sites to utilize the housing units.

State Division of Emergency Management

Sec. 6. (a) A Division of Emergency Management is established in the office of the governor. The division shall have a director and a state coordinator. The director shall be appointed by and serve at the pleasure of the governor. The coordinator shall be appointed by the director. The division shall have other coordinating and planning officers and other professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

(b) The division shall prepare and maintain a comprehensive state emergency management plan and keep it current. The plan may include:

(1) provisions for prevention and minimization of injury and damage caused by disaster;
(2) provisions for prompt and effective response to disaster;
(3) provisions for emergency relief;
(4) provisions for energy emergencies;
(5) identification of areas particularly vulnerable to disasters;
(6) recommendations for zoning, building, and other land-use controls, safety measures for securing mobile homes or other nonpermanent or semi-permanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
(7) provisions for assistance to local officials in designing local emergency management plans;
(8) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;
(9) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
(10) organization of manpower and channels of assistance;
(11) coordination of federal, state, and local emergency management activities;
(12) coordination of the state emergency management plan with the emergency management plans of the federal government;
(13) coordination of federal and state energy emergency plans; and
(14) other necessary matters relating to disasters.

(c) The division shall take an integral part in the development and revision of local and interjurisdictional emergency management plans prepared under Section 8 of this Act. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and disaster agencies. These personnel shall consult with subdivisions and agencies on a regularly scheduled basis and shall make field reviews of the areas, circumstances, and conditions to which particular local and interjurisdictional emergency management plans are intended to apply and may suggest revisions.

(d) In preparing and revising the state emergency management plan, the division shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local and interjurisdictional agencies, the division shall encourage them also to seek advice from these sources.

(e) The state emergency management plan or any part of it may be incorporated in regulations of the division or executive orders which have the force and effect of law.

(f) The division shall:

(1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
(2) procure and pre-position supplies, medicines, materials, and equipment;
(3) promulgate standards and requirements for local and interjurisdictional emergency management plans;
(4) periodically review local and interjurisdictional emergency management plans;
(5) provide for mobile support units;
(6) establish and operate training programs and programs of public information or assist political subdivisions and disaster agencies to establish and operate the programs;

(7) make surveys of public and private industries, resources, and facilities in the state which are necessary to carry out the purposes of this Act;

(8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;

(9) establish a register of persons with types of training and skills important in disaster prevention, preparedness, response, and recovery;

(10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;

(11) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(12) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this Act and in implementing programs for disaster prevention, preparation, response, and recovery; and

(13) do other things necessary, incidental, or appropriate for the implementation of this Act.

(g) The division may employ temporary personnel to be paid from funds appropriated to the division, federal funds, or the Disaster Contingency Fund. The merit system does not apply to the temporary positions.

(h) The division may provide assistance to private aviators, including partial reimbursement for funds expended, to meet the actual costs of aircraft operation in performing search, rescue, or disaster-related functions requested by the governor or the governor's designee. The reimbursements shall be limited to the actual cost of aircraft operation not reimbursable from other sources.

Financing

Sec. 7. (a) It is the intent of the legislature and declared to be the policy of the state that funds to meet disasters always be available.

(b) The Disaster Emergency Funding Board, which is composed of the governor, the lieutenant governor, the chairman of the State Board of Insurance, the commissioner of the Department of Human Resources, and the director of the division, is established.

(c) A disaster contingency fund is established which shall receive money appropriated by the legislature.

(d) It is the legislative intent that the first recourse shall be to funds regularly appropriated to state and local agencies. If the governor finds that the demands placed on these funds in coping with a particular disaster are unreasonably great, he may with the concurrence of the Disaster Emergency Funding Board make funds available from the Disaster Contingency Fund.

(e) Whenever the federal government or any other public or private agency or individual offers to the state or through the state to any political subdivision of the state, services, equipment, supplies, materials, or funds as gifts, grants, or loans for purposes of emergency services or disaster recovery, the governor, if required by the donor, and the political subdivision through the presiding officer of its governing body may accept the offer in behalf of the state or its political subdivision. Where any gift, grant, or loan is accepted by the state, the governor or on his designation the Emergency Management Council or the state coordinator may disburse the gift, grant, or loan directly to accomplish the purpose for which it was made or allocate and transfer to any political subdivision of this state, services, equipment, supplies, materials, or funds in the amount he or his designated agent may determine. The funds received by the state shall be placed in a special fund or funds and shall be disbursed by warrants issued by the comptroller of public accounts an order of the governor or his designated agent, who may be named by him either in a written agreement accepting the funds or in a written authorization filed with the secretary of state. Where the funds are to be used for the purchase of equipment, supplies, or commodities of any kind, it is not necessary that bids be obtained or that the purchases be approved by any other agency. On receipt of an order for disbursement, the comptroller shall issue a warrant without delay. Political subdivisions are authorized to accept and utilize all services, equipment, supplies, materials, and funds to the full extent authorized by the agreement under which they are received by the state or by the political subdivision.

Local and Interjurisdictional Disaster Agencies and Services

Sec. 8. (a) Each political subdivision within this state is within the jurisdiction of and served by the division and by a local or interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) Each county shall maintain an emergency management program or participate in a local or interjurisdictional emergency management program which, except as otherwise provided under this Act, has jurisdiction over and serves the entire county or interjurisdictional area.

(c) The governor shall determine which municipal corporations need emergency management programs of their own and shall recommend that they be established and maintained. He shall make his determinations on the basis of the municipality's disaster vulnerability and capability of response related to population size and concentration. The
emergency management program of a county must be coordinated with the emergency management programs of municipalities situated within its borders but shall not apply in a municipality having its own emergency management program.

(d) The governor may recommend that a political subdivision establish and maintain a program and form an interjurisdictional agency jointly with one or more other political subdivisions if he finds that the establishment and maintenance of a joint program or participation in it is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response, or recovery services under other provisions of this Act.

(e) Each city which does not have a program and has not made arrangements to secure or participate in the services of an existing program shall designate a liaison officer to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response, and recovery. Each county shall provide an office and a liaison officer to coordinate with state and federal emergency management personnel concerning disaster prevention, preparedness, response, or recovery services under other provisions of this Act.

(f) The presiding officer of the governing body of each political subdivision shall notify the division of the manner in which the political subdivision is providing or securing an emergency management program, identify the person who heads the agency responsible for the program, and furnish additional pertinent information that the division requires.

(g) Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency management plan for its area providing for disaster preparedness, response, recovery, and rehabilitation. The plan shall provide for:

(1) wage, price, and rent controls and other economic stabilization methods in the event of disaster; and

(2) curfews, blockades, and limitations on utility usage in an area affected by a disaster, rules governing ingress and egress to the affected area, and other security measures.

(h) The local or interjurisdictional disaster agency shall prepare in written form and distribute to all appropriate officials a clear and complete statement of the disaster responsibilities of all local agencies and officials and of the disaster channels of assistance.

(i) A political subdivision may make appropriations for emergency management services as provided by law for making appropriations for ordinary expenses of the political subdivisions and may enter into agreements for the purpose of organizing emergency management service divisions, provide for a mutual method of financing the organization of units on a basis satisfactory to the political subdivisions, and render aid to other subdivisions under mutual aid agreements provided that the functioning of said units shall be coordinated by the Emergency Management Council. For the payment of the cost of any equipment, construction, acquisition, or any improvements for carrying out the provisions of this Act, counties and incorporated cities and towns may issue time warrants. These time warrants shall be issued in accordance with the provisions of the Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes). Time warrants shall not be issued for financing permanent construction or improvements for emergency management purposes except on the right of a referendum vote as provided in Section 4 of that law.

Qualifications for Rendering Aid

Sec. 9. If any person holds a license, certificate, or other permit issued by any state or political subdivision of any state evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving the skill in this state to meet an emergency or disaster, and this state shall give due consideration to the license, certificate, or other permit.

Declaration of Local Disasters

Sec. 10. (a) A local state of disaster may be declared by the presiding officer of the governing body of a political subdivision. It may not be continued or renewed for a period in excess of seven days except by or with the consent of the governing body of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local state of disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary or county clerk as applicable.

(b) The effect of a declaration of a local state of disaster is to activate the recovery and rehabilitation aspects of any and all applicable local or interjurisdictional emergency management plans and to authorize the furnishing of aid and assistance under the declaration. The preparedness and response aspects of the plans shall be activated as provided in the plans.

Disaster Prevention

Sec. 11. (a) In addition to disaster prevention measures as included in the state, local, and interjurisdictional emergency management plans, the governor shall consider on a continuing basis steps that could be taken to mitigate the harmful consequences of disasters. At his direction and pursuant to any other authority and competence they have, state agencies including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land-use planning, and construction standards shall make studies of disaster-prevention-related matters. The governor from time to time shall
make recommendations to the legislature, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b) The Department of Water Resources and other state agencies in conjunction with the division shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies undertaken under this subsection shall concentrate on means of reducing or avoiding the dangers caused by this occurrence or its consequences.

(c) If the division believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the governor. If the governor on review of the recommendations finds after public hearing that the changes are essential, he shall make appropriate recommendations to the agencies or local governments with jurisdiction over the area and subject matter. If no action or insufficient action pursuant to his recommendations is taken within the time specified by the governor, he shall so inform the legislature and request legislative action appropriate to mitigate the impact of disaster.

(d) The governor, at the same time that he makes his recommendations pursuant to Subsection (c) of this section, may suspend the standard or control which he finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by concurrent resolution of both houses of the legislature or amended by the governor. During the time it is in effect, the standard or control contained in the governor's regulation shall be administered and given effect by all relevant regulatory agencies of the state and local governments to which it applies. The governor's action is subject to judicial review but is not subject to temporary stay pending litigation.

Compensation

Sec. 12. (a) Each person in this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to manage emergencies. This obligation includes appropriate personal services and use or restriction on the use of property in time of disaster. This Act neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state and the common law. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this Act are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his services or property without compensation.

(b) No personal services may be compensated by the state or any subdivision or agency of the state except pursuant to statute or ordinance.

(c) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a disaster and its use or destruction was ordered by the governor or a member of the disaster forces of this state.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this Act shall file a claim for compensation with the division in the form and manner the division provides.

(e) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the division, the amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to the condemnation laws of this state.

(f) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a firebreak or to the release of water or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood, or contravention of Article I, Section 17, of the Texas Constitution, or statutes pertaining to that section.

Communications

Sec. 13. The division shall ascertain in cooperation with other state agencies what means exist for rapid and efficient communication in times of disaster. The division shall consider the desirability of supplementing these communication resources or of integrating them into a comprehensive state or state-federal telecommunication or other communication system or network. In studying the character and feasibility of any system or its several parts, the division shall evaluate the possibility of their multipurpose use for general state and local governmental purposes. The division shall make recommendations to the governor as appropriate.

Mutual Aid

Sec. 14. (a) Political subdivisions not participating in interjurisdictional arrangements pursuant to this Act nevertheless shall be encouraged and assisted by the division to conclude suitable arrangements for furnishing mutual aid in coping with disasters. The arrangements shall include provision of aid by persons and units in public employ.
(b) In reviewing local emergency management plans, the division shall consider whether they obtain adequate provisions for the rendering and receipt of mutual aid.

(c) In reviewing local and interjurisdictional emergency management plans, the division may require mutual aid agreements between political subdivisions if it determines that the political subdivisions have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the political subdivisions have not already made adequate provision for mutual aid.

Weather Modification
Sec. 15. The division shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activities severe enough to constitute a disaster. If the division determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall request in the name of the governor that the officer or agency empowered to issue permits for weather modification operations suspend the issuance of the permits. On the governor's request, no permits may be issued until the division informs the officer or agency that the danger has passed.

Insurance Coverage
Sec. 16. Property damage insurance covering state facilities may be purchased by agencies of the state when necessary to qualify for federal disaster assistance funds. If sufficient funds are not available for the required insurance, then the agency may petition the Disaster Emergency Funding Board to purchase the insurance in the agency's behalf. The board may expend money from the Disaster Contingency Fund to purchase the required insurance.

Penalty for Violation of Emergency Management Plan
Sec. 17. A state, local, or interjurisdictional emergency management plan may provide that failure to comply with the plan or with a rule, order, or ordinance adopted pursuant to the plan is an offense. The plan may not prescribe as punishment for the offense a fine that exceeds $1,000 or confinement in jail for a term that exceeds 180 days.

Severability
Sec. 18. If any provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the Act, and to this end the provisions of this Act are held to be severable. All plans, regulations, and executive orders and proclamations not in conflict herewith are continued in full force and effect.

Repealer
TITLE 121
STOCK LAWS

CHAPTER ONE. MARKS AND BRANDS

CHAPTER TWO. PROTECTION OF LIVE STOCK
Arts. 6900 to 6902. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 114, ch. 52, § 29

CHAPTER THREE. SLAUGHTER AND SHIPMENT

CHAPTER FOUR. ESTRAYS
Arts. 6911 to 6927. Repealed by Acts 1975, 64th Leg., p. 1933, ch. 630, § 12, eff. June 19, 1975


CHAPTER FIVE. STOCK LAW AND LIMITED RANGE

CHAPTER SIX. STOCK RUNNING AT LARGE

CHAPTER SEVEN. PROTECTION OF STOCK RAISERS

CHAPTER EIGHT. ANIMAL HEALTH COMMISSION

Acts 1981, 67th Leg., ch. 388, repealing these articles, enacts the Agriculture Code.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Agriculture Code.

Arts. 7010 to 7014. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 128, ch. 53, § 38

Art. 7014a. Dogs; Vaccination or Treatment for Rabies

No law of this State shall prevent any person from vaccinating, inoculating, or treating his own dogs or for any person employed as County Demonstration Agent from vaccinating, inoculating or treating any dogs with any serum or virus that will prevent rabies, and any law in conflict with this Act is hereby repealed.


This article was also repealed by Acts 1981, 67th Leg., p. 1487, ch. 388, § 4, effective Sept. 1, 1981.

Section 1 of the 1981 amendatory act enacts the Agriculture Code.


Arts. 7015 to 7040. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 128, ch. 53, § 38
TITLE 122
TAXATION

For text of Title 122, Taxation, see the Tax Code pamphlet.

TITLE 122A
TAXATION—GENERAL

Title 122A, Taxation—General, was generally repealed by Acts 1981, 67th Leg., p. 1785, ch. 389, § 39(a). For disposition of the subject matter of the former provisions of Title 122A, see the Disposition Table preceding the Tax Code.

TITLE 123
TIMBER [REPEALED]

This Title 123 was repealed by art. I, § 2(a)(2), of Acts 1977, 65th Leg., p. 2689, ch. 871, enacting the Natural Resources Code, effective September 1, 1977.

For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Natural Resources Code.


Former arts. 7361a, 7362a, 7363, and 7363b, derived from Acts 1879, p. 81, were transferred from Vernon's Ann.P.C. (1925) arts. 1385 to 1388, respectively, by authority of § 5 of Acts 1973, 63rd Leg., p. 995, ch. 399.
TITLE 124
TRESPASS TO TRY TITLE

1. THE PLEADINGS AND PRACTICE

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.
For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Arts. 7365 to 7374. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.
For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Arts. 7376 to 7388. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.
For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Art. 7390. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

CLAIM FOR IMPROVEMENTS

Acts 1983, 68th Leg., ch. 576, repealing these articles enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

Art. 7400. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

4517
TITLE 125
TRIAL OF RIGHT OF PROPERTY

Arts. 7402 to 7408. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.
For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

Arts. 7410 to 7416. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

Arts. 7419 to 7425. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)
TITLE 125A
TRUSTS AND TRUSTEES

IN GENERAL
Arts. 7425a to 7425h. Repealed by Acts 1983, 68th Leg., p. 3279, ch. 576, § 6, eff. Jan. 1, 1984
Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

TEXAS TRUST ACT
Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

UNIFORM COMMON TRUST FUND ACT
Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

POWERS
Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.
For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

PENSION TRUSTS
Acts 1983, 68th Leg., ch. 576, repealing these articles, enacts the Property Code.
For disposition of the subject matter of the repealed articles, see Disposition Table preceding the Property Code.

CHARITABLE TRUSTS
Acts 1983, 68th Leg., ch. 576, repealing this article, enacts the Property Code.
For disposition of the subject matter of the repealed article, see Disposition Table preceding the Property Code.

TITLE 126
TRUSTS—CONSPIRACIES AGAINST TRADE

See, now, Business and Commerce Code, § 15.01 et seq.
TITLE 127
VETERINARY MEDICINE AND SURGERY

Art. 7448 to 7465. Repealed.

7465a. Veterinary Licensing Act.

7465b-1. Malpractice Coverage for Director and Staff of Texas Veterinary Medical Diagnostic Laboratory.

7465c. Responsibility of Veterinarian Toward Animals in His Care.

Arts. 7448 to 7465. Repealed by Acts 1953, 53rd Leg., p. 844, ch. 342, § 22

Art. 7465a. Veterinary Licensing Act

Short Title
Sec. 1. This Act may be cited as "The Veterinary Licensing Act."

Definitions
Sec. 2. (a) As used in this Act, except where the context otherwise requires, "Veterinarian" means any person who is licensed to practice Veterinary Medicine by the Texas State Board of Veterinary Medical Examiners.

(b) Any person shall be deemed in the "Practice of Veterinary Medicine" who represents himself as engaged in the practice of veterinary medicine; or uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, or any person who performs a surgical or dental operation or who diagnoses, treats, immunizes or prescribes any drug, medicine, application or veterinary appliance for any physical ailment, injury, deformity or condition of domestic animals, for compensation.

(c) "Board" means the State Board of Veterinary Medical Examiners.

(d) "Licensee" means any person holding a license to practice veterinary medicine issued by the Board.

(e) "Applicant" means any person requesting that the Board examine his qualifications for the practice of veterinary medicine or requesting the issuance or renewal of a license.

(f) "License" means license to practice veterinary medicine.

Exceptions to Application of Law
Sec. 3. The provisions of this Act shall not apply nor shall the following be construed as the practice of veterinary medicine:

(1) Treatment or caring for animals in any manner personally by the owner thereof, or by any employee of the owner thereof.

(2) Performance of the operation of male castration on domestic animals, or docking or earmarking of domestic animals.

(3) Performance of the operation of dehorning cattle, or the spaying of large animals, or operation in aid of the birth process in large animals.

(4) Drenching and spraying of domestic animals for internal or external parasites, or vaccination for black-leg, shipping fever, or sore mouth.

(5) Recommendation by a retail distributor of a medicine, remedy or insecticide which is adequately labeled and has been duly registered with the Texas State Department of Health as required by the Texas Livestock Remedy Act when the retail distributor is advised by the customer of the type of ailment which he wishes to treat.

(6) Treatment and caring for poultry and rabbits.

(7) Branding animals in any manner.

(8) Acts performed by persons who are full-time students of an accredited college of veterinary medicine and who are on a college extern or preceptor program if the acts are performed under direct supervision of a licensee employing the person.

Necessity of License
Sec. 4. No person shall practice, offer or attempt to practice veterinary medicine in this State without first having obtained a valid license to do so from the Texas Board of Veterinary Medical Examiners.

State Board of Veterinary Medical Examiners
Sec. 5. (a) The Board consists of nine members appointed by the Governor with the advice and consent of the Senate for six-year terms.

(b) Appointments shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. Seven members must be licensed veterinarians and two members must be members of the general public.

(c) To be eligible for appointment to the Board as a licensed veterinarian member, a person must:
(1) have resided in the state and practiced veterinary medicine for the six years next preceding his appointment;

(2) be of good repute; and

(3) not be a member of the faculty of any veterinary medical college or of the veterinary medical department of any college or have a financial interest in a veterinary medical college.

(d) A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment;

(3) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment.

(e) A person appointed to the Board qualifies for office by taking the constitutional oath of office. After taking the oath, he shall file a signed copy of it with the Secretary of State.

(f) The Governor shall fill by appointment vacancies on the Board resulting from death or resignation of a member. The person appointed to fill a vacancy serves for the unexpired portion of the vacated term.

(g) At its first meeting each year the Board shall elect from its number a president and any other officers it considers necessary or convenient. Six members of the Board constitute a quorum for the transaction of Board business.

(h) Each Board member is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act.

(i) The State Board of Veterinary Medical Examiners is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993.

(j) The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1987, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(k) A member or employee of the Board may not be an officer, employee, or paid consultant of a trade association in the veterinary medical industry.

(l) A member or employee of the Board may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(m) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(n) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (c) or (d) of this section for appointment to the Board;

(2) does not maintain during his service on the Board the qualifications required by Subsection (c) or (d) of this section for appointment to the Board;

(3) violates a prohibition established by Subsection (k), (l), or (m) of this section; or

(4) fails to attend at least half of the regularly scheduled Board meetings held in a calendar year, excluding meetings held while the person was not a member of the Board.

(o) The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

Executive Secretary and Other Personnel; Intraagency Career Ladder Program; Annual Performance Evaluations System

Sec. 6. (a) The Board may employ an executive secretary and such other persons as it deems advisable to carry out the purposes of this Act, and shall require the executive secretary, charged with the safekeeping of the moneys and proper disbursement of the veterinary fund provided for in this Act, to file with the Board a surety bond in an amount not less than Five Thousand Dollars ($5,000), conditioned on the faithful performance of the duties of his office.

(b) The executive secretary or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting.

(c) The executive secretary or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay authorized by the executive secretary must be based on the system established under this subsection.
Art. 7465a  VETERINARY MEDICINE AND SURGERY

Rules and Regulations; Record-Keeping System

Sec. 7. (a) The Board may make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

(b) The Board may require its licensees to maintain a record-keeping system for certain controlled substances prescribed by the Board that includes the quantities and date of purchase, quantities and date dispensed, quantities and date administered, balance on hand, the name and address of the client and patient receiving the drugs, and the reason for dispensing or administering the drugs to such patient. The records are subject to review by law enforcement agencies and by representatives of the Board. A failure to keep such records shall be grounds for revoking, canceling, suspending, or probation of the license of any practitioner of veterinary medicine.

Rules of Professional Conduct

Sec. 8. (a) The Board may from time to time adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine.

(b) The Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of his voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 9, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Board/commission statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the Board/commission receives the committees' statements.

Issuance and Renewal of Licenses; Record of Registrants

Sec. 9. The Board shall issue and renew licenses for the practice of veterinary medicine as provided for in this Act, and shall keep a record in which shall be registered the name and residence or place of business of all persons licensed to practice veterinary medicine in this State.

Qualifications for License

Sec. 10. (a) Any person not previously licensed in this State is qualified to be licensed, provided:

(1) he has attained the age of majority;

(2) he is a graduate of a reputable school or college of veterinary medicine as approved by the Board;

(3) he successfully completes the examination conducted by the Board; and

(4) the Board does not refuse issuance of the license as provided in Section 14 (Refusing Examination, License or Renewal).

(b) The Board may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this State, and who successfully completes an examination on Texas veterinary jurisprudence and veterinary medical subjects which either are unique to Texas or are common to Texas and not common in most other states.

Previously Issued Licenses

Sec. 11. Any person in Texas holding a previously issued license which is still in effect on the effective date of this Act, shall be deemed licensed under this Act, entitled to practice veterinary medicine, and subject to the provisions of this Act applicable to licensees.

Meetings and Examinations

Sec. 12. (a) The Board shall hold regular meetings at least twice each year for the holding of examinations as provided in this Act, at such times and places as it deems convenient for applicants for examinations. Notice of meetings for holding examinations shall be given by publication in such newspapers or periodicals as the Board may select, and the Board shall examine all qualified applicants for examinations as follows:

(1) Examinations shall be on subjects and operations pertaining to veterinary medicine including veterinary anatomy, veterinary pathology, chemistry, veterinary obstetrics, sanitary science, veterinary practice, veterinary jurisprudence, veterinary physiology and bacteriology and such other subjects as are regularly taught in reputable schools of veterinary medicine.

(2) Examinations may be given orally, in writing, or a practical demonstration of the applicant's skill, or any combination of these as the Board may determine.

(3) Applicants shall demonstrate such standard of proficiency as the Board may determine is essential for a qualified veterinarian.

(b) Within 30 days after the date a licensing examination is administered under this Act, the Board
shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board shall notify each examinee of the results of the examination within two weeks after the date the Board receives the results from the testing service. If the notice of the examination results will be delayed for more than 90 days after the examination date, the Board shall notify the examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the licensing examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

Expiration and Renewal of Licenses; Continuing Education Programs

Sec. 13. (a) Licenses shall expire March 1st of each calendar year, and any licensee may renew his license on or before March 1st by making written application to the Board setting forth such facts as the Board may require, and by paying the required fee.

(b) A person may renew an unexpired license by paying to the Board before the expiration date of the license the required renewal fee. If a person's license has been expired for not more than 90 days, the person may renew the license by paying to the Board the required renewal fee and a fee that is one-half (½) of the examination fee for the license. If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the Board all unpaid renewal fees and a fee that is equal to the examination fee for the license. If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(c) The requirements governing the payment of the annual renewal fee and the penalty for late renewal shall not apply to licensees who are on active duty with the Armed Forces of the United States of America and who do not engage in private or civilian practice; provided further, licensees who are full-time members of the faculty of a reputable veterinary college or school in the State of Texas where such faculty members perform their services for the sole benefit of such school or college and who do not engage in private or civilian practice shall pay one-half (½) of the annual renewal fee fixed by the Board pursuant to law.

(d) The Board may recognize, prepare, or implement continuing education programs for veterinarians. Participation in the programs is voluntary.

Expiration Dates of Licenses; Proration of Fees

Sec. 13A. The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the expiration date is changed, license fees payable on March 1 shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Revocation or Suspension of License; Refusal to Examine Applicant or Issue or Renew License; Grounds

Sec. 14. Except as provided by this section with respect to conviction of a felony under the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), or Chapter 25, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), the Board shall revoke or suspend a license, place a person whose license has been suspended on probation, or reprimand a licensee, or may refuse to examine an applicant or to issue a license or a renewal of a license, after notice and hearing as provided in Section 15 of this Act, or as provided by the rules of the Board, if it finds that an applicant or licensee:

(a) Has presented to the Board dishonest or fraudulent evidence of qualification; has been guilty of illegal fraud or deception in the process of examination, or for the purpose of securing a license; or

(b) Is chronically or habitually intoxicated or is addicted to drugs; or

(c) Has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine; or

(d) Has been convicted of a felony under the laws of this or any other state of the United States or of the United States; or

(e) Has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law; or

(f) Has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state, for the purpose of treating, or offering to treat, sick, injured or afflicted animals.

On conviction of a person licensed by the Board of a felony under the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes), or Chapter 25, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), the Board shall, after an administrative hearing conducted in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-18a, Vernon's Texas Civil Statutes), in which the fact of conviction is determined, suspend the person's license. On the person's final conviction,
the Board shall revoke the person's license. The Board may not reinstate or reissue a license to a person whose license is suspended or revoked under this section except on an express determination based on substantial evidence contained in an investigatory report indicating that the reinstatement or reissue of the license is in the best interests of the public and of the person whose license has been suspended or revoked.

Revocation or suspension of license; failure to report disease

Sec. 14A. Following notice and a hearing, the Board may suspend or revoke a license, place a licensee on probation, or reprimand a licensee who knowingly fails to report a disease to the Texas Animal Health Commission as required by Section 161.101, Agriculture Code.

Procedure for Refusal, Suspension or Revocation of License

Sec. 16. If the Board proposes to refuse a person's application for a license, to suspend or revoke a person's license, or to place on probation or reprimand a licensee, the person is entitled to a hearing before the Board. The proceedings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Appeals

Sec. 17. The Attorney General or any District or County Attorney may institute any injunction proceeding or any such other proceeding incident to such injunction proceeding as to enforce the provisions of this Act and to enjoin any person from the practice of veterinary medicine, as defined in this Act, without such person having complied with the other provisions of this Act. The venue for such injunction proceedings shall be in the county of the residence of the person against whom such injunction proceedings are instituted.

Penalties

Sec. 18. (a) Any member or employee of the Board who issues a license other than as provided in this Act, or who gives an applicant for examination a list of questions to be propounded at the examination, shall be fined not less than Two Hundred Dollars ($200), nor more than One Thousand Dollars ($1,000).

(b) Any person who practices, offers or attempts to practice veterinary medicine in this State without first having complied with the provisions of this Act shall be fined not less than Twenty-five Dollars ($25), nor more than Two Hundred Dollars ($200).

Each day of practicing, attempting or offering to practice is a separate offense.

Information of Consumer Interest

Sec. 18A. The Board shall prepare information of consumer interest describing the regulatory functions of the Board and the Board's procedures by which consumer complaints are filed with and resolved by the Board. The Board shall make the information available to the general public and appropriate state agencies. Each written contract for services in this state of a licensed veterinarian shall contain the name, mailing address, and telephone number of the Board.

Complaints

Sec. 18B. (a) The Board shall maintain an information file about each complaint filed with the Board relating to a licensee.

(b) If a written complaint is filed with the Board relating to a licensee, the Board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Fees

Sec. 19. The Board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

1. Examination fee $200
2. Reciprocal license fee 200
3. Annual license renewal fee 85
4. Duplicate license fee 60

The board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

Veterinary Fund; Audit; Annual Report

Sec. 20. (a) All fees collected by the Board under this Act shall be placed in the State Treasury every thirty (30) days, as collected, to the credit of a special fund to be known as the "Veterinary Fund," and all expenditures from this fund shall be on order of the Board, on warrants issued by the State Comptroller for the purposes and in the amounts fixed by the Legislature in appropriation bills. On August 31st of each year, all money in excess of One Hundred Thousand Dollars ($100,000) remaining in said "Veterinary Fund" shall revert to the General Revenue Fund of the State Treasury.

(b) The State Auditor shall audit the financial transactions of the Board at least once in each fiscal biennium.

(c) On or before January 1 of each year, the Board shall make in writing to the Governor and the Presiding Officer of each House of the Legislature a complete and detailed annual report accounting for all funds received and disbursed by the board during the preceding year.

Payment of Compensation, Expenses and Costs

Sec. 21. The compensation and expenses of Board members, the salaries and expenses of em-
employees, and all other costs of the Board in the administration of this Act shall be paid from the Veterinary Fund created by this Act, and no moneys for such purposes shall be paid from the General Fund of this State.


Sections 3 to 6 of Acts 1963, 67th Leg., p. 2922, ch. 761, provide:

"Sec. 3. A rule adopted by the State Board of Veterinary Medical Examiners before September 1, 1981, that conflicts with the Veterinary Licensing Act, as amended by Acts 1981, 67th Leg., p. 108, ch. 62, § 7, eff. Sept. 1, 1981, that board shall repeal the rule.

"Sec. 4. A person holding an office as a member of the State Board of Veterinary Medical Examiners on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

"Sec. 5. (a) This Act takes effect September 1, 1981.

"(b) The requirements under Subsections (b) and (c), Section 6, The Veterinary Licensing Act (Article 7465a, Vernon's Texas Civil Statutes), as added by this Act, that the executive secretary of the board develop an intrastate career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1981. The requirement of Subsection (e) of Section 6 that merit pay be based on this system shall be implemented before September 1, 1982.

Art. 7465b. Texas Veterinary Medical Diagnostic Laboratory

Sec. 1. There is hereby created an agency of the State of Texas to be known as the Texas Veterinary Medical Diagnostic Laboratory. It shall not be a part or unit of any institution or system of higher education of the state but it shall be under the jurisdiction and supervision of the Board of Directors of Texas A & M University. The said Board of Directors shall staff the agency with an executive director and such other employees necessary for the proper functioning thereof.

Sec. 2. The Board of Directors of Texas A&M University shall make available to the State Building Commission state land in Brazos County for a site on which shall be constructed and equipped a building to house the facilities of the Texas Veterinary Medical Diagnostic Laboratory and an animal building for use related to the use of the laboratory building.


Art. 7465b-1. Malpractice Coverage for Director and Staff of Texas Veterinary Medical Diagnostic Laboratory

Purpose of Act
Sec. 1. It is the purpose of this Act to promote the health and general welfare of the people of the State of Texas by authorizing the board of regents of The Texas A&M University System to provide, as additional compensation, malpractice liability coverage for the director and staff of the Texas Veterinary Medical Diagnostic Laboratory by purchasing insurance or establishing as self-insurance a Veterinary Medical Diagnostic Professional Liability Fund from which malpractice claims and the cost of defending and administering those claims may be satisfied, and such purposes are hereby declared to be in the public interest.

Definitions
Sec. 2. In this Act:

(1) "Professional staff" means veterinarians, diagnosticians, toxicologists, pathologists, microbiologists, and other professional employees employed by the Texas Veterinary Medical Diagnostic Laboratory, including the director.

(2) "Veterinary malpractice claim" means a cause of action for damages resulting proximately from negligence in performing diagnostic services, toxicological and other diagnostic analyses, and making recommendations for treatment.

(3) "Board" means the board of regents of The Texas A&M University System.

(4) "Fund" means the Veterinary Medical Diagnostic Professional Liability Fund as established in Section 3 of this Act.

Self-Insurance Fund
Sec. 3. (a) The board is authorized to establish a separate self-insurance fund to pay any damages adjudged in a court of competent jurisdiction or a settlement of any veterinary malpractice claim against a member of the professional staff arising from the exercise of his appointment or duties with the Texas Veterinary Medical Diagnostic Laboratory.

(b) The board is authorized to pay from the fund all expenses incurred in an amount and at such intervals as determined by the board. Such money shall be deposited in any of the approved depository banks of The Texas A&M University System. All expenditures from the fund shall be paid pursuant to approval by the board.

Rules
Sec. 4. The board is authorized to adopt such rules for the establishment and administration of the fund and the negotiation, settlement, and payment of claims as may be necessary in the furtherance of this Act. The board is authorized to establish by rule reasonable limits on the amount of claims to be paid from the fund or to be provided in purchased insurance.
Art. 7465b-1  VETERINARY MEDICINE AND SURGERY

Veterinary Medical Malpractice Insurance; Purchase

Sec. 5. The board is authorized to purchase veterinary medical malpractice insurance from an insurance company authorized to do business in the State of Texas as it deems necessary to carry out the purpose of this Act.

Legal Counsel: Employment

Sec. 6. The board is authorized to employ private legal counsel to represent the professional staff covered by this Act pursuant to the rules of the board.

General Revenue Funds: Prohibited Uses

Sec. 7. No funds appropriated by the legislature to the Texas Veterinary Medical Diagnostic Laboratory from the General Revenue Fund may be used to establish or maintain the fund, to purchase insurance, or to employ private legal counsel.

Establishment of Fund Not Constituting Business of Insurance; Annual Report

Sec. 8. The establishment and administration of the fund under the authority of this Act and the rules of the board shall not constitute the business of insurance as defined and regulated in the Insurance Code, as amended; provided, however, the board of regents shall annually report to the State Board of Insurance information appropriate for carrying out the functions of the State Board of Insurance.


Art. 7465c. Responsibility of Veterinarian Toward Animals in His Care

Sec. 1. (a) Unless otherwise provided by contract between a veterinarian and his client, a veterinarian may dispose of any animal abandoned in his care if he gives notice of his intention to do so by certified mail sent to the last known address of the client. The veterinarian must allow the client 12 days from the mailing of the certified mail in which to retrieve the animal.

(b) Contact of the veterinarian by the client by mail, telephone, or personal communication does not extend the obligation of the veterinarian to treat, board, or care for an animal unless both the client and the veterinarian agree. If no agreement is made to extend the care for the animal, the animal is considered abandoned after 12 days from the date the veterinarian notifies the client that the animal must be removed from the veterinarian’s care.

c) The giving of notice by a veterinarian as prescribed in Subsection (a) of this section does not relieve the client of his liability for payment for treatment, board, or care furnished.

Sec. 2. A veterinarian who, on his own initiative or at the request of a person other than the owner, renders emergency treatment to an ill or injured animal is not liable to the owner for damages to the animal except in cases of gross negligence. If the veterinarian performs euthanasia on the animal, it is presumed that it was a humane act necessary to relieve pain and suffering.

[Acts 1977, 65th Leg., p. 1700, ch. 676, §§ 1, 2, eff. Aug. 29, 1977.]

TITLE 128
WATER

Sec. now. Water Code and Water Special Laws Table in pamphlet containing the Water Code.

TITLE 129
WILLS [REPEALED]

Arts. 8281 to 8305. Repealed by Acts 1955, 54th Leg., p. 88, ch. 55, § 434, eff. Jan. 1, 1956

See, now, the Probate Code.
TITLE 130
WORKERS' COMPENSATION AND CRIME VICTIMS COMPENSATION

PART 1
Art. 8306. Damages and Compensation for Personal Injuries.
8306a. Discount for Present Payment.
8306b. "Workmen's Compensation" Changed to "Worker's Compensation".

PART 2
8307. Industrial Accident Board.
8307a. Suit to Set Aside Decision of Industrial Accident Board; Transfer to County Where Injury Occurred.
8307b. Presumptions on Appeal From Board; Denial by Verified Pleadings.
8307c. Protection of Claimants From Discrimination by Employers; Remedies; Jurisdiction.
8307d. Nonsuit in Appeals from Industrial Accident Board Award.

PART 3

PART 4
8309a. Hearing of Claim by Industrial Accident Board; Postponement of Hearing.
8309b. Texas A & M University Employees.
8309c, 8309c-1. Repealed.
8309d. University of Texas System Employees.
8309e to 8309f. Repealed.
8309g. Workmen's Compensation Insurance for State Employees.
8309g-1. Texas Tech University Employees.
8309h. Workmen's Compensation Insurance for Employees of Political Subdivisions.
8309i. Payment of Judgments Against State or Department, Division, or Political Subdivision Thereof.

PART 5

PART 1
Art. 8306. Damages and Compensation for Personal Injuries
Defenses
Sec. 1. In an action to recover damages for personal injuries sustained by an employee in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense:

1. That the employee was guilty of contributory negligence.
2. That the injury was caused by the negligence of a fellow employee.
3. That the employee had assumed the risk of the injury incident to his employment; but such employer may defend in such action on the ground that the injury was caused by the willful intention of the employee to bring about the injury, or was so caused while the employee was in a state of intoxication.
4. In all such actions against an employer who is not a subscriber, as defined hereafter in this law, it shall be necessary to a recovery for the plaintiff to prove negligence of such employer or some agent or servant of such employer acting within the general scope of his employment.

Application of Law; Exceptions
Sec. 2. The provisions of this law shall not apply to actions to recover damages for personal injuries nor for death resulting from personal injuries sustained by domestic servants or casual employees engaged in employment incidental to a personal residence, farm laborers, ranch laborers, nor to the employees of any person, firm or corporation operating any steam, electric, street, or interurban railway as a common carrier.

Nonresidents; Employment of Labor; Service of Process on Chairman of Industrial Accident Board
Sec. 2a. The acceptance by a nonresident of this State of the rights, privileges and benefits extended by law to such persons of employing labor within the State of Texas shall be deemed equivalent to an appointment by such nonresident of the Chairman of the Industrial Accident Board of this State, or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against said nonresident growing out of any accident resulting in the injury or death of any employee of said nonresident, occurring in the course of employment of the employee in this State, or occurring in the course of employment of the employee in a foreign jurisdiction when the employee is a Texas resident recruited in this State, when the action or proceeding is brought by the employee, his heirs or legal representative. Service of process under this Section shall be in the same
manner and method as that prescribed in Chapter 125, Acts of the Forty-first Legislature, Regular Session, 1929, as last amended by Chapter 902, Acts of the Fifty-sixth Legislature, Regular Session, 1959 (compiled as Article 2039a of Vernon's Texas Civil Statutes), which relates to citation of nonresident motor vehicle operators by serving the Chairman of the State Highway Commission.

Exclusiveness of Remedy; Exemption of Compensation From Legal Process; Assignability; Recovery From Third Persons; Liability of Subscriber

Sec. 3. (a) The employees of a subscriber and the parents of minor employees shall have no right of action against their employer or against any agent, servant or employee of said employer for damages for personal injuries, and the representatives and beneficiaries of deceased employees shall have no right of action against such subscribing employer or his agent, servant or employees for damages for injuries resulting in death, but such employees and their representatives and beneficiaries shall look for compensation solely to the association, as the same is hereinafter provided for.

(b) All compensation allowed under the succeeding sections herein shall be exempt from garnishment, attachment, judgment, and all other suits or claims, and no such right of action and no such compensation and no part thereof or of either shall be assignable, except as otherwise herein provided, and any attempt to assign the same shall be void.

(c) In the event the association denies liability in a claim and an accident or health insurance company provides benefits to the employee for medical aid, hospital services, nursing services or medicine, then the right to recover such amount may be assigned by the employee to the health or accident insurance company.

(d) If an action for damages on account of injury to or death of an employee of a subscriber is brought by such employee, or by the representatives or beneficiaries of such deceased employee, or by the association for the joint use and benefit of itself and such employee or such representatives or beneficiaries, against a person other than the subscriber, as provided in Section 6a, Article 8307, Revised Civil Statutes of Texas, 1925, and if such action results in a judgment against such other person, or results in a settlement by such other person, the subscriber, his agent, servant or employee, shall have no liability to reimburse or hold such other person harmless on such judgment or settlement, nor shall the subscriber, his agent, servant or employee, have any tort or contract liability for damages to such other person because of such judgment or settlement, in the absence of a written agreement expressly assuming such liability, executed by the subscriber prior to such injury or death.

(e) The Association, its agent, servant or employee, shall have no liability with respect to any accident based on the allegation that such accident was caused or could have been prevented by a program, inspection, or other activity or service undertaken by the association for the prevention of accidents in connection with operations of its subscriber; provided, however, this immunity shall not affect the liability of the association for compensation or as otherwise provided in this law.

(f) No part of this Section is intended to lessen or alter the employee's existing rights or cause of action either against his employer, its subscriber, or any third party.

Waiver of Common Law or Statutory Right of Action

Sec. 8a. An employé of a subscriber shall be held to have waived his right of action at common law or under any statute of this State to recover damages for injuries sustained in the course of his employment if he shall not have given his employer, at the time of his contract of hire, notice in writing that he claimed said right or if the contract of hire was made before the employer became a subscriber, if the employé shall not have given the said notice within five days of notice of such subscription. An employé who has given notice to his employer that he claimed his right of action at common law or under any statute may thereafter waive such claim by notice in writing, which shall take effect five days after its delivery to his employer or his agent. Any employé of a subscriber who has not waived his right of action at common law or under any statute may thereafter waive such claim on notice to that effect to the Industrial Accident Board, and to such subscribers' employees by posting

Compensation, When to be Paid

Sec. 8b. If an employé who has not given notice of his claim of common law or statutory rights of action, or who has given such notice and waived the same, sustains an injury in the course of his employment, he shall be paid compensation by the association as hereinafter provided, if his employer is a subscriber at the time of the injury.

Notice of Provision for Compensation

Sec. 8c. From and after the time of the receipt by the Industrial Accident Board of notice from any employer that the latter has become a subscriber under this law, all employés of said subscriber then and thereafter employed, shall be conclusively deemed to have notice of the fact that such subscriber has provided with the association for the payment of compensation under this law. If any employer ceases to be a subscriber he shall on or before the date on which his policy expires give notice to that effect to the Industrial Accident Board, and to such subscribers' employés by posting
notices to that effect in three public places around such subscribers’ plant.

Rights of Employés When Employer Not Subscriber

Sec. 4. Employés whose employers are not at the time of the injury subscribers to said association, and the representatives and beneficiaries of deceased employés who at the time of the injury were working for nonsubscribing employers can not participate in the benefits of said insurance association, but they shall be entitled to bring suit and may recover judgment against such employers, or any of them, for all damages, sustained by reason of any personal injury received in the course of employment or by reason of death resulting from such injury, and the provisions of section 1 of this law shall be applied in all such actions.

Exemplary Damages

Sec. 5. Nothing in this law shall be taken or held to prohibit the recovery of exemplary damages by the surviving husband, wife, heirs of his or her body, or such of them as there may be of any deceased employé whose death is occasioned by homicide from the willful act or omission or gross negligence of any person, firm or corporation from the employer of such employé at the time of the injury causing the death of the latter. In any suit so brought for exemplary damages the trial shall be de novo, and no presumption shall exist that any award, ruling or finding of the Industrial Accident Board was correct. In any such suit, such award, ruling or finding shall neither be pleaded nor offered in evidence.

Accrual of Compensation; Medical Aid, Etc.

Sec. 6. No compensation shall be paid under this law for an injury which does not incapacitate the employee for a period of at least one week from earning full wages, but if incapacity extends beyond one week compensation shall begin to accrue on the eighth day after the injury. The medical aid, hospital services, chiropractic services, and medicines, as provided for in Section 7 hereof, shall be supplied as and when needed and according to the terms and provisions of said Section 7. If incapacity does not follow at once after the infliction of the injury or within eight days thereof but does result subsequently, compensation shall begin to accrue with the eighth day after the date incapacity commenced. In any event the employee shall be entitled to the medical aid, hospital service, chiropractic service, and medicines provided in this law. Provided further, that if such incapacity continues for four (4) weeks or longer, compensation shall be computed from the inception date of such incapacity.

Medical Services

Sec. 7. The employee shall have the sole right to select or choose the persons or facilities to furnish medical aid, chiropractic services, hospital services, and nursing and the association shall be obligated for same or, alternatively, at the employee’s option, the association shall furnish such medical aid, hospital services, nursing, chiropractic services, and medicines as may reasonably be required at the time of the injury and at any time thereafter to cure and relieve from the effects naturally resulting from the injury. Such treatment shall include treatments necessary to physical rehabilitation, including proper fitting and training in the use of prosthetic appliances, for such period as the nature of the injury may require or as necessary to reasonably restore the employee to his normal level of physical capacity or as necessary to give reasonable relief from pain, but shall not include any other phase of vocational rehabilitation. The obligation of the association to be responsible for hospital services as herein provided shall not be held to include any obligation on the part of the association to pay for medical, nursing or surgical services not ordinarily provided by hospitals as a part of their services.

Upon receipt thereof, the Board shall promptly analyze each notice of injury incurred by an injured employee covered under this law. If the Board concludes that vocational rehabilitation is indicated in any such case, it immediately shall take the necessary steps to inform the injured employee of the services and facilities available to him under the Texas Rehabilitation Commission and the Board immediately shall notify said Commission of such case. In each such case recommendation of services and facilities shall be made after consultation by the Board with the physician or chiropractor furnishing medical aid or chiropractic services as required by this Section, who shall retain general supervision of treatment of the injured employee and, should the employee request it, the Board shall consult with a physician or chiropractor specially trained in such treatment. The Board shall co-operate with said Texas Rehabilitation Commission with reference to the work of said Commission in providing said services and facilities to injured employees covered under the provisions of this law.

Provided that any physician or chiropractor rendering medical or chiropractic care to any injured worker shall render an initial report as soon as practical identifying the injured worker and stating the nature and extent of the injury and thereafter shall render subsequent reports reasonably necessary to keep the status of the claimant’s condition known.

Hospitals shall, upon request of either the injured worker, his attorney, or the association, furnish records pertaining to treatment or hospitalization for which compensation is being sought. All reports and records requested hereunder shall be made to the association and the injured worker or his attorney. The failure of the physician or chiropractor to make such reports or of the hospital to furnish requested records shall relieve the association and the injured worker from any obligation to pay for the services rendered by the physician, chiropractor, or hospital. All charges for the fur-
nishing of reports and records hereunder shall be subject to regulation by the Board in accordance with Section 7b hereof, provided however, such charges shall in no event be less than the fair and reasonable charge for the furnishing of said reports and records. If the furnishing of said reports and records is required under this Section, the association shall pay the fair and reasonable charge for furnishing said reports and records. There shall be no additional charge for furnishing a copy of the required reports and records to the injured worker or his attorney.

In the event that the association shall contend before the Board that charges for medical aid, hospital services, chiropractic services, nursing services, or medicines are not fair and reasonable, the Board’s award shall make an express finding of the amounts which are fair and reasonable charges for the aid or services rendered or the medicines provided. If the amount found is less than those charges submitted by the provider of the aid, services, or medicines, then said provider shall be entitled to appeal the Board’s determination as if it were a party to the action. In any subsequent appeal from the award of the Board, if the person or facility providing medical aid, hospital services, chiropractic services, nursing services, or medicines recovers an amount equal to or in excess of the charges submitted to the Board, the association shall be entitled to recover its reasonable attorney’s fees from the person or facility providing the medical aid, hospital services, chiropractic services, nursing services, or medicines.

In order to assist the Board in its regulation of fees and charges under Section 7b of Article 8306, the Board shall cause to be established voluntary arbitration panels to the extent it deems necessary or appropriate. The panels shall be composed of representatives of provider groups and the insurance industry for the purpose of the voluntary arbitration of disputed fees and charges. The Board shall actively supervise the voluntary arbitration panels so established. Nothing herein shall alter the rights of the injured employee under Article 8306a. No finding by any voluntary arbitration panel shall be admissible in evidence in any trial de novo.

Change in Medical Aid, Hospital Services, Chiropractic Services and Medicines

Sec. 7a. If it be shown that the employee is receiving medical aid, hospital services, chiropractic services, and medicines provided for by Section 7 hereof in such manner that there is reasonable ground for believing that the life, health or recovery of the employee is being endangered or impaired thereby, the Board may order a change in the physician, chiropractor or other requirements of said section after holding a hearing on the change. If the employee fails promptly to comply with such order after receiving it, the Board may relieve the association from its responsibility to pay for or alternatively furnish medical aid, hospital services, chiropractic services, and medicines until such time as the employee complies with the order of the Board.

Fees and Charges for Medical Aid, Hospital Services, Chiropractic Services or Medicines

Sec. 7b. All fees and charges under Sections 7 and 7a hereof shall be fair and reasonable, shall be subject to regulation of the Board and shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living where such treatment is paid for by the injured person himself or someone acting for him. In determining what fees are reasonable, the Board may also consider the increased security of payment afforded by this law. Where such medical aid, hospital service, chiropractic service or medicines are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting the same, and the amount so paid shall be promptly reported to the Board.

Attorneys’ Fees Regulated by the Board

Sec. 7c. All fees of attorneys for representing claimants before the Board under the provisions of this law shall be subject to the approval of the Board. No attorneys’ fees for representing claimants before the Board shall be allowed or approved against any party or parties not represented by such attorney, nor exceeding an amount equal to twenty-five per cent (25%) of the total recovery, in addition to the reasonable expenses incurred by the attorney in the preparation and presentation of the said claim before the Board, such expenses to be allowed by the Board. Where an attorney represents only a part of those interested in the allowance of a claim before the Board and his services in prosecuting such claim and obtaining an award there inures to the benefit of others jointly interested therein, then the Board may take these facts into consideration and allow the attorney a reasonable charge, to be assessed against the interest of those receiving benefits from the service of such attorney. The attorneys’ fees herein provided for may be redeemed by the association by the payment of a lump sum or may be commuted by the agreement of the parties subject to the approval of the Board, but not until the claim represented by said attorney has been finally determined by the Board and recognized and accepted by the association. After the approval, as first above provided for, if the association be notified in writing of such claim or agreement for legal services, the same shall be a lien against any amount thereafter to be paid as compensation; provided, that where the employee’s compensation is payable by the association in periodic installments, the Board shall fix at the time...
of approval the proportion of each installment to be paid on account of said legal services.

Attorneys' Fees Regulated by the Court

Sec. 7d. For representing the interest of any claimant in any manner carried from the Board into the courts, it shall be lawful for the attorney representing such interest to contract with any beneficiary under this law for an attorneys' fee for such representation, not to exceed twenty-five per cent (25%) of the amount recovered, such fee for services so rendered to be fixed and allowed by the trial court in which such matter may be heard and determined.

In fixing and allowing such attorneys' fees the court must take into consideration the benefit accruing to the beneficiary as a result of such services. No attorneys' fees (other than the amount which the Board may have approved) shall be allowed for representing a claimant in the trial court unless the court finds that benefits have accrued to the claimant by virtue of such representation, and then such attorneys' fees may be allowed only on a basis of services performed and benefits accruing to the beneficiary.

Provided, however, that in all cases involving fatal injuries where the Association admits liability on all issues involved and tenders payments of maximum benefits in writing under this Act while the death benefits claim of such beneficiaries is pending before the Board, then no attorney fee shall be allowed.

Artificial Appliances

Sec. 7-e. (a) In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities and shall continue to furnish the needed artificial appliance or appliances until a satisfactory fit is obtained in the judgment of the attending physician or physicians. The association shall also be liable for replacing or repairing any artificial appliances so furnished, when needed as determined by the physician or physicians, unless the need for such repair or replacement is due to lack of proper care by the employee. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee.

(b) In the event the association shall fail or refuse to furnish or provide such artificial appliances, such employee shall make application to the Board for such artificial appliances. On receipt of such application the Board shall order a medical examination of the employee and obtain such other evidence as in their opinion they may deem necessary, after which the Board shall determine whether or not the artificial appliances would materially and beneficially improve the future usefulness and occupational opportunities of the injured employee and in the event they find that such improvement would exist, then the Board shall order the association to furnish the artificial appliances.

Death Benefit

Sec. 8. (a) If death results from the injury, the association shall pay the legal beneficiaries of the deceased employee a weekly payment equal to sixty-six and two-thirds per cent (66⅔%) of the employee's average weekly wage, but not less than the minimum weekly benefit or more than the maximum weekly benefit set forth in Section 29 of this article.

(b) The weekly benefits payable to the widow or widower of a deceased employee shall be continued until the death or remarriage of the beneficiary. In the event of remarriage a lump sum payment equal to the benefits due for a period of two (2) years shall be paid to the widow or widower. The weekly benefits payable to a child shall be continued until the child reaches eighteen (18) years of age, or beyond such age if actually dependent, or until twenty-five (25) years of age if enrolled as a full-time student in any accredited educational institution. All other legal beneficiaries are entitled to weekly benefits for a period of three hundred and sixty (360) weeks.

(c) Upon the termination of the eligibility of any child to receive benefits, the portion of compensation paid to such child shall thereafter be paid to any remaining child or children entitled to benefits under the provisions of this Act. If there is no other eligible child then such benefits shall be added to those being paid to the surviving spouse entitled to receive benefits under the provisions of this Act.

(d) The benefits payable to a widow, widower, or children under this section shall not be paid in a lump sum except in events of remarriage or in case of bona fide disputes as to the liability of the association for the death. Any settlement of a disputed case shall be approved by the board or court only upon an express finding that a bona fide dispute exists as to such liability.

If the association fails to admit liability prior to the final award, decision, or ruling of the board or disputes liability subsequent to such award, decision, or ruling, the court shall award reasonable attorney's fees, in a lump sum, not to exceed 25 per cent of the recovery.

Upon settlement of all cases where the carrier admits liability for the death but a dispute exists as to the proper beneficiary or beneficiaries, the settlement shall be paid in periodic payments as provided by the law, with a reasonable attorney's fee not to exceed twenty-five per cent (25%) of the settlement.
The attorney’s fee shall be paid periodically and not in a lump sum.

Persons to Whom Death Benefits Payable; Exemptions; Distributions; Payments

Sec. 8a. The compensation provided for in the foregoing section of this law shall be for the sole and exclusive benefit of the surviving husband who has not, for good cause and for a period of three years prior thereto, abandoned his wife at the time of the injury, and of the wife who has not, at the time of the injury without good cause and for a period of three years prior thereto, abandoned her husband, and of the minor children, parents and stepmother, without regard to the question of dependency, dependent grandparents, dependent children, dependent grandchildren and dependent brothers and sisters of the deceased employee; and the amount recovered thereunder shall not be liable for the debts of the deceased nor the debts of the beneficiary or beneficiaries and shall be distributed among the beneficiaries as may be entitled to the same as hereinbefore provided, according to the laws of descent and distribution of this State; provided, the right in such beneficiary or beneficiaries to recover compensation for death be determined by the facts that exist at the date of the death of the deceased and that said right be a complete, absolute and vested one. Any parent who, during a substantial period of the minority of the deceased worker, shall have abandoned the worker shall be deemed to have waived any entitlement to benefits, and such parent’s benefits shall be paid as if the parent had predeceased the deceased worker. The burden of proof shall be upon any beneficiary seeking to disqualify the parent on the grounds of abandonment or failure to support. Such compensation shall not pass to the estate of the deceased to be administered upon, but shall be paid directly to said beneficiary or beneficiaries, and is buried at the expense of the beneficiary or beneficiaries, or is buried at the expense of his employer or any other person, the expense of such burial, not to exceed $2,500, shall be payable without discount for present payment to the person or persons at whose expense the burial occurred, subject to the approval of the Board; and such burial expense, regardless of to whom it is paid, shall be in addition to the compensation due the beneficiary or beneficiaries of such deceased employee.

Funeral Expenses

Sec. 9. (a) If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury, and in addition a funeral benefit not to exceed $2,500.

(b) If the deceased employee leaves a legal beneficiary or beneficiaries, and is buried at the expense of the beneficiary or beneficiaries, or is buried at the expense of his employer or any other person, the expense of such burial, not to exceed $2,500, shall be payable without discount for present payment to the person or persons at whose expense the burial occurred, subject to the approval of the Board; and such burial expense, regardless of to whom it is paid, shall be in addition to the compensation due the beneficiary or beneficiaries of such deceased employee.

Total Incapacity

Sec. 10. (a) While the incapacity for work resulting from the injury is total, the association shall pay the injured employee a weekly compensation equal to sixty-six and two-thirds per cent (66⅔%) of his average weekly wages, but not more than the maximum weekly benefit nor less than the minimum weekly benefit set forth in Section 29 of this article.

(b) If the injury is one of the six (6) enumerated in Section 11a of this article as constituting conclusive total and permanent incapacity, the association shall pay the compensation for the life of the employee, but in no other case of total and permanent incapacity shall the period covered by such compensation be greater than four hundred and one (401) weeks from the date of injury. For the purpose of this section only, the total and permanent loss of use of a member shall be considered to be the total and permanent loss of the member.

(c) No attorney’s fee may be allowed in a case involving lifetime benefits under Subsection (b) of this section if the association admits liability while the case is pending before the Board and makes payments. If liability is not admitted before the Board, an attorney representing the claimant is entitled to a reasonable attorney’s fee not to exceed twenty-five per cent (25%) of the compensation recovered. The association shall deduct attorney’s fees allowed by the Board or court in equal periodic payments not to exceed twenty-five per cent (25%) of the compensation payment. If compensation is being paid in periodic payments, any attorney’s fee allowed by the Board or court shall be paid in periodic payments.

(d) The lifetime benefits to the employee payable under this section may not be paid in a lump sum except in a case of bona fide disputes as to liability of the association. Any settlement of a disputed
case shall be approved by the Board or court only upon an express finding that a bona fide dispute exists as to such liability.

Partial Incapacity

Sec. 11. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employee a weekly compensation equal to sixty-six and two-thirds per cent (66 2/3%) of the difference between his average weekly wages before the injury and his average weekly wage earning capacity during the existence of such partial incapacity, but in no case more than the maximum weekly benefit set forth in Section 29 of this article. The period covered by such compensation shall be in no case greater than three hundred (300) weeks; provided that in no case shall the period of compensation for total and partial incapacity exceed four hundred and one (401) weeks from the date of injury. Compensation for all partial incapacity resulting from a general injury shall be computed in the manner provided in this Section, and shall not be computed on a basis of a percentage of disability.

Injuries Constituting Total and Permanent Incapacity

Sec. 11a. In cases of the following injuries, the incapacity shall conclusively be held to be total and permanent, to-wit:

(1) The total and permanent loss of the sight of both eyes.
(2) The loss of both feet at or above the ankle.
(3) The loss of both hands at or above the wrist.
(4) A similar loss of one hand and one foot.
(5) An injury to the spine resulting in permanent and complete paralysis of both arms or both legs or of one arm and one leg.
(6) An injury to the skull resulting in incurable insanity or imbecility.

In any of the above enumerated cases it shall be considered that the total loss of the use of a member shall be equivalent to and draw the same compensation during the time of such total loss of the use thereof as for the total and permanent loss of such member.

The above enumeration is not to be taken as exclusive but in all other cases the burden of proof shall be on the claimant to prove that his injuries have resulted in permanent, total incapacity.

Specific Compensation

Sec. 12. For the injuries enumerated in the following schedule the employee shall receive in lieu of all other compensation except medical aid, hospital services and medicines as elsewhere herein provided, a weekly compensation equal to sixty-six and two-thirds per cent (66 2/3%) of the average weekly wages of such employee, but not less than the minimum weekly benefit per week nor exceeding the maximum weekly benefit set forth in Section 29 of this article, for the respective periods stated herein, to-wit:

For the loss of a thumb, sixty-six and two-thirds per cent (66 2/3%) of the average weekly wages during sixty (60) weeks.

For the loss of a first finger, commonly called the index finger, sixty-six and two-thirds per cent (66 2/3%) of the average weekly wages during forty-five (45) weeks.

For the loss of a second finger, sixty-six and two-thirds per cent (66 2/3%) of the average weekly wage during thirty (30) weeks.

For the loss of a third finger, sixty-six and two-thirds per cent (66 2/3%) of the average weekly wages during twenty-one (21) weeks.

For the loss of a fourth finger, commonly known as the little finger, sixty-six and two-thirds per cent (66 2/3%) of the average weekly wages during fifteen (15) weeks.

The loss of the second or distal phalange of the thumb shall be considered to be equal to the loss of one-half (1/2) of such thumb; the loss of more than one-half (1/2) of such thumb shall be considered to be equal to the loss of the whole thumb.

The loss of the third or distal phalange of any finger shall be considered to be equal to the loss of one-third (1/3) of such finger.

The loss of more than the middle and distal phalange of any finger shall be considered to be equal to the loss of the whole finger, provided that in no case shall the amount received for the loss of a thumb and more than one (1) finger on the same hand exceed the amount provided in this schedule for the loss of a hand.

For the loss of the metacarpal bone (bone or palm) for the corresponding thumb, finger or fingers above, add ten (10) weeks to the number of weeks as above subject to the limitation that in no case shall the amount received for the loss or injury to any one (1) hand be more than for the loss of the hand.

For ankylosis (total stiffness of) or contracture (due to scars or injuries) which make the fingers useless, the same number of weeks shall apply to such finger or fingers or parts of fingers (not thumb) as given above.

For the loss of a hand, sixty-six and two-thirds per cent (66 2/3%) of the average weekly wage during one hundred and fifty (150) weeks.

For the loss of an arm at or above the elbow, sixty-six and two-thirds per cent (66 2/3%) of the average weekly wage during two hundred (200) weeks.

For the loss of one (1) of the toes other than the great toe, sixty-six and two-thirds (66 2/3%) of the average weekly wages during ten (10) weeks.
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For the loss of the great toe, sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages during thirty (30) weeks.

The loss of more than two-thirds of any toe shall be considered to be equal to the loss of the whole toe.

The loss of less than two-thirds of any toe shall be considered to be equal to the loss of one-half (½) of the toe.

For the loss of a foot, sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages during one hundred and twenty-five (125) weeks.

For the loss of a leg, at or above the knee, sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages during two hundred (200) weeks.

For the total and permanent loss of the sight of one (1) eye, sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages during one hundred (100) weeks.

In the foregoing enumerated cases of permanent, partial incapacity, it shall be considered that the permanent loss of the use of a member shall be equivalent to and drawn the same compensation as the loss of that member.

For the complete and permanent loss of the hearing in both ears, sixty-six and two-thirds percent (66-2/3%) of the average weekly wages during one hundred and fifty (150) weeks.

For the loss of an eye and leg above the knee, sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages during a period of three hundred and fifty (350) weeks.

For the loss of an eye and an arm above the elbow, sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages during a period of three hundred and fifty (350) weeks.

For the loss of an eye and a hand, sixty-six and two-thirds percent (66-2/3%) of the average weekly wages during a period of three hundred and twenty-five (325) weeks.

For the loss of an eye and a foot, sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages during a period of three hundred (300) weeks.

Where the employee sustains concurrent injuries resulting in concurrent incapacities, he shall receive compensation only for the injury which produces the longest period of incapacity; but this Section shall not affect liability for the concurrent loss or the loss of the use thereof of more than one (1) member, for which member compensation is provided in this schedule, compensation for specific injuries under this law shall be cumulative as to time and not concurrent.

In all cases of permanent partial incapacity it shall be considered that the permanent loss of the use of the member is equivalent to, and shall draw the same compensation as the loss of that member, but the compensation in and by said schedule provided shall be in lieu of all other compensation in such cases.

In all other cases of partial incapacity, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employee, compensation shall be determined according to the percentage of incapacity, taking into account among other things any previous incapacity, the nature of the physical injury or disfigurement, the occupation of the injured employee, and the age at the time of the injury. The compensation paid therefor shall be calculated by first determining a basic figure amounting to sixty-six and two-thirds per cent (66-2/3%) of the average weekly wages of the employee, but which basic figure shall not exceed the maximum weekly benefit set forth in Section 29 of this article; such basic figure shall then be multiplied by the percentage of incapacity caused by the injury, and the result shall be the weekly compensation which shall be paid for such period not exceeding three hundred (300) weeks as the Board may determine. Whenever the weekly payments under this paragraph would be less than Three Dollars ($3) per week, the period may be shortened, and the payments correspondingly increased by the Board.

Injured Employee, Refusal of Employment

Sec. 12a. If the injured employé refuses employment reasonably suited to his incapacity and physical condition, procured for him in the locality where injured or at a place agreeable to him, he shall not be entitled to compensation during the period of such refusal, unless in opinion of the board such refusal is justifiable. This section shall not apply in cases of specific injuries for which a schedule is fixed by this law.

Hernia

Sec. 12b. In all claims for hernia resulting from injury sustained in the course of employment, it must be definitely proven to the satisfaction of the board:
1. That there was an injury resulting in hernia.
2. That the hernia appeared suddenly and immediately following the injury.
3. That the hernia did not exist in any degree prior to the injury for which compensation is claimed.
4. That the injury was accompanied by pain.

In all such cases where liability for compensation exists, the association shall provide competent surgical treatment by radical operation. In case the injured employé refuses to submit to the operation, the board shall immediately order a medical examination of such employé by a physician or physicians of its own selection at a time and place to be by them named, at which examination the employé and
the association, or either of them, shall have the right to have his or their physician present. The physician or physicians so selected shall make to the board a written report, signed and sworn to, setting forth the facts developed at such examination and giving his or their opinion as to the advisability or non-advisability of an operation. If it be shown to the board by such examination and such report thereof and the expert opinions thereon that the employee has any chronic disease or is otherwise in such physical condition as to render it more than ordinarily unsafe, the board shall, if unwilling to submit to the operation, be entitled to compensation for incapacity under the general provisions of this law. If the examination and the written report thereof and the expert opinions thereon then on file before the board do not show to the board the existence of disease or other physical condition rendering the operation more than ordinarily unsafe and the board shall unanimously so find and so reduce its findings to writing and file the same in the case and furnish the employee and the association with a copy of its findings, then if the employee with the knowledge of the result of such examination, such report, such opinions and such findings, thereafter refuses to submit within a reasonable time, which time shall be fixed in the findings of the board, to such operation, he shall be entitled to compensation for incapacity under the general provisions of this law for a period not exceeding one year.

If the employee submits to the operation and the same is successful, which shall be determined by the board, he shall in addition to the surgical benefits herein provided for be entitled to compensation for twenty-six weeks from the date of the operation. If such operation is not successful and does not result in death, he shall be paid compensation under the general provisions of this law the same as if such operation had not been had; other than in determining the compensation to be paid to the employee, the board may take into consideration any minor benefits that accrued to the employee by reason thereof or any aggravation or increased injury which accrued to him by reason thereof.

If the hernia results in death within one year after it is sustained, or the operation results in death, such death shall be held a result of the injury causing such hernia and compensated accordingly under this law. This paragraph shall not apply where the employing has wilfully refused to submit to an operation which has been found by the examination herein provided for not to be more than ordinarily unsafe.

Subsequent Injury; Second Injury Fund

Sec. 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the "Second Injury Fund," hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, that notice of injury to the employer and filing of a claim with the Industrial Accident Board as required by law shall also be deemed and considered notice to and filing of a claim against the "Second Injury Fund".

Permanent and Total Incapacity Through Loss of or Loss of Use of, Another Member or Organ

Sec. 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the compensation payable for such second injury; provided, however, that in addition to such compensation and after the combination of the payments therefor, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as "Second Injury Fund," hereinafter defined.

Second Injury Fund; How Created; Presumptions

Sec. 12c-2. The special fund known as the "Second Injury Fund" shall be created in the following manner:

(a) In every case of the death of an employee under this Act where there is no person entitled to compensation surviving said employee, the association shall pay to the Industrial Accident Board the full death benefits, but not to exceed 560 weeks of compensation, as provided in Section 8, of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, to be deposited with the Treasurer of the State for the benefit of said Fund and the Board shall direct the distribution thereof.

(b) Unless a claim for fatal benefits is filed with the Board by a beneficiary or beneficiaries within eight (8) months following the date of death of the employee, it shall be presumed for purposes of this section only that no person entitled to compensation under Section 8a of this article survived the deceased employee; provided, however, that the presumption created hereby shall not apply against minor beneficiaries or to beneficiaries of unsound mind for whom no guardian has been appointed.

(c) If the Board enters an initial award ordering payments to the Fund hereunder and it is determined by a subsequent final award of the Board or judgment of a court of competent jurisdiction that a beneficiary under Section 8a of the article is entitled to fatal benefits, the Board shall order reimbursement from the Fund to the association of the amounts paid by it to the Fund in good faith by reason of the initial award of the Board.
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Change of Condition, Mistake or Fraud; Review

Sec. 12d. Upon its own motion or upon the application of any person interested showing a change of condition, mistake or fraud, the Board at any time within the compensation period, may review any award or order, ending, diminishing or increasing compensation previously awarded, within the maximum and minimum provided in this Law, or change or revoke its previous order denying compensation, sending immediately to the parties a copy of its subsequent order or award. Provided, when such previous order has denied compensation, application to review same shall be made to the Board within twelve months after its entry, and not afterward. Review under this Section shall be only upon notice to the parties interested.

Surgical Operation

Sec. 12e. In all cases where liability for compensation exists for an injury sustained by an employé in the course of his employment and a surgical operation for such injury will effect a cure of the employé or will materially and beneficially improve his condition, the association or the employé may demand that a surgical operation be had upon the employé as herein provided, and the association shall provide and pay for all necessary surgical treatment, medicines and hospital services incident to the performance of said operation, provided the same is had. In case either of said parties demands in writing to the board such operation, the board shall order the performance of said operation, provided the same is had. In case either of said parties demands in writing, a copy of which shall be delivered to the employé in the same manner as is provided for in the section of this law relating to hernia. If it be shown by the examination, report of facts and opinions of experts, all reduced to writing and filed with the board, that such operation is advisable and will relieve the condition of the injured employé or will materially benefit him, the board shall order the employé to submit to such operation, the board may order or direct the association to suspend the whole or any part of his compensation during the time of said period of refusal. The results of such operation, the question as to whether the injured employé shall be required to submit thereto and the benefits and liabilities arising therefrom shall attach, be treated, handled and determined by the board in the same way as is provided in the case of hernia in this law.

Physicians or Chiropractors Employed by Subscriber or Association

Sec. 12f. In all cases where a subscriber or the association has in his or its employ a physician or physicians, a chiropractor or chiropractors, regularly paid in any manner whatsoever by such subscriber or association to administer to or treat injured employees, the name or names of such physicians or chiropractors at the date of employment of the same shall be filed with the Board together with a copy of the contract of such employment. If the contract of such physician or physicians, chiropractor or chiropractors is not in writing, then the same shall be reduced to writing and a copy thereof filed with the Board. Such contract shall state fully the extent and scope of the employment and the compensation to be paid such physicians or chiropractors. If the association or subscriber willfully fails or refuses to comply with this provision of this law, then an injured employee or any person acting for him shall have the right to provide hospital services, chiropractic services, medical aid and medicine for said injured employee, at the expense of and the same shall be charged to the association, and the subscriber or association shall notify the employee at or before the time of injury what physician or physicians, chiropractor or chiropractors are contracted to attend and render professional services to his or its employees.

Insurance Premiums

Sec. 12g. It shall be unlawful for any subscriber or any employer who seeks to comply with the provisions of this law to either directly or indirectly collect or from his employés by any means or pretense whatever any premium under this law or part thereof paid or to be paid upon any policy of such insurance under this law which covers such employés, or any intended policy of such insurance designed to cover such employés. If any such subscriber or any employer of labor in this State violates this provision of this law, then any employé or the legal beneficiary of any employé of such employer shall have a separate right of action to recover damages against such employer without regard to the compensation paid or to be paid to such employé or beneficiary under this law. The association shall in no wise be responsible because of such separate action by such employé or beneficiary against such employer on such separate cause of action.

Indemnity or Insurance Contracts

Sec. 12h. Every contract or agreement of an employer, the purpose of which is to indemnify him from loss or damage on account of the injury of an employé by accidental means or on account of the negligence of such employer or his officer, agent or servant, shall be absolutely void unless it also covers liability for the payment of the compensation provided for by this law. This section shall not
apply to employers of labor who are not eligible under the terms hereof to become subscribers there­to, nor to employers whose employés have elected to reject the provisions of this law, nor to employers eligible to come under the terms of this law who do not elect to do so, but who choose to carry insur­ance upon their employés independently of this law and without attempting in such insurance to provide compensation under the terms of this law. Any evasion of this section whereby an insurance compa­ny shall undertake, under the guise of writing insur­ance against the risk of the employers who do not see proper to come under this law, to write insur­ance substantially or in any material respect similar to the insurance provided for by this law shall render such insurance void as provided for in this section.

Minors

Sec. 121.1 If it be established that the injured employee were a minor when injured and that under normal condition his wages would be expected to increase, that fact may be considered in arriving at his average weekly wages, and compensation may be fixed accordingly.

A minor who has been employed in any hazardous or other employment which is prohibited by any Statute of this State, shall nevertheless be entitled to receive compensation under the terms and provi­sions of this Act. Provided, that this Section shall not be construed to excuse or justify any person, firm or corporation employing or permitting to be employed a minor in any hazardous or other employ­ment prohibited by any Statute of this State.

Waiver of Right to Compensation

Sec. 14. No agreement by any employé to waive his rights to compensation under this law shall be valid.

Lump Sum Settlement

Sec. 15. (a) In cases where death or incapacity in any degree results from an injury, the liability of the association may be redeemed by the payment of a lump-sum by agreement of the parties thereto subject to the approval of the Industrial Accident Board. Where in the judgment of the Board manifest hardship and injury would otherwise result, the Board may compel the association to redeem the liability by payment of the award of the Board in a lump-sum, and a discount shall be allowed for present payment in accordance with Article 8306a of the Revised Civil Statutes of 1925, as amended. (b) Notwithstanding Subsection (a) of this section, a lump-sum settlement, award, or judgment may not be made in violation of Section 8(b) or 8(d), Article 8306, Revised Statutes.

Increase of Weekly Compensation

Sec. 15a. In any case where compensation is payable weekly at a definite sum and for a definite period, and it appears to the Board that the amount of compensation being paid is inadequate to meet the necessities of the employee or beneficiary, the Board shall have the power to increase the amount of compensation by correspondingly decreasing the number of weeks for which the same is to be paid, allowing discount for present payment at the rate of four (4%) per cent, compounded annually; provided that in no case shall the amount to which it is increased exceed the amount of the average weekly wages upon which the compensation is based; provided it is not intended hereby to prevent lump sum settlement when approved by the Board.

The provisions of this section shall also apply to compensation which is payable under any law enact­ed pursuant to Section 59, Section 60, or Section 61 of Article III of the Constitution of Texas.

Death, Survival of Cause of Action

Sec. 16. In all cases of injury resulting in death, where such injury was sustained in the course of employment, cause of action shall survive.

Non-resident and Resident Alien Beneficiaries

Sec. 17. Non-resident alien beneficiaries and res­ident alien beneficiaries shall be entitled to compen­sation under this law. Non-resident alien benefici­aries may be officially represented by the consular officers of the nation of which such alien or aliens may be citizens or subjects, and in such cases the consular officers shall have the right to receive for distribution for such non-resident alien beneficiaries all compensation awarded hereunder, and the re­ceipt of such consular officers shall be a full dis­charge of all sums paid to and received by them. The association may at any time, subject to the approval of the board, commute all future install­ments of compensation payable to alien beneficiar­ies, not residents of the United States, by paying to such alien beneficiaries the sum agreed upon and filing receipts therefor with the board.

Weekly Compensation; Non-payment; Forfeiture or Revocation of Association's License

Sec. 18. It is the purpose of this law that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is re­ deemmed as in such cases provided elsewhere herein.
If the association willfully fails or refuses to pay compensation as and when the same matures and accrues, the board shall notify said association that such is the course it is pursuing. If after such notice the association continues to willfully refuse and fail to meet these payments of compensation as provided for in this law, the board shall have the power to hold that such association is not complying with the provisions of this law, and shall certify such fact to the Commissioner of Insurance, and said certificate shall be sufficient cause to justify said Commissioner to revoke or forfeit the license or permit of such association to do business in Texas; provided, said power of the board shall not be held to deny the association the right to bring suit or suits to set aside any ruling, order or decision of the board.

Timeliness of commencement of benefits or filing of controversy; suspension of benefits; penalties

Sec. 18a. (a) Within 20 days from the receipt of written notice of injury which produces compensable lost time the association, including self-insureds, shall either initiate weekly indemnity compensation or file with the Board a statement of controversy, or in claims of fatal benefits, a statement of position. The statement of controversy or statement of position shall fully set forth in writing the reasons why the association or self-insured has failed or refused to commence the payment of weekly indemnity compensation. When a statement of controversy has been filed, the Board shall promptly set such claim for a prehearing conference on the merits. If the association or self-insured fails to initiate weekly indemnity compensation or file a statement of controversy or statement of position within the allotted time, the Board shall notify the association or self-insured in writing to its designated Austin Industrial Accident Board representative of its possible violation of the Workers’ Compensation Act. If within 10 days from receipt of such Board notice the association or self-insured has still failed to either commence the payment of weekly indemnity benefits or to file a statement of controversy or in claims for fatal benefits, a statement of position, the Board shall promptly set such claim for a prehearing conference on the merits and thereafter the Board after notice and hearing thereon, by majority vote, may assess a penalty not to exceed 15 percent of the weekly indemnity compensation and medical benefits then past due.

(b) If the association, including self-insureds, suspends or stops the payment of weekly indemnity compensation or medical benefits, the association including self-insureds, shall within 10 days file with the Board a statement which fully sets out the reasons why such benefits have been suspended. If the association, including self-insureds, fails to take any such action within the allotted time, the Board shall notify the association including self-insureds, in writing to its designated Austin Industrial Accident Board representative of its possible violation of the Workers’ Compensation Act. If within 10 days from receipt of such Board notice, the association or self-insured has still failed to act, the Board shall promptly set such claim for a prehearing conference on the merits and thereafter the Board after notice and hearing thereon, by majority vote, may assess a penalty not to exceed 15 percent of the weekly indemnity compensation and medical benefits then past due.

(c) All penalties provided under Subsections (a) and (b) shall be for the benefit of the employee, subject to attorney’s fees as allowed by the Act.

(d) If it appears to the Board that the association, or self-insured, may be, as a general business practice, controverting claims by reason of its failure to promptly and adequately investigate such claims, or is controverting claims when the evidence then available clearly indicates compensability, or is suspending the payment of weekly indemnity compensation or medical benefits without stating fully in writing the reasons therefor, the Board, after notice and hearing, may, upon a finding by a majority of the members of the Board that the association or self-insured is in fact engaging in such conduct, issue an order directing the association or self-insured to cease and desist from such pattern of conduct or may fine the association or self-insured an amount not to exceed $10,000 or both. A cease and desist order may be imposed for a period not to exceed 12 months. If the association or self-insured violates a cease and desist order while the same is in effect, the Board, after notice and hearing, upon a finding by a majority of the members of the Board that such violation occurred, may certify such fact to the commissioner of insurance, and said certificate shall be sufficient cause for the said commissioner to conduct a hearing into the facts relevant to the revocation of the license or permit of such association to do business in Texas or the revocation of the certificate of self-insurance of such self-insured; provided, said power of the Board shall not be held to deny the association or self-insured the right to bring suit or suits to set aside any ruling, order, or decision of the Board rendered pursuant to this section.

(e) Appeals arising from the assessment of any penalty under Subsection (a) or (b) of this section shall be de novo and according to the provisions of Section 5, Article 8307, Revised Statutes, either as to the assessment of any penalty alone and/or as to any ruling, decision, or award on the merits, but no decision of the Board as to any penalty shall be admissible before the jury. Appeals arising from Subsection (d) of this section shall be according to the provisions of Section 5, Article 8307, Revised Statutes, except venue for such appeals under Subsection (d) shall be solely in any of the District Courts of Travis County, Texas.
(f) Nothing in this section shall be considered in **lieu of or in substitution of any other right or remedy as provided by law.**

**Injuries Sustained Outside State; Venue**

Sec. 19. If an employee, who has been hired or, if a Texas resident, recruited in this State, sustain injury in the course of his employment he shall be entitled to compensation according to the Law of this State even though such injury was received outside of the State, and that such employee, though injured out of the State of Texas, shall be entitled to the same rights and remedies as if injured within the State of Texas, except that in such cases the Industrial Accident Board of Texas, the suit of either the injured employee or his beneficiaries, or of the Association, to set aside an award of the Industrial Accident Board of Texas, or to enforce it, as mentioned in Article 8307, Sections 5-5a, shall be brought either

a. In the county of Texas where the contract of hiring was made or where the employee was recruited; or

b. In the county of Texas where such employee or his beneficiaries or any of them reside when the suit is brought, or

c. In the county where the employee or the employer resided when the contract of hiring was made or when the employee was recruited, as the one filing such suit may elect.

Providing that such injury shall have occurred within one year from the date such injured employ-ee leaves this State; and provided, further, that no recovery can be had by the injured employee here-under in the event he has elected to pursue his remedy and recovers in the state where such injury occurred.

*"Injury" or "Personal Injury", and "Occupational Disease" Defined; Ordinary Diseases*

Sec. 20. Wherever the terms "Injury" or "Personal Injury" are used in the Workmen's Compensation Laws of this State, such terms shall be construed to mean damage or harm to the physical structure of the body and such diseases or infections as naturally result therefrom. The terms "Injury" and "Personal Injury" shall also be construed to mean include "Occupational Diseases," as hereinafter defined. Whenever the term "Occupational Disease" is used in the Workmen's Compensation Laws of this State, such term shall be construed to mean any disease arising out of and in the course of employment which causes damage or harm to the physical structure of the body and such other diseases or infections as naturally result therefrom. An "Occupational Disease" shall also include damage or harm to the physical structure of the body occurring as the result of repetitious phys-

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ical traumatic activities extending over a period of time and arising in the course of employment; pro-
vided, that the date of the cumulative injury shall be the date disability was caused thereby. Ordinary diseases of life to which the general public is ex-
posed outside of the employment shall not be comp-
ensable, except where such diseases follow as an incident to an "Occupational Disease" or "Injury" as defined in this section.

**False Representations as to Previous Disease**

Sec. 21. If the employee, at the time of his em-
ployment, wilfully and falsely represents in writing that he has not previously been afflicted with the occupational disease which is the cause of incapacity or death, no compensation shall be payable.

**Aggravation of Previously Existing Diseases**

Sec. 22. Where an occupational disease is aggra-
vated by any other non-compensable disease or in-
firmity, or where incapacity or death from any other non-compensable cause, is aggravated, prolonged, accelerated or in anywise contributed to by an occupa-
tional disease, the number of weeks of compensa-
tion payable by the Association shall be reduced and limited to such proportion only of the total number of weeks of compensation that would be payable if the occupational disease were the sole cause of the incapacity or death, as such occupational disease, as a causative factor, bears to all the causes of such incapacity or death, such reduction in compensation to be effected by reducing the number of weekly payments of compensation for which the Association is liable.

**Retroactive Effect of Statute**

Sec. 23. The provisions of this Act do not apply to cases of incapacity or death resulting from a disease in which the last injurious exposure to the hazards of such disease occurred before the date on which this Act takes effect.

**Employer, Who Deemed**

Sec. 24. Where compensation is payable for an occupational disease, the employer in whose employ the employee was last injuriously exposed to the hazards of such disease shall be deemed the employ-
er within the meaning of the Act.


**Subscriber's Filing Fee**

Sec. 28. In addition to all other taxes now being paid, each stock company, mutual company, recipro-
cal, or inter-insurance exchange or Lloyds Associa-
tion writing Workmen's Compensation insurance in
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Compensation Laws

This state, shall pay annually into the General Revenue Fund in the State Treasury an amount equal to forty-five one-hundredths (45/100) of one percent (1%) of gross premiums collected by such company or association during the preceding year under workmen’s compensation policies written by such companies or associations covering risks in this state according to the reports made to the Board of Insurance Commissioners as required by law. Said amount shall be collected at the same time and in the same manner as provided by law for the collection of taxes on gross premiums of such workmen’s compensation insurance carriers. All self-insurers under any of the Workmen’s Compensation Acts of the State of Texas shall report to the State Board of Insurance the total amount of their medical and indemnity costs incurred for the year for the compensation of injured employees and the amount of tax as provided above on said total amount of medical and indemnity costs. Failure to make any report required by this Section shall be punishable by fine not to exceed One Thousand ($1000) Dollars and the failure to pay any tax within thirty (30) days after same is due under this Section shall be punishable by a penalty of ten percent (10%) of the amount, and shall be recovered by the Attorney General in a suit brought by him in the name of the State of Texas and such penalties when collected shall be deposited in the General Revenue Fund in the State Treasury.

Maximum and Minimum Weekly Benefits

Sec. 29. (a) After August 31, 1973, and before September 1, 1974, the maximum weekly benefit shall be Sixty-three Dollars ($63) and the minimum weekly benefit shall be Fifteen Dollars ($15).

(b) After August 31, 1974, the maximum weekly benefit shall be Seventy Dollars ($70) and the minimum weekly benefit shall be Sixteen Dollars ($16).

(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars ($10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, The Average Weekly Wage, the maximum weekly benefit shall be increased by Seven Dollars ($7) and the minimum weekly benefit shall be increased by One Dollar ($1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report.

employee or legal beneficiary, or of the Board, or of the association, or of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it is hereby declared that as respects such injuries occurring prior to the effective date of this Act, said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties, and authority; and further this Act insofar as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

"Sec. 15. All laws or parts of laws in conflict herewith are expressly repealed to the extent of such conflict." Section 16 of Acts 1960, 61st Leg., p. 68, ch. 18, an emergency provision, was amended by Acts 1960, 61st Leg., p. 234, ch. 122, § 1, to provide that Chapter 18 "shall take effect and be in force at 12:01 A.M., May 18, 1960."

Sections 2 to 4 of Acts 1971, 62nd Leg., p. 1258, ch. 316, provided:

"Sec. 4. As respects claims for injury sustained prior to the effective date of this Act, no inchoate, vested, matured, existing or other rights, remedies, powers, duties, or authority, either of any employee or legal beneficiary, or of the Board, or of the association, or of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it is hereby declared that as respects such injuries occurring prior to the effective date of this Act, said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties, and authority; and further, this Act insofar as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

"Sec. 5. If any section, paragraph or provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect.

"Sec. 6. All laws or parts of laws in conflict herewith are expressly repealed to the extent of such conflict." Sections 2 to 4 of Acts 1971, 62nd Leg., p. 1386, ch. 372, provided:

"Sec. 2. As respects claims for injury sustained prior to the effective date of this Act, no inchoate, vested, matured, existing or other rights, remedies, powers, duties, or authority, either of any employee or legal beneficiary, or of the Board, or of the association, or of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it is hereby declared that as respects such injuries occurring prior to the effective date of this Act, said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties, and authority; and further this Act insofar as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

"Sec. 3. If any section, paragraph or provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect.

"Sec. 4. All laws or parts of laws in conflict herewith are expressly repealed to the extent of such conflict." Sections 3 to 4 of Acts 1971, 62nd Leg., p. 2598, ch. 384, provided:

"Sec. 3. As respects claims for injury sustained prior to the effective date of this Act, no inchoate, vested, matured, existing or other rights, remedies, powers, duties, or authority, either of any employee or legal beneficiary, or of the Board, or of the association, or of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it is hereby declared that as respects such injuries occurring prior to the effective date of this Act, said original law is not repealed, but the same is, and shall remain in full force and effect as to all such rights, remedies, powers, duties, and authority; and further this Act insofar as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

"Sec. 4. If any section, paragraph or provision of this Act be declared unconstitutional or invalid for any reason, such holding shall not in any manner affect the remaining sections, paragraphs or provisions of this Act, but the same shall remain in full force and effect.

"Sec. 5. It is the express intent of the Legislature in enacting this Act that nothing contained in this Act shall ever be deemed or considered to limit or expand recovery in cases of mental trauma accompanied by physical trauma.

"Sec. 6. All laws or parts of laws in conflict herewith are expressly repealed to the extent of such conflict."

Sections 21 and 22 of Acts 1973, 63rd Leg., p. 187, ch. 88, provided:

"Sec. 21. Section 2 of this Act applies to all suits instituted on or after the effective date of the Act." Section 16 takes effect on the first day that money becomes available for its administration, pursuant to legislative appropriation; and Sections 17 and 18 of this Act take effect July 1, 1974. All other sections of this Act take effect September 1, 1973.

"Sec. 22. If any provision of this Act or the application thereof to any person or class of persons or in any circumstances shall be declared invalid for any reason, such invalid provision or application, and to this end the provisions of prior Acts are declared to be severable."

Section 2 of the 1981 amendatory act provides:

"The rights, powers, and duties of an employee, a legal beneficiary of an employee, or an insurer with respect to claims for injuries sustained before the effective date of this Act are governed by the law as it exists prior to that effective date and for that purpose the prior law is continued in effect."

Section 2 of Acts 1983, 68th Leg., p. 746, ch. 177, provides:

"The increased funeral benefit provided by this Act applies to the funeral of persons who die on or after the effective date of this Act."

Section 2 of Acts 1983, 68th Leg., p. 1841, ch. 602 provides:

"This Act applies to all suits instituted on or after the effective date of this Act."

Art. 8306a. Discount for Present Payment

In all cases when the payments of weekly compensation due an injured employee or beneficiary coming within the provisions of the Workmen's Compensation Act are accelerated by increasing the amount of compensation by correspondingly decreasing the number of weeks for which the same is to be paid, and when the liability of the insurance company is redeemed by the payment of a lump sum, by agreement of parties interested, or as a result of an order made by the Industrial Accident Board or a judgment rendered by a court of competent jurisdiction, and when advanced payments of compensation are made, and in all cases when compensation is paid before becoming due, discount shall be allowed for present payment at four (4%) per cent, compounded annually.
Provided, however, where suits are legally brought by any claimant or beneficiary under any of the provisions of this Act and recovery is had for past due installments, such claimant or beneficiary shall be entitled to recover interest on such past due installments at the rate of four (4%) per cent, compounded annually. Any judgment rendered pursuant to any of the provisions of this Act shall bear interest from the date it is rendered until paid at the rate of four (4%) per cent, compounded annually.

Provided, however, future installments of compensation payable to alien beneficiaries, not residents of the United States, may be commuted and paid according to the terms and provisions of Section 17, Article 8206 of the Revised Civil Statutes of 1925; and provided further, when either party shall appeal from the award of the Industrial Accident Board to the District Court, the District Court shall try the matter appealed from only, and shall not in said trial adjudicate in any way any right to exemplary damages, as is granted in Section 26 of Article XVI of the Constitution of Texas.

The provisions of this section shall also apply to compensation which is payable under any law enacted pursuant to Section 3306 of the Revised Civil Statutes of 1925; and the Industrial Accident Board may promulgate forms and printed materials used by any state agency which incorporate the term "workers' compensation" when sections of those laws are being amended for any purpose.

Art. 8206b. "Workers' Compensation" Changed to "Workmen's Compensation"

Sec. 1. The term "workmen's compensation" shall hereafter be known as "workers' compensation," and references to "workmen's compensation" in the statutes of this state shall be changed to "workers' compensation" when sections of those laws are being amended for any purpose.

Sec. 2. Forms and printed materials used by any state agency which incorporate the term "workmen's compensation" shall be modified to substitute the term "workers' compensation" after the present supply of forms and materials is exhausted. State agencies, including the State Board of Insurance and the Industrial Accident Board, may promulgate reasonable rules and regulations necessary to carry out the intent of this Act.

Sec. 2a. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of initial appointment the qualifications required by Subsection (a) of Section 2 of this article for appointment to the board; or

(2) violates a prohibition established by Subsection (b) or (c) of Section 2 of this article.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

Grounds for Removal

Sec. 3. The Board may appoint a Secretary, pre-hearing officers, or paid consultant of an employer-oriented trade association, a labor-oriented trade association, a lawyers' association, a medical association, or an insurance trade association.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board may not serve as a member of the board or act as general counsel to the board.

Application of Sunset Act

Sec. 1a. The Industrial Accident Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this article expires effective September 1, 1995.

Eligibility of Members

Sec. 2. (a) At the time of the initial appointment one member of the Industrial Accident Board shall be an employer of labor in some industry or business covered by this law; one shall be employed in some business industry as a wage earner, and the third member shall be a practicing attorney of recognized ability, and shall act in the capacity of legal adviser to the board, in addition to his other duties as a member thereof, and be chairman of said board.

(b) A member or employee of the board may not be an executive officer, employee, or paid consultant of an employer-oriented trade association, a labor-oriented trade association, a lawyers' association, a medical association, or an insurance trade association.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the board may not serve as a member of the board or act as general counsel to the board.
determined by the Legislature, for pre-hearing officers, clerical and other services, office equipment, traveling expenses and all other expenses necessary.

Annual Funds Report; Intraagency Career Ladder Program; Annual Performance Evaluations; Information About Complaints; Equal Opportunity Implementation Plan

Sec. 3a. (a) During January of each year, the board shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year.

(b) The executive director or his designee shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of all nonentry level positions for at least 10 days before any public posting.

(c) The executive director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for board employees must be based on the system established under this subsection.

(d) The board shall prepare information describing the functions of the board and describing the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies in accordance with Section 5a of Article 8307, as amended.

(e) The executive director or his/her designee shall prepare and maintain a written plan to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The plans shall include:

1. a comprehensive analysis of all the agency's work force by race, sex, ethnic origin, class of position, and salary or wage;

2. plans for recruitment, evaluation, selection, appointment, training, promotion, and other personnel policies;

3. steps reasonably designed to overcome any identified underutilization of minorities and women in the agency's work force; and

4. objectives and goals, timetables for the achievement of the objectives and goals, and assignments of responsibility for their achievement.

The plans shall be filed with the governor's office within 60 days of the effective date of this Act, cover an annual period, and be updated at least annually. Progress reports shall be submitted to the governor's office within 30 days of November 1 and April 1 of each year and shall include the steps the agency has taken within the reporting period to comply with these requirements.

Information on Qualifications and Standards of Conduct

Sec. 3b. The board shall provide to its members and employees as often as is necessary information regarding their qualifications under Section 2 of this article and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Audit

Sec. 3c. The State Auditor shall audit the financial transactions of the board during each fiscal year.

Complaint Information File and Notification of Parties

Sec. 3d. (a) The board shall keep an information file about each written complaint from a member of the general public that is unrelated to a specific workers' compensation claim file.

(b) If a member of the general public files such written complaint with the board, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Rules: Physical Examination; Suspension of Compensation: Procedure and Powers

Sec. 4. The Board may make rules not inconsistent with this law for carrying out and enforcing its provisions, and may require any employee claiming to have sustained injury to submit himself for examination before such Board or someone acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the Board to a physician or physicians, a chiropractor or chiropractors authorized to practice under the laws of this State. If the employee, or the association requests, he or it shall be entitled to have a physician or physicians, chiropractor or chiropractors of his or its own selection present to participate in such examination. Refusal of the employee to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment, chiropractic service or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the board may in its discretion order or direct the association to reduce or suspend the compensation of any such injured employee. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the employee and an opportunity to be heard.

When authorized by the Board, the Association shall have the privilege of having any injured em-
ployee examined by a physician or physicians, chiropractor or chiropractors of its own selection, at reasonable times, at a place or places suitable to the condition of the injured employee and convenient and accessible to him. The Association shall pay for such examination and the reasonable expense incident to the injured employee in submitting there to. The injured employee shall have the privilege to have a physician or chiropractor of his own selection present to participate in such examination. Provided, when such examination is directed by the Board at the request of the Association, the Association shall pay the fee of the physician or chiropractor selected by the employee, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this law. The Board or any member thereof shall have the power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute, punish for contempt in the same manner and to the same extent as a District Court may do, and to bar persons guilty of unethical or fraudulent conduct from practicing before the Board. All rulings and decisions of the board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this law.

Notice of Injury; Claim for Compensation

Sec. 4a. Unless the Association or subscriber have notice of the injury, no proceeding for compensation for injury under this law shall be maintained unless a notice of the injury shall have been given to the Association or subscriber within thirty (30) days after the happening of an injury or the first distinct manifestation of an occupational disease, and unless a claim for compensation with respect to such injury shall have been made within one (1) year after the occurrence of the injury or of the first distinct manifestation of an occupational disease; or, in case of death of the employee or in the event of his physical or mental incapacity, within one (1) year after death or the removal of such physical or mental incapacity. For good cause the Board may, in meritorious cases, waive the strict compliance with the foregoing limitations as to notice, and the filing of the claim before the Board.

Administrative Procedure and Texas Register Act; Open Meetings Law; Application

Sec. 4b. (a) Sections 1 through 12 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes) apply to the Industrial Accident Board. However, Section 4(a)(5) and Sections 13 through 20 of the Administrative Procedure and Texas Register Act do not apply, and Section 4(b) of that Act shall not apply to orders and decisions of the Industrial Accident Board.

(b) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon’s Texas Civil Statutes), except that prehearing conferences, hearings, and determinations on workers’ compensation claims are not open meetings under that law.

Determination of Questions; Suit to Set Aside Final Ruling and Decision; Revocation of Association’s License

Sec. 5. All questions arising under this law, if not settled by agreement of the parties interested therein and within the provisions of this law, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall, within twenty (20) days after the rendition of said final ruling and decision by said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred, or in the county where the employee resided at the time the injury occurred (or, if such employee is deceased, then in the county where the employee resided at the time of his death), to set aside said final ruling and decision, and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. In all cases of occupational diseases, for the purpose of determining venue when an appeal is effected to set aside the final ruling and decision of the Board, suit shall be brought in a court of competent jurisdiction in the said county in which the employee was last exposed to the disease alleged, prior to the manifestation of the disease, or death therefrom, or in the county in which the adverse party resides, or has a permanent place of business, or by agreement of the parties in a court of competent jurisdiction in any county in this state. Whenever such suit is brought, the rights and liability of the parties there to shall be determined by the provisions of this law, and the suit of the injured employee or person suing on account of the death of such employee shall be against the Association, if the employer of such injured or deceased employee at the time of such injury or death was a subscriber as defined in this law. If the final order of the Board is against the Association, then the Association and not the employer shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the court shall in either event determine the issues in such cause, instead of the Board, upon trial de novo, and the burden of proof shall be upon the party claiming compensation. The Industrial Accident Board shall furnish any interested party in said claim pending in court, upon request, free of charge, with a certified copy of the notice of the employer becoming a subscriber, filed with the Board, and the same when properly certified to shall be admissible in evidence in any court in this state upon trial of such claim therein pending, and shall be prima facie proof of all facts stated in such notice in the trial of said cause unless same is
denied under oath by the opposing party therein. In case of recovery, the same shall not exceed the maximum compensation allowed under the provisions of this law. If any party to such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto; and, if the same is against the Association, and failing to do so, the Board shall certify the fact to the Commissioner of Insurance, and such certificate shall be sufficient cause to justify said Commissioner to revoke or forfeit the license or permit of such Association to do business in Texas.

Notwithstanding any other provision of this law, as amended, no award of the Board, and no judgment of the court, having jurisdiction of a claim against the association for the cost or expense of items of medical aid, hospital services, nursing, chiropractic services, medicines or prosthetic appliances furnished to an employee under circumstances creating a liability therefor on the part of the association under the provisions of this law, shall include in such award or judgment any cost or expense of any such items not actually furnished to and received by the employee prior to the date of said award or judgment. The first such final award or judgment rendered on such claim shall be res judicata of the liability of the association for all such cost or expense which could have been claimed up to the date of said award or judgment and of the issue that the injury of said employee is subject to the provisions of this law with respect to such items, but shall not be res judicata of the obligation of the association to furnish or pay for any such items after the date of said award or judgment. After the first such final award or judgment, the Board shall have continuing jurisdiction in the same case to render successive awards to determine the liability of the association for the cost or expense of any such items actually furnished to and received by said employee not more than six (6) months prior to the date of each successive award, until the association shall have fully discharged its obligation under this law to furnish all such medical aid, hospital services, nursing, chiropractic services, medicines or prosthetic appliances to which said employee may be entitled; provided, each such successive award of the Board shall be subject to a suit to set aside said award by a court of competent jurisdiction, in the same manner as provided in the case of other awards under this law.

Rights and Remedies of Claimant

Sec. 5a. In all cases where the board shall make a final order, ruling or decision as provided in the preceding section and against the association, and the association shall fail and refuse to comply with the same and shall fail or refuse to bring suit to set the same aside as is in said section is provided, then in that event, the claimant in addition to the rights and remedies given him and the board in said section may bring suit where the injury occurred, upon said order, ruling or decision. If he secures a judgment sustaining such order, ruling or decision in whole or in part, he shall also be entitled to recover the further sum of twelve per cent as damages upon the amount of compensation so recovered in said judgment, together with a reasonable attorney's fee for the prosecution and collection of such claim.

Where the board has made an award against an association requiring the payment to an injured employee or his beneficiaries of any weekly or monthly payments, under the terms of this law, and such association should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured employee or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with twelve per cent penalties and attorney's fees, as herein provided. Suit may be brought under the provisions of this section, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Computation of Time for Notice or Suit

Sec. 5b. In computing the twenty (20) days for the filing with the Board of notices of unwillingness to abide by the final ruling and decision of the Board, and likewise in computing the twenty (20) days to institute a suit to set aside the final ruling of said Board, if the last day is a legal holiday or is Sunday, then, and in such case, such last day shall not be counted, and the time shall be and remain the same as if the time were extended so as to include the next succeeding business day; but this provision shall not extend to or include any cases now filed or now pending in the trial court or on appeal from the trial court; the rights of the parties in such suits now pending or on appeal from the trial courts shall be determined by the law existing prior to the passage of this Act.

Multiple Subscribers: Payment of Claims; Deposit of Proportionate Share Prior to Liability Determination

Sec. 5c. In any proceeding in which it is determined that compensation, including costs for medical services incurred, is allowable in a sum certain for injuries sustained by an employee, but there is a dispute with respect to which of two or more subscribers said employee was serving at the time of injury, the Association and other workmen's compensation insurer, or insurers, of each such subscriber shall be required to deposit with the Board or court a proportionate share of the compensation awarded, including costs for medical services incurred, for the injuries received. Such proportion-
Section 6. (a) A subcontractor and prime contractor may make a written contract whereby the prime contractor will provide workers' compensation benefits to the sub-contractor and to employees of the sub-contractor. Notwithstanding the provisions of Section 12(g), Article 8306, Revised Statutes, the contract may provide that the actual premiums (based on payroll) paid or incurred by the prime contractor for workers' compensation insurance coverage for the sub-contractor and employees of the sub-contractor may be deducted from the contract price or any other monies owed to the sub-contractor by the prime contractor. In any such contract, the sub-contractor and his employees shall be considered employees of the prime contractor only for purposes of the workers' compensation laws of this state (Article 8306, Revised Statutes, et seq.) and for no other purpose.

(b) The term "sub-contractor" means a person who has contracted to perform all or any part of the work or services which a prime contractor has contracted with another party to perform.

(c) The term "prime contractor" includes "principal contractor," "original contractor," or "general contractor" as those terms are commonly used and means the person who has undertaken to procure the performance of work or services. The prime contractor may engage sub-contractors to perform all or any part of the work or services.

(d) If any subscriber to this law with the purpose and intention of avoiding any liability imposed by its terms sublets the whole or any part of the work to be performed or done by said subscriber to any sub-contractor, then in the event any employee of such sub-contractor sustains an injury in the course of his employment he shall be deemed to be and taken for all purposes of this law to be the employee of the subscriber, and in addition thereto such employee shall have an independent right of action against such sub-contractor, which shall in no way be affected by any compensation to be received by him under the provisions of this law.

Recovery From Third Person; Subrogation; Attorney's Fees

Sec. 6a. Where the injury for which compensation is payable under this law was caused under circumstances creating a legal liability in some person other than the subscriber to pay damages in respect thereof, the employee may proceed either at law against that person to recover damages or against the association for compensation under this law, and if he proceeds at law against the person other than the subscriber, then he shall not be held to have waived his rights to compensation under this law. If the claimant is a beneficiary under the death benefits provisions of Section 8a, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, a judgment shall not constitute an election but the amount of such recovery shall first pay costs and attorney's fees and then reimburse the association, and if there be any excess it shall be paid to the beneficiaries in the same ratio as they received death benefits and the association shall suspend further payments of benefits until the suspended benefits shall equal the amount of such excess at which time benefits shall be resumed. If compensation be claimed under this law by the injured employee or his legal beneficiaries, then the association shall be subrogated to the rights of the injured employee, and may enforce in the name of the injured employee or of his legal beneficiaries the liability of said other person, and in case the recovery is for a sum greater than that paid or assumed by the association to the employee or his legal beneficiaries, then out of the sum so recovered the association shall reimburse itself and pay said costs and the excess so recovered shall be paid to the injured employee or his beneficiaries. However, when the claimant is represented by an attorney, and the association's interest which in no case shall exceed thirty-three and one-third percent (331/3%) payable out of the association's part of the recovery.

In any case where the claimant's attorney is also representing the subrogated association, a full written disclosure must be made to the claimant, prior to actual employment by the association as an attorney, and acknowledged by the claimant, and a signed copy of the same furnished to all concerned parties and made a part of the file in the Industrial Accident Board. A copy of the disclosure with authorization and consent, shall also be filed with
the claimant's pleadings prior to any judgment entered and approved by the court. Unless the claimant's attorney complies with all of the requirements as prescribed in this section, the attorney shall not be entitled to receive any of the fees prescribed in this section to which he would be entitled pursuant to an agreement with the association.

If the association obtains an attorney to actively represent its interest and if the attorney actively participates in obtaining a recovery, the court shall award and apportion an attorney's fee allowable out of the association's subrogation recovery between such attorneys taking into account the benefit accruing to the association as a result of each attorney's service, the aggregate of such fees not to exceed thirty-three and one-third per cent (33½%) of the subrogated interest.

If at the conclusion of a third party action a workmen's compensation beneficiary is entitled to compensation, the net amount recovered by such beneficiary from the third party action shall be applied to reimburse the association for past benefits and medical expenses paid and any amount in excess of past benefits and medical expenses shall be treated as an advance against future benefit payments of compensation to which the beneficiary is entitled to receive under the Act. When the advance is adequate to cover all future compensation and medical benefit payments as provided by this law, no further payments shall be made by the association but if insufficient, the association shall resume such payments when the advance is exhausted. The reasonable and necessary medical expenses incurred by the claimant on account of the injury shall be deducted from the advance in the same manner as benefit payments.

Record of Injuries; Reports

Sec. 7. (a) Every subscriber shall keep a record of all injuries, fatal or otherwise, sustained by his employees in the course of their employment. After the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one (1) day, or after the employee notifies the employer of a definite manifestation of an occupational disease, a written report thereof shall be made within eight (8) days following the employee's absence from work and notice thereof to the employer or notice of manifestation of an occupational disease to the Board on blanks to be procured from the Board for that purpose. The subscriber shall deliver a copy of the report to the association. Upon the termination of the incapacity of the injured employee, or if such incapacity extends beyond a period of sixty (60) days, the subscriber shall make a supplemental report upon blanks to be procured for that purpose.

(b) The report shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employee, and the character of work in which he was engaged at the time of the injury, and shall state the date and hour of receiving such injury or of the definite manifestation of the occupational disease, and the nature and cause of the injury, and such other information as the Board may require.

(c) Any employer shall give the Board any information demanded by the Board relating to any injury to any employee or required by statute, which information is in the possession of or can be ascertained by the employer by the use of reasonable diligence.

(d) If any employer fails to comply with any of the requirements of Subsection (a), (b), or (c) of this section, the Board shall give such employer written notice by certified mail return receipt requested that such employer shall file the requested report or information with the Board within ten (10) days or shall request a hearing with the Board. If no hearing is requested and the employer fails to comply with the Board's request or order, the Board shall impose a civil penalty against such employer of not more than Five Hundred Dollars ($500). If a hearing is requested by an employer, the Board shall set such hearing within ten (10) days at its office in Austin, Texas. If the Board determines by majority vote that such employer is not in compliance with Subsection (a), (b), or (c) of this section, the Board shall impose a civil penalty against such employer of not more than Five Hundred Dollars ($500). Such employer, if dissatisfied with the Board's determination, may sue the Board to set aside the Board's ruling by bringing a de novo suit within twenty (20) days thereafter in the district court in Travis County, Texas. The Board shall be represented by the Attorney General of Texas.

Failure to File Report; Limitation on Filing of Claim

Sec. 7a. Where the association or subscriber has been given notice or the association or subscriber has knowledge of an injury or death of an employee and fails, neglects, or refuses to file a report thereof as required by the provisions of Section 7 of this Article, the limitation in Section 4a of this Article in respect to the filing of a claim for compensation shall not begin to run against the claim of the injured employee or his dependents entitled to compensation, or in favor of either the association or subscriber until such report shall have been furnished as required by Section 7 of this Article.

Claim Forms to Employee; Filing Requirements

Sec. 7b. Upon receipt of the written report required under Section 7 of this Article the Industrial Accident Board shall immediately furnish the injured employee claim forms which shall clearly inform the employee of the filing requirements of Section 4a of this Article, and if applicable, Section 7a of this Article.

Quorum of Board; Seal; Proceedings as Evidence

Sec. 8. A majority of the Board shall constitute a quorum to transact business, and the Act or
decision of any two members thereof shall be held the act or decision of the Board, except as otherwise herein specifically provided. No vacancy shall impair the right of the remaining member or members of the Board to exercise all the powers of the Board. The Board shall provide itself with a seal on which shall be inscribed the words "Industrial Accident Board, State of Texas." Any Order, award or proceeding of said Board when duly attested by any information or a record check only to the following:

1. the claimant;
2. the attorney for the claimant;
3. the carrier;
4. the employer at the time of the current injury;
5. third-party litigants; or
6. the State Board of Insurance.

A third-party litigant in a suit arising out of an occurrence with respect to which a workers' compensation claim was filed is entitled to the information without regard to whether or not the compensation claim is still pending.

c) All information of the Industrial Accident Board concerning any person who has been finally adjudicated to be a fraudulent claimant as provided in this section is not confidential and shall be furnished to any person requesting the information, notwithstanding any other provision of this law.

d) The Board shall release to any employer with whom a person has made application for employment within the 14 days prior to the request the date of injury and nature of injury to that person if that person has had three or more general injury claims filed in the preceding five years in which weekly compensation payments have been made. The request for information shall give the name, address, and social security number of the person about whom information is sought. The Board shall release this information only if the employer has written authorization from the person about whom information is sought. The Board shall release the information by telephone, but the employer must file the written authorization with the Board within 10 days after the information is released. If the employer requests information about three or more persons at the same time, the Board may refuse to release the information except on written request from the employer and receipt of the written authorization from each person about whom the information is sought. An employer who receives the information but fails to file the authorization within the required period is guilty of a misdemeanor and on conviction shall be fined not more than $1,000. Failure to file each authorization is a separate offense.

(2) In those cases in which a claimant makes a fifth claim for compensation within any five-year period, the Board shall automatically notify the attorney general who shall investigate to determine if the probability of fraud exists in connection with the current claim or any of the prior claims.
(3) Whenever the attorney general believes that any person, facility, or company may be in possession, custody, or control of any documentary material relevant to the subject matter under investigation, an authorized member of the attorney general's staff may execute in writing and serve on the person, facility, or company a civil investigative demand requiring the person, facility, or company to produce the documentary material and permit inspection and copying:

(A) Each demand shall:

(i) make reference to this section and state the general subject matter of the investigation;

(ii) describe the class or classes of documentary material to be produced with reasonable specificity so as to fairly indicate the material demanded;

(iii) prescribe a return date within which the documentary material is to be produced; and

(iv) identify the members of the attorney general's staff to whom the documentary material is to be made available for inspection and copying.

(B) A civil investigative demand may contain a requirement or disclosure of documentary material which would be discoverable under the Texas Rules of Civil Procedure.

(C) Service of any demand may be made by:

(i) delivering a duly executed copy of the demand to the person, facility, or company to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person, facility, or company;

(ii) delivering a duly executed copy of the demand to the principal place of business in the state of the person, facility, or company to be served;

(iii) mailing by registered mail or certified mail a duly executed copy of the demand addressed in the case of a claimant to his last known address, or in the case of any other person, facility, or company, to the principal place of business in this state, or if the person, facility, or company has no place of business in this state, to the principal office or place of business in any other state.

(D) Documentary material demanded pursuant to this subsection shall be produced for inspection and copying during normal business hours at the principal office or place of business or residence of the person, facility, or company served or at other times and places as may be agreed on by the person served and the attorney general's staff.

(E) No documentary material produced pursuant to a demand under this subsection, unless otherwise ordered by the Industrial Accident Board for good cause shown, shall be produced for inspection or copying by nor shall its contents be disclosed to any person other than the designated members of the attorney general's staff without the consent of the person who produced the material. The attorney general shall prescribe reasonable terms and conditions allowing the documentary material to be available for inspection and copying by the person, facility, or company who produced the material or any duly authorized representative of such person, facility, or company. The attorney general may use the documentary material or copies of it as he determines necessary in the prosecution of fraudulent claim practices, including presentation before the Industrial Accident Board and any court.

(F) At any time before the return date specified in the demand or within 10 days after the demand has been served, whichever period is shorter, a petition to extend the return date for or to modify or set aside the demand, stating good cause, may be filed with the Industrial Accident Board.

(G) A person, facility, or company on whom a demand is served under this subsection shall comply with the terms of the demand unless otherwise provided by order of the Industrial Accident Board.

(H) Personal service of a similar investigative demand under this subsection may be made on any person, facility, or company outside of this state if the person, facility, or company has engaged in fraudulent claim practices in this state. Such persons, facilities, or companies shall be deemed to have submitted themselves to the jurisdiction of this state within the meaning of this section.

(4)(A) Any person, facility, or company who, with intent to avoid, evade, or prevent compliance, in whole or in part, with Subdivision (3) of Subsection (e) of this section, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any means falsifies any documentary material is guilty of a Class A misdemeanor.

(B) If a person, facility, or company fails to comply with a civil investigative demand for documentary material served on him under Subdivision (3) of Subsection (e) of this section, or if satisfactory copying or reproduction of the material cannot be done and the person, facility, or company refuses to surrender the material, the attorney general may file with the Industrial Accident Board a petition for an order of the Board for enforcement of Subdivision (5) of Subsection (e) of this section.

(C) When a petition is filed with the Industrial Accident Board for enforcement of Subdivision (5) of Subsection (e) of this section, the Industrial Accident Board shall have jurisdiction to hear and determine the matter presented and to enter any order required to carry into effect the provisions of Subdivision (5) of Subsection (e) of this section. Any final order entered is subject to immediate and preferential review by any district court in Travis County. Failure to comply with any final order entered to carry into effect the provisions of Subdivision (5) of Subsection (e) of this section is punishable by contempt.

(5) If the attorney general finds that a reasonable probability of fraud exists, the attorney general shall request a hearing and the Board shall set the matter for hearing. On the setting of this matter,
the Board or any member thereof shall, no later than five days following receipt of the request for hearing, notify the person under investigation, as well as the other parties involved in the case, in writing of the allegation against him and of his rights to attend and offer evidence at the hearing. This notice must be mailed by certified mail to the last known address of the person, must state the time and place for the hearing, which shall be no less than 30 nor more than 45 days after the attorney general has filed the request for hearing, and must notify the person of his right to counsel and his right of access to the complete Board files relating to the claim or claims under investigation. Provided, however, that the 45-day limitation may be waived by the Industrial Accident Board upon receipt by the Board of a written request for waiver signed by the person under investigation or his attorney. Any investigation initiated under this section shall be concluded within 60 days unless by a unanimous vote of the Board the time is extended. In those cases in which a claimant has a claim pending before the Board, extension may not exceed an additional 60 days.

(f) In addition to the powers granted under Section 4 of this article, as amended, the Board or any member thereof has the power to compel the attendance of witnesses, take evidence, and require the production of any records in conjunction with this hearing. The person under investigation has the same power to compel the attendance of witnesses and the production of records and documents.

(g) After this hearing, the Board shall reduce its findings to writing and provide the person under investigation, as well as the other parties involved in the case, with a copy. If the Board determines that the claimant has been fraudulent in any or all of his claims for compensation, the Board shall then classify that claimant as a fraudulent claimant, which designation is final unless appealed by the claimant as provided in this section. If the Board determines that any other person except an employee under investigation has been fraudulent in connection with a claim for compensation, the Board may exercise its authority under Section 4 of this article, as amended, or report its findings to the appropriate professional grievance committee, law enforcement officials, or other state agencies for prosecution, or both. An employer who has been adjudicated to be fraudulent shall be subject to the provisions of Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon's Texas Civil Statutes), as if he had discriminated against an employee for filing a claim. Actions taken by the Board in accordance with this procedure may be appealed by the aggrieved person by trial de novo to a district court of competent jurisdiction in the county of his residence, whose final judgment shall be determinative of his classification as a fraudulent claimant. Appeal shall be in accordance with Section 5 of this article, as amended.

(b) Pending an investigation and hearing or appeal of allegations of fraud under this section, the Board may not approve a compromise settlement agreement or make a final award in connection with the worker's claims then pending before the Board.

(i) If any worker shall be finally adjudicated to be a fraudulent claimant, the Board may terminate any compensation which the fraudulent claimant is currently drawing and require repayment to the association of any amounts so drawn.

(j) If any worker is finally adjudicated to be a fraudulent claimant, that fact shall automatically be furnished to any employer, any insurance carrier, or any attorney for the claimant as regards all claims then pending before the Board and as regards all future claims which that claimant may thereafter file with the Industrial Accident Board; otherwise, the Board shall process the claim as generally provided under the workers' compensation law.

(k) Nothing in the preceding sections shall diminish the power of the Industrial Accident Board on its own initiative to investigate or punish fraudulent acts.

(l) This section does not give authority to withhold information from committees of the legislature to use for legislative purposes.

(m) Any information pertaining to a worker's compensation file which is confidential by virtue of any of the terms of this Act shall retain such confidentiality when released to any investigative, legislative, or law enforcement agency including the attorney general, district attorneys, grand juries, or legislative committees. Any individual who shall publish, disclose, or distribute any such confidential information which is possessed by any investigative, legislative, or law enforcement agency to any other individual, corporation, or association not entitled to have received such information directly from the Industrial Accident Board under the provisions of this law commits an offense, and any person, corporation, or association who receives any such confidential information when such person was not entitled to have received the same from the Industrial Accident Board under the provisions of this law commits an offense. An offense under this subsection is a Class A misdemeanor. Any district court of Travis County shall have jurisdiction to enjoin possession and the use by any individual, corporation, or association of any information made confidential by this Act when such possession or use is not authorized by this Act. This subsection does not prohibit an employer from releasing information about a former employee to another employer with whom the employee has made application for employment, provided such information was lawfully acquired by the employer releasing the same.

(n) Nothing herein prohibits any person from receiving from the Industrial Accident Board all information contained in any record or file of the Industrial Accident Board begun after September 1, 1971, in statistical form and in a manner so as not to
disclose the name or identity of any person, except as provided in this section.

Hearings; Investigations; Appearance of Claimants; Pre-hearing Conferences and Officers; Rules and Regulations

Sec. 10. (a) Said Board or any member thereof may hold hearings or take testimony or make investigations at any point within this state, reporting the result thereof, if the same is made by one member, to the Board. The Board shall also employ and use the assistance of a sufficient number of pre-hearing officers for the purpose of adjusting and settling claims for compensation; provided, however, that pre-hearing officers shall not be empowered to take testimony.

Notwithstanding any provision of this Act, no claimant shall be required to appear before the Board or Board Member within a distance greater than one hundred (100) miles from the courthouse of the county of the claimant’s residence or within a greater distance than one hundred (100) miles of the courthouse of the county where the injury occurred.

(b) The Board shall examine and review all controverted claims and shall schedule and hold pre-hearing conferences on such claims as the Board may designate. It shall have the power to direct the parties, their attorneys, or authorized agents of the parties to appear before the Board, any member thereof or a pre-hearing officer for pre-hearing conferences to attempt to adjust and settle the claim amicably and to take such other action other than taking of testimony that may aid in the disposition of the claim. Provided, however, that no matter occurring during, or fact developed in, a pre-hearing conference shall be deemed as admissions or evidence or impeachment against the association, employee or the subscriber in any other proceedings except before the Board.

Provided further that pre-hearing officers shall prepare a report to the Board Members on cases not settled at pre-hearing conference, stating the pre-hearing officer’s recommendations for the award, and the basis therefor, with copies of said recommendations furnished to all interested parties and the association shall furnish a copy of the recommendation to the subscriber.

The Board shall provide a reasonable time to all interested parties in each case for filing a formal statement of respective positions, both factual and legal, as well as reply to pre-hearing officer’s recommendations, all of which evidence shall be duly considered by the Board Members in making said final award. Unrepresented claimants are exempted from the provision requiring formal statement of respective positions.

The Association and counsel for claimant shall be required to admit, deny, or qualify each point in the pre-hearing officer’s recommendations.

The Board shall promulgate procedural rules and regulations not inconsistent with this law to govern such pre-hearing conferences and provided further, such rules and regulations shall not affect nor change any substantive portion of this law.

Association Suspending Payments

Sec. 11. When the association suspends or stops payment of compensation, it shall immediately notify the board of that fact, giving the board the name, number and style of the claim, the amount paid thereon, the date of the suspension or stopping of payment thereon, and the reason for such suspension or stopping.

Compensation Payments; Compromise; Commutation

Sec. 12. The board upon application of either party may, in its discretion, having regard to the welfare of the employee and the convenience of the association, authorize compensation to be paid monthly or quarterly.

Where the liability of the association or the extent of the injury of the employee is uncertain, indefinite or incapable of being satisfactorily established, the board may approve any compromise, adjustment, settlement or commutation thereof made between the parties.

Settlement of Suits to Set Aside Awards

Sec. 12a. On the application of either party to a suit to set aside the award of the board, the court may approve a settlement agreement presented at any time before the jury has returned in the trial of the suit. In approving the settlement agreement, the court may either conduct a hearing on the agreement or approve it without a hearing if the claimant submits a sworn affidavit acknowledging his agreement to settle the cause of action and evidencing his full understanding of all the provisions of the settlement agreement.

Compromise Settlement Agreements and Agreed Judgments; Disputes Concerning Payment of Health-Care Benefits

Sec. 12b. Whenever in any compromise settlement agreement approved by the board or in any agreed judgment approved by the court, any dispute arises concerning the payment of medical, hospital, nursing, chiropractic or podiatry services or aids or treatment, or for medicines or prosthetic appliances for the injured employee as provided in Section 7, Article 8306, Revised Statutes, as amended, or as provided in such compromise settlement agreements or agreed judgments, all such disputes concerning the payment thereof shall be first presented by any party to the Industrial Accident Board within six months from the time such dispute has arisen (except where “good cause” is shown for any delay) for the board’s determination. A dispute arises when a written refusal of payment has been filed with the board. However, when the terms of a compromise settlement agreement or agreed judgment provides an expiration time for the payment of such future health-care benefits, the carrier’s pay-
ment obligation under the terms of such compromise settlement agreement or agreed judgment to pay such expenses incurred prior to the expiration time provided therein shall cease four years after the expiration time provided under the terms of such compromise settlement agreement or agreed judgment. Any final ruling, decision, denial, or award of the board may be appealed by any party according to and under the provisions of Section 5 of Article 8307 of this Act. The board, however, shall have no jurisdiction to rescind or set aside any compromise settlement agreement approved by the board or any agreed judgment approved by the court.

Medical Committee: Examination of Employee; Report

Sec. 13. (a) If, on the hearing of a claim for compensation for occupational disease, any controverted medical question or questions shall arise, upon the request of either party, or its own motion, the Board shall appoint a Medical Committee consisting of three (3) doctors, duly qualified in the diagnosis and treatment of occupational diseases, and licensed to practice in the state, and the Board shall reserve its decision and award until it shall have received a report from such Medical Committee. The date of incapacity, if in dispute, shall be deemed to be a medical question.

(b) The Medical Committee, upon reference to it of a case of occupational disease, shall notify the employee, or, in case he be dead, his beneficiary or beneficiaries, and the Association to appear before the Medical Committee at a time and place stated in the notice. If the employee be living he shall appear before the Medical Committee at the time and place specified, and he shall submit to such examinations including clinical and x-ray examinations as the Medical Committee may require. The employee, or, if he be dead, his beneficiary or beneficiaries, and the Association shall be entitled to have present at all such examinations a physician of his or its own selection, who shall be given an opportunity to witness the same, and whose services shall be paid for by the person who engaged his services. The claimant and the Association shall produce to the Medical Committee all reports, medical and x-ray examinations which may be in their respective possession or control showing the past or present condition of the employee, to assist the Medical Committee in reaching its conclusion.

(c) The Medical Committee shall, if it deems advisable, inspect or cause to be inspected, the plant or industrial operation or process, where the exposure to the occupational disease is alleged to have occurred, to determine whether such conditions exist in such plant, industrial operation or process as to produce the occupational disease complained of.

(d) The Medical Committee shall, as soon as practicable after it has completed its consideration of a case, report to the Board its opinion regarding all medical questions involved in the case. The Medical Committee shall include in its report a statement of what, if any, physician or physicians were present at the examination on behalf of the claimant or Association and what, if any, medical reports and x-rays were produced by or on behalf of the claimant or Association.

(e) The Medical Committee shall file its report in triplicate with the Board, which shall send one copy thereof to the claimant and one copy to the Association. All fees, costs, and expenses incident to the functioning of said Medical Committee shall be paid by the party requesting same; the Board shall determine the reasonableness of said fees, costs and expenditures.

(f) If the employee refuses to submit to such examination, all action on his claim for compensation shall be suspended during such period as he persists in such refusal.

(g) Where a case of occupational disease is pending in any court of this state, upon the motion of either party, or upon its own motion, the court shall appoint a Medical Committee consisting of three (3) doctors duly qualified in the diagnosis and treatment of occupational diseases and licensed to practice in the state, and shall direct the employee to submit to examination, including clinical and x-ray examination, as the Medical Committee may require or deem advisable. The Medical Committee shall report its findings and conclusions in open court, and such may be rebuttable. The court shall pass on the reasonableness of the fees, costs and other expenditures of the Medical Committee, which fees shall be taxed as costs.

Autopsy

Sec. 14. Upon the filing of a claim for compensation for death by reason of an occupational disease where an autopsy is necessary to accurately and scientifically determine the cause of death, upon the request of either party, or on its own motion, such autopsy shall be ordered by the Board. The Board shall designate a duly licensed physician, who is a specialist in such examinations, to perform or attend such autopsy, and to certify his findings thereon. Such findings are to be filed with the Board and shall be a public record. All proceedings for compensation shall be suspended upon refusal of the beneficiaries of the deceased employee to permit such autopsy when ordered, and no compensation shall be payable for any period during which such autopsy is refused. No autopsy shall be held in any case, by any person, without notice first being given to the parties in interest, (if they reside in this state or their whereabouts can be reasonably ascertained,) of the time and place thereof, and reasonable time and opportunity given such parties in interest to have a representative or representatives present to witness the same. If such notice is not given, all evidence obtained by such autopsy
shall be suppressed on motion duly made to the Board.


Sections 8 to 11 and 13 of Acts 1983, 68th Leg., p. 2826, ch. 483, provide:

"Sec. 8. A member of the Industrial Accident Board who was appointed before the effective date of this Act and was eligible to be a member of the board under the law as it existed at the time of his appointment may serve the remainder of the term for which he was appointed. The grounds for removal from the board in the trial Accident Board before the effective date of this Act and who, his appointment may serve the remainder of the term for which he was appointed before the effective date of this Act and was eligible to serve the remainder of the term for which he was appointed.

"Sec. 9. A person who was hired as an employee of the Industrial Accident Board at any time before the effective date of this Act and who, at the time of his hiring, would have been in violation of a prohibition contained in Section 2(a), Revised Statutes, does not automatically become disqualified to serve as an employee of the Board after the effective date of this Act.

"Sec. 10. The requirements under Subsections (b) and (c), Section 3(a), Revised Statutes, as added by this Act, that the executive director of the Industrial Accident Board develop an intragency career ladder program and a system of annual performance evaluations shall be implemented before September 1, 1984. The requirement of Subsection (e) of Section 3(a) that merit pay be based on the performance evaluation system shall be implemented before September 1, 1985.

"Sec. 11. Section 7, Article 8307, Revised Statutes, or Section 18a, Article 8308, Revised Statutes, as they existed before being amended by this Act, are continued in effect for the purpose of the adjudication of offenses that occur before the effective date of this Act. For purposes of this section, an offense occurs before the effective date of this Act if any element of the offense occurs before that date.

"Sec. 12. "Nothing contained in this Act shall apply in any way to an individual or this Board in any case, regardless of the provisions of this Act, to any other individual either as provided in Section 4b and Section 9(a), Article 8307, as amended."

Art. 8307a. Suit to Set Aside Decision of Industrial Accident Board; Transfer to County Where Injury Occurred

Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Industrial Accident Board shall, in the manner and within the time provided by Section 5 of Article 8307, Revised Civil Statutes of 1925, file notice with said Board, and bring suit in the county where the injury occurred, or in the county where the employee resided at the time the injury occurred or, if such employee is deceased, then in the county where the employee resided at the time of his death to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, or in the county of the employee's residence at the time of injury or death, the Court in which same is filed shall, upon ascertaining that it does not have jurisdiction to render judgment upon the merits, transfer the case to a proper Court in the county where the injury occurred or in the county where the employee resided at the time of injury or at the time of death. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the court in which the transfer is made, shall be considered for all purposes, the same as if originally filed in said court.

[Acts 1981, 42nd Leg., p. 351, ch. 208, § 1. Amended by Acts 1979, 66th Leg., p. 203, ch. 112, § 1, eff. May 9, 1979.]

Art. 8307b. Presumptions on Appeal From Board; Denial by Verified Pleadings

In the trial of any case appealed to the court from the board the following, if pleaded, shall be presumed to be true and have been done and filed in legal time and manner, unless denied by verified pleadings:

(1) Notice of injury;
(2) Claim for compensation;
(3) Award of the board;
(4) Notice of intention not to abide by the award of the board;
(5) Filing of suit to set aside the award.

Such denial may be made in original or amended pleadings; but if in amended pleadings such must be filed not less than seven days before the case proceeds to trial. In case of such denial the things so denied shall not be presumed to be true, and if essential to the case of the party alleging them must be proved.

[Acts 1937, 45th Leg., p. 555, ch. 261.]

Art. 8307c. Protection of Claimants From Discrimination by Employers; Remedies; Jurisdiction

Sec. 1. No person may discharge or in any other manner discriminate against any employee because the employee has in good faith filed a claim, hired a lawyer to represent him in a claim, instituted, or caused to be instituted, in good faith, any proceeding under the Texas Workmen's Compensation Act, or has testified or is about to testify in any such proceeding.
Art. 8307d. Nonsuit in Appeals from Industrial Accident Board Award

At any time before the jury has retired in the trial of a workmen's compensation case on appeal from an award of the Industrial Accident Board, the plaintiff may take a nonsuit after notice to the other parties to the suit and a hearing held by which time all parties must perfect their cause of action, but he shall not thereby prejudice the right of any of the parties to be heard on his claim for affirmative relief. When the case is tried by the judge of a district or county court, such nonsuit, after notice and hearing, may be taken at any time before the decision is announced.

Art. 8308. Employers' Insurance Association

Creation

Sec. 1. The "Texas Employers' Insurance Association" is hereby created a body corporate with the powers provided in this law and with all general corporate powers incident thereto.

Chiropractic Service Defined; Chiropractor Defined

Sec. 1A. The term "chiropractic service" shall include, but shall be limited to, chiropractic as defined by the Laws of this State and the term "chiropractor" shall include, but be limited to, chiropractors licensed by the Texas Board of Chiropractic Examiners whose licenses are properly registered and in good standing as required by the Laws of this State.

Board of Directors

Sec. 2. The Governor shall appoint a board of directors of the association consisting of twelve members, who shall serve for a term of one year or until their successors are elected by ballot by the subscribers at such time and for such term as the by-laws shall provide. At any annual meeting of subscribers the number of directors may be increased or decreased by resolution duly recorded in the minutes of such meeting.

Powers of Directors

Sec. 3. Until the first meeting of the subscribers, the board of directors shall have and exercise all the powers of the subscribers and may adopt by-laws, not inconsistent with the provisions of this law, which shall be in effect until amended or repealed by the subscribers.

Officers

Sec. 4. The board of directors shall immediately choose by ballot a president, who shall be a member of the board, and shall elect a secretary, a treasurer, and such other officials as the by-laws may provide.

Quorum; Vacancies

Sec. 5. Seven or more directors shall constitute a quorum for the transaction of business. Vacancies in any office may be filled in such manner as the by-laws shall provide.

Executive Committee

Sec. 6. The board of directors may appoint an executive committee which may have and exercise all of the powers of the board of directors except when the board is in session.

Subscribers

Sec. 7. Any employer of labor in this State who may be subject to the terms of this Law or to the terms of the "Longshoremen's and Harbor Worker's Compensation Act" of the United States may become a subscriber to the Association.

Votes

Sec. 8. In any meeting of the subscribers each subscriber shall have one vote, and if a subscriber has 500 employees to whom the association is bound to pay compensation he shall be entitled to two votes and he shall be entitled to one additional vote for each additional 500 employees to whom the association is bound to pay compensation, but no subscriber shall cast, by his own right or by right of proxy, more than 20 votes.

Minimum Number of Subscribers

Sec. 9. No policies shall be issued by the association until not less than 50 members have subscribed, who have not less than 2,000 employees to whom the association may be bound to pay compensation.

List of Subscribers to be Filed

Sec. 10. No policies shall be issued by the association until a list of the subscribers with the number of employees of each, together with such information as the Commissioner of Insurance may require, shall have been filed with the Commissioner, nor until the president and secretary of the association shall have certified under oath that every sub-
sion on the list so filed is genuine and made with an agreement with each subscriber that he will take the policy so subscribed for by him within thirty days of the granting of a license to the association by the Commissioner to issue policies.

Subscribers Falling Below Minimum

Sec. 11. If the number of subscribers falls below fifty, or the number of employees to whom the association may be bound to pay compensation falls below 2,000, no further policies shall be issued until other employers have subscribed who, together with existing subscribers, amount to not less than fifty, who have not less than 2,000 employees to whom the association may be bound to pay compensation, said subscriptions to be subject to the provisions of the preceding section.

Investigation; License to Issue Policies

Sec. 12. Upon the filing of the certificates provided for in the two preceding sections, the Commissioner of Insurance shall make such investigations as he may deem proper and, if his findings warrant it, grant a license to the association to issue policies.

Distribution of Subscribers Into Groups

Sec. 13. The board of directors may distribute the subscribers into groups for the purpose of segregating the experience of each such group as to premiums and losses, and for the purpose of determining dividends payable to and assessments payable by the subscribers within each group, but for the purpose of determining the solvency of the association, the funds of the association shall be deemed one and indivisible. The board of directors shall have power to re-arrange any of the groups by withdrawing any subscriber and transferring him wholly or in part to any group and to set up new groups at its discretion.

Limit of Liability of Subscribers, Fixing

Sec. 14. The association may, in its by-laws and policies, fix the limit of liability of the subscribers for the payment of assessments hereinafter provided for, but such limit of liability of the subscribers shall not, except by special agreement in writing between the association and subscriber, be fixed at an amount greater than an amount equal to and in addition to an annual premium.

Assessments

Sec. 15. If the association, at the end of any calendar year, is not possessed of admitted assets in excess of unearned premiums sufficient for the payment of its incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses, first upon the subscribers within each group whose earned premiums compared with its incurred losses and expenses show a surplus, and in no event shall it make an assessment for any aggregate amount needed to pay losses and expenses. Every subscriber shall, in accordance with the law and his contract, pay his proportionate part of any assessment which may be levied by the association on account of losses and expenses incurred during any calendar year while he is a subscriber.

Dividends

Sec. 16. The board of directors may, from time to time, by vote fix the amount to be paid as dividends to its subscribers, in such manner and under such plan as shall be determined by said directors in the exercise of their powers and discretion. No such dividend shall take effect until the same has been approved by the Board of Insurance Commissioners, and no such dividend shall be approved until adequate reserves have been provided by the Association, said reserves to be computed on the same basis as required for other classes of stock or mutual companies, reciprocals, inter-insurance exchanges, or Lloyd's associations under the laws of this State and applicable rules of the Board of Insurance Commissioners. Dividends and assessments may be fixed by and for groups, but the entire assets of the Association, including the liability of the subscriber to assessment within the limits fixed by the by-laws or by special agreement in writing as authorized, shall be subject to the payment of any approved claim for compensation against the Association.

Surplus; Liability of Members Suspended

Sec. 16a. Whenever the Association shall have accumulated, at the end of any calendar year, an admitted surplus in excess of incurred losses, expenses and unearned premiums or other liabilities amounting to the sum of Two Hundred Thousand Dollars ($200,000.00) or more, the liability of its members to assessment under Article 8308, Section 15, shall be suspended, and it shall be authorized to issue policies subject to assessment under Article 8308, and to time, by vote fix the amount to be paid as dividends and applicable rules of the Board of Insurance Commissioners. Dividends and assessments may be fixed by and for groups, but the entire assets of the Association, including the liability of the subscriber to assessment within the limits fixed by the by-laws or by special agreement in writing as authorized, shall be subject to the payment of any approved claim for compensation against the Association.

Note: The text above is a transcription of the original document. The original document includes references to the Commissioner of Insurance, the Board of Insurance Commissioners, and the Division of Insurance. The text also includes references to the laws of the State of New York, specifically the Compensation Laws (Art. 8308).
Furnishing Workmen's Compensation Benefits to Additional Employees or Classifications of Employees by Purchasing Appropriate Insurance; Jurisdiction of Claims

Sec. 18. (a) Any employer may assume with respect to any employee or classification of employees not within the coverage of this law, other than any such employee or classification of employees for whom a rule of liability or a method of compensation has been or may be established by the Congress of the United States, the liability for compensation imposed upon employers by this law with respect to any employee or classification of employees applicable to such employee or classification of employees as made optional with the employer by this law, be construed as depriving such employee or classification of employees the liability for compensation applicable to such employee or classification of employees for whom a rule of liability or a method of compensation has been or may be established by the Congress of the United States, the liability for compensation imposed upon employers by this law with respect to any employee or classification of employees applicable to such employee or classification of employees, as made optional with the employer by this law, of the right of action at common law or under any statute of this State to recover damages for injuries sustained in the course of his employment if he shall not have given his employer notice that he claimed such right, in accordance with the provisions of Article 8096, Section 3a. It is specifically provided, however, that under no circumstances shall the failure of any employer to assume with respect to any employee or classification of employees the liability for compensation and to purchase workmen's compensation insurance applicable to such employee or classification of employees, as made optional with the employer by this law, be construed as depriving such employer of the common law defenses listed in Section 1 of Article 8096, Revised Civil Statutes of the State of Texas.

(b) A claim for compensation under insurance provided under Subsection (a) of this section is subject to the jurisdiction of the Board as other claims for compensation under this law.

Information to be Furnished when Employer Becomes Subscriber; Failure to Comply; Notice; Penalty

Sec. 18a. (a) Whenever any employer of labor in this State becomes a subscriber to this law, the insurance company shall immediately notify the Board of such fact, stating in such notice the subscriber's name and place of business, the name of the insurance company and the effective date of the policy. No further notice shall be required except as provided in Section 20a of this Article. A subscriber shall notify the Board of a change of name or address.

(b) If the association fails to comply with any of the requirements of Subsection (a) of this section, the Board shall give such association written notice that such association shall file the requested report or information with the Board within 10 days or shall request a hearing with the Board. If no hearing is requested and the association fails to comply with the Board's request or order, the Board shall impose a civil penalty against such association of not more than $500 for each offense. If a hearing is requested by the association, the Board shall set such hearing within 10 days at its office in Austin, Texas. If the Board determines by majority vote that such association is not in compliance with Subsection (a) of this section, the Board shall impose a civil penalty against such association of not more than $500 for each offense.

(c) The association may appeal the Board's ruling de novo as provided in Section 5, Article 8307, Revised Civil Statutes of Texas, 1925, as amended. The Board's ruling if adverse to the association and not appealed as provided above shall be enforced as provided in Section 5a, Article 8307, Revised Civil Statutes of Texas, 1925, as amended.

Notice by Subscriber to Persons Under Contract

Sec. 19. Every subscriber shall, as soon as he secures a policy, give notice in writing or print, or in such manner or way as may be directed or approved by the board, to all persons under contract of hire with him that he has provided for payment of compensation for injuries with the association.

Notice by Subscriber of Insurance; Notice of Expiration

Sec. 20. Every subscriber shall, after receiving a policy, give notice in writing or print, or in such manner or way as may be directed or approved by the board to all persons with whom he is about to enter into a contract of hire that he has provided for the payment of compensation for injuries by the association. If any employer ceases to be a subscriber, he shall on or before the date on which his policy expires, give notice to that effect in writing or print or in such other manner or way as the board may direct or approve to all persons under contract of hire with him. In case of the renewal of his policy no notice shall be required under this law. He shall file a copy of said notice with the board.

Notice of Cancellation or Nonrenewal

Sec. 20a. If the association cancels a policy or does not renew it on its anniversary date, the association shall send notice of the cancellation or nonrenewal to the subscriber by certified mail at least 10 days prior to the effective date of cancellation or nonrenewal and to the board by certified mail or in person on or before the date of cancellation or nonrenewal. Failure of the association to give the notice as required by this section shall extend the policy until the required notice is given to the subscriber and to the Industrial Accident Board, or
until a subsequent notice is filed under the provisions of Section 18a of this article, at which time the subsequent insurance company shall be deemed to be the only insurance company liable under the provisions of this Act from and after the effective date of such subsequent policy of insurance.

Payment of Judgment and Costs

Sec. 21. If a subscriber, who has complied with all the rules, regulations and demands of the association, is required by any Judgment of a Court of Law, or by any Judgment of a Court of Equity or of admiralty and maritime jurisdiction to pay any amount, liquidated or exemplary, on account of any personal injury sustained by any such employee in the course of his employment during the period of subscription the association shall pay to the subscriber the full amount of the Judgment and the costs assessed therewith, if the subscriber shall have given the Association notice of the bringing of the action upon which the Judgment was recovered and an opportunity to appear and defend the same in his or its name.

Failure to Issue Policies

Sec. 22. The corporate powers of the association shall not expire because of failure to issue policies or to make insurance.

Reserves

Sec. 23. The association shall set up and maintain reserves adequate to meet anticipated losses, carry all claims to maturity and policies to termination, which reserves shall be computed in accordance with such rules as shall be approved by the Commissioner of Insurance and may be invested in such securities as are deemed adequate to meet anticipated losses, carry all claims to maturity and policies to termination, which reserves shall be computed in accordance with such rules as shall be approved by the Commissioner of Insurance and may be invested in such securities as are permitted to casualty companies organized under the General Laws; and, for the protection of its reserves and surpluses against the liability herein imposed, shall have the same right to reserve or be reinsured as casualty companies organized under General Laws.


Acts 1967, 60th Leg., p. 1812, ch. 605, which amended this article by adding section 18 thereto, provided in sections 2 and 3 thereof:

"Sec. 2. In the event that any of the provisions of this Act are in conflict with the provisions of any other law, the provisions hereof shall take precedence and shall prevail to the extent of such conflict."
Art. 8309
COMPENSATION LAWS

or municipal ordinance, or despite the fact that such person may have been performing or doing such work or service in violation of any wage law, hour law or Sunday law. Provided that this Section shall not be construed to relieve from fine or imprisonment any person, firm, or corporation employing or performing any work or services prohibited by any Statute of this state or any valid municipal ordinance.

The words "legal beneficiaries" as used in this Act shall mean the relatives named in Section 8a, Part 1, of this Act.1

"Association" shall mean the "Texas Employers' Insurance Association" or other insurance company authorized under this Act to insure the payment of compensation to injured employees or to the beneficiaries of deceased employees.

"Subscriber" shall mean any employer who has become a member of the association by paying the required premium; provided that the association holds a license issued by the Commissioner of Insurance, as provided for in Section 12, Part 3, of this Act.2

"Average weekly wages" shall mean:

(1) If the injured employee shall have worked in the employment in which he was working at the time of the injury, whether for the same employer or not, for at least two hundred ten (210) days of the year immediately preceding the injury, his average weekly wage shall consist of three hundred (300) times the average daily wage or salary which he shall have earned during the days that he actually worked in such year, divided by fifty-two (52).

(2) If the injured employee shall not have worked in the employment in which he was working at the time of the injury, whether for the same employer or not, for at least two hundred ten (210) days of the year immediately preceding the injury, his average weekly wage shall consist of three hundred (300) times the average daily wage or salary which an employee of the same class, working at least two hundred ten (210) days of such immediately preceding year, in the same or in a similar employment, in the same or a neighboring place, shall have earned during the days that he actually worked in such year, divided by fifty-two (52).

(3) When by reason of the shortness of the time of the employment of the employee, or other employee engaged in the same class of work in the manner and for the length of time specified in the above Subsections 1 and 2, or other good and sufficient reasons, it is impracticable to compute the average weekly wages as above defined, it shall be computed by the Board in any manner which may seem just and fair to both parties, as of the date of injury.

(4) Said wages shall include the market value of board, lodging, laundry, fuel and other advantage which can be estimated in money which the employee receives from the employer as a part of his remuneration.

The term "injury sustained in the course of employment," as used in this Act, shall not include:

(1) An injury caused by an act of God, unless the employee is at the time engaged in the performance of duties that subject him to a greater hazard from an act of God responsible for the injury than ordinarily applies to the general public.

(2) An injury caused by an act of a third person intended to injure the employee because of reasons personal to him and not directed against him as an employee, or because of his employment.

(3) An injury received while in a state of intoxication.

(4) An injury caused by the employee's wilful intention and attempt to injure himself, or to unlawfully injure some other person, but shall include all other injuries of every kind and character having to do with and originating in the work, business, trade or profession of the employer received by an employee while engaged in or about the furtherance of the affairs or business of his employer whether upon the employer's premises or elsewhere.

Any reference to any employee herein who has been injured shall, when the employee is dead, also include the legal beneficiaries, as that term is herein defined, of such employee to whom compensation may be payable. The word "board" whenever used in this Act shall be held to mean the Industrial Accident Board created by this Act. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

1 Article 8306, § 8a.
2 Article 8308, § 12.

Individuals Covered by Subscriber

Sec. la. (a) Notwithstanding any other provision of this law, a subscriber may cover in its insurance contract a partner, a sole proprietor, or a corporate executive officer, except an officer of a state educational institution. The insurance contract shall specifically include the partner, sole proprietor, or corporate executive officer; and the elected coverage shall continue while the policy is in effect and while the named individual is endorsed thereon by a subscriber.

(b) Notwithstanding any other provision of this law, a subscriber may cover in its insurance contract a real estate salesman who is compensated solely by commissions. The insurance contract shall specifically include the salesman; and the elected coverage shall continue while the policy is in effect and while the named salesman is endorsed thereon by the subscriber.

Transportation or Travel as Basis for Claim for Injury

Sec. lb. Unless transportation is furnished as a part of the contract of employment or is paid for by
the employer, or unless the means of such transpor-
tation are under the control of the employer, or
unless the employee is directed in his employment
to proceed from one place to another place, such
transportation shall not be the basis for a claim that
an injury occurring during the course of such trans-
portation is sustained in the course of employment.
Travel by an employee in the furtherance of the
affairs or business of his employer shall not be the
basis for a claim that an injury occurring during the
course of such travel is sustained in the course of
employment, if said travel is also in furtherance of
personal or private affairs of the employee, unless
the trip to the place of occurrence of said injury
would have been made even had there been no
personal or private affairs of the employee to be
furthered by said trip, and unless said trip would
not have been made had there been no affairs or
business of the employer to be furthered by said
trip.

Insurance Companies May Insure

Sec. 2. Any insurance company, which term
shall include mutual and reciprocal companies, law-
fully transacting a liability or accident business in
this State, shall have the same right to insure the
liability and pay the compensation provided for in
Part I of this law,1 and when such company issues a
policy conditioned to pay such compensation, the
holder of such policy shall be regarded as a sub-
scriber so far as applicable under this law, and
when such company insures such payment of com-
penstation it shall be subject to the provisions of
Parts I, II and IV
2 and of Sections 10, 17, 18a, 20a,
and 21 of Part III of this law.3 Such company may
have and exercise all of the rights and powers
conferred by this law on the association created
hereby, but such rights and powers shall not be
exercised by a mutual or reciprocal organization
unless such organization has at least fifty (50) sub-
scribers who have not less than two thousand
(2,000) employees. Nothing contained in this or any
other law shall require an insurance company or the
association to issue a policy to any applicant apply-
ing for coverage under this law, except as provided
in Article 5.76 of the Insurance Code of Texas.

1 Article 8306.
2 Articles 8305, 8307, and this article.
3 Article 8305, §§ 10, 17, 18a, 20a, and 21.

Termination of Status as Subscriber

Sec. 3. Any subscriber who has paid a premium
as provided in section 1, part 4, of this law may
upon application to the board and to the association
and after a showing satisfactory to the board that
he has notified all of his employes, in such manner
as may be required by the board, cease to be a
subscriber, and be entitled to a refund of the un-
earned portion of his premium, subject, however, to
any rule approved by the Commissioner of Insur-
ance as to the minimum premiums or short rate
cancellation.

Liability for Misrepresentation of Pay Roll

Sec. 3a. Any subscriber who shall willfully mis-
represent the amount of his pay roll to the associ-
tion writing his insurance upon which any premium
under this law is to be based shall be liable to the
association insuring the compensation of his em-
ployes in an amount not to exceed ten times the
amount of the difference between the premium
which he paid and the amount which said subscriber
should have paid had his pay roll been correctly
computed; and the liability to said association for
such misrepresentation if it was deceived thereby,
may be enforced by suit therefor.

Effect of Amendments on Existing Right,
Remedies, Etc.

Sec. 3b. No inchoate, vested, matured, existing
or other rights, remedies, powers, duties or authori-
ty, either of any employee or legal beneficiary, or of
the board, or of the association, or of any other
person shall be in any way affected by any of the
amendments herein made to the original law hereby
amended, but all such rights, remedies, powers,
duties, and authority shall remain and be in force as
under the original law just as if the amendments
hereby adopted had never been made, and to that
end it is hereby declared that said original law is not
repealed, but the same is, and shall remain in full
force and effect as to all such rights, remedies,
powers, duties and authority; and further this law
in so far as it adopts the law of which it is an
amendment is a continuation thereof, and only in
other respects a new enactment. The maximum
weekly benefit and the total amount payable in
effect upon the date of injury shall remain the
applicable maximum weekly benefit and total
amount payable for the injury or death regardless
of the increase of any benefits that shall take effect
at any later date.

Advance Payments of Compensation

Sec. 4. (a) In cases of emergency or impending
necessity the association may make advanced pay-
ments of compensation to any employee during the
period of his incapacity or to his beneficiaries within
the terms of this law, and when the same is either
directed or approved by the Board it shall be credit-
ed as against any unaccrued compensation due said
employee or beneficiaries.

(b) In the event the association does not initiate
payments of compensation, the employer may for
the purpose of this Section voluntarily initiate week-
ly payments as they accrue to the employee in the
amount desired and may continue said weekly pay-
ments as they accrue for a period not to exceed ten
(10) weeks or until the settlement is approved or the
award made by the Board, whichever occurs first.
The employer shall notify the Board and association
on forms supplied by the Board of the date of the
initiation of such payments and the weekly amount
thereof. At the time of any settlement, award or
judgment for compensation, such payment previous-

1 Article 8306.
2 Articles 8306, 8307, and this article.
3 Article 8305, §§ 10, 17, 18a, 20a, and 21.
ly made by the employer in a sum not to exceed the
weekly benefit amount under this Act received by
the employee multiplied by the number of weeks,
including fractions thereof, for which payments
were made and not to exceed ten (10) weeks, during
which the employee earned no wages from the
employer, shall be construed as employer compensa-
tion under this law and such payments of employer
compensation shall be paid by the association direct-
ly to the employer. Such employer payments of
employer compensation shall not be construed as an
admission of liability. The payments of employer
compensation provided for herein shall in no way
affect the payment of benefits from any other
source.

Reports of Accidents as Admissions and Evidence

Sec. 5. The reports of accidents required by this
law to be made by subscribers shall not be deemed as
admissions and evidence against the association
or the subscriber in any proceedings before the
board or elsewhere in a contested case where the
facts set out therein or in any one of them is sought
to be contradicted by the association or subscriber.

Additional Interpretation

Sec. 6. As used in this Act and in Articles 8309g
and 8309h, Revised Civil Statutes of Texas, 1925, as
amended; Chapter 229, Acts of the 50th Legisla-
ture, Regular Session, 1947, as amended (Article
8309b, Vernon's Texas Civil Statutes); Chapter 316,
Acts of the 52nd Legislature, Regular Session, 1951,
as amended (Article 8309d, Vernon's Texas Civil
Statutes); Chapter 262, Acts of the 56th Legisla-
ture, Regular Session, 1957 (Article 8309f, Vernon's
Texas Civil Statutes), and other applicable provi-
sions of the workmen's compensation laws of this
state as now or hereafter enacted or amended,
wherein the terms medical aid, medical treatment,
services, surgical treatment, surgical services,
medical costs, physician, or other words of
import for the limited purpose of this Act and only in
this Act shall be construed to include services per-
formed by a doctor of pediatric medicine, acting
within the scope of his or her license, except in
Section 13 of Chapter 310, Acts of the 52nd Legisla-
ture, Regular Session, 1951, as amended (Article
8309d, Vernon's Texas Civil Statutes); Sections 13
and 14 of Chapter 262, Acts of the 56th Legislature,
Regular Session, 1957 (Article 8309f, Vernon's Tex-
as Civil Statutes); and Sections 13 and 14 of Article
8307, Revised Civil Statutes of Texas, 1925, as
amended, provided, further, nothing herein shall be
construed to alter, modify, or amend the definition
of the practice of medicine or who may be permitted
by law to practice medicine in this state, or to allow
any person not licensed by the Texas State Board of
Medical Examiners to use any title, letter, syllable,
word, or words that would tend to lead the public
to believe such person was a physician or surgeon
authorized to practice medicine as defined in Article

1 Repealed; see, now, article 8300g-1.
2 Repealed; see, now, article 4495b.

537, ch. 262, § 1; Acts 1943, 48th Leg., p. 279, ch. 176, § 1;
Acts 1953, 53rd Leg., p. 716, ch. 279, § 5; Acts 1957, 55th
Leg., p. 1162, ch. 597, § 3; Acts 1969, 60th Leg., p. 778, ch.
335, § 1; Acts 1965, 59th Leg., p. 1625, ch. 655, § 1; Acts
1967, 60th Leg., p. 420, ch. 192, § 1, eff. May 15, 1967;
Acts 1969, 61st Leg., p. 48, ch. 18, § 11, eff. May 18, 1969;
Acts 1975, 65th Leg., p. 201, ch. 88, § 20, eff. Sept. 1, 1975;
Acts 1975, 64th Leg., p. 100, ch. 42, § 1, eff. Sept. 1, 1975;
Acts 1977, 65th Leg., p. 79, ch. 37, § 1, eff. March 30, 1977;
Acts 1979, 66th Leg., p. 1215, ch. 597, § 1, eff. June 13,
1979.]

Section 2 of the 1977 Act provided:
"All laws or parts of laws in conflict with this Act are repealed
to the extent of such conflict."
Definitions

Sec. 2. The following words and phrases as used in this Act shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

1. "Institution" whenever used in this Act shall be held to mean each of the institutions and agencies under the direction or government of the Board of Directors of the Agricultural and Mechanical College of Texas including the following:
   Agricultural and Mechanical College of Texas
   Texas Agricultural Experiment Station
   Extension Service, A. and M. College of Texas
   Texas Forest Service
   Rodent Control Service
   Firemen's Training School
   John Tarleton Agricultural College
   North Texas Agricultural College
   Prairie View State Normal and Industrial College

Any other agencies now or hereafter under the direction and control of said Board of Directors.

2. "Workman" shall mean every person employed in the service of any institution as defined above, whose name appears on the payroll thereof.

3. "Insurance" shall mean Workmen's Compensation Insurance.

4. "Board" shall mean the Industrial Accident Board of the State of Texas.

5. "Legal beneficiaries" shall mean the relatives named in Section 8a of Article 8306, Revised Civil Statutes of Texas of 1925, adopted in Section 7 of this Act.

6. "Average weekly wages" shall be as defined in Section 1, Article 8309, Revised Civil Statutes of Texas of 1925.


Any reference to a workman herein who has been injured shall, when the workman is dead, also include the legal beneficiaries, as that term is herein used, of such workmen to whom compensation may be payable. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

1 Name changed to Texas A & M University. See Education Code, § 65.002.
2 Name changed to Tarleton State University. See Education Code, § 87.001.
3 Name changed to Prairie View A & M University. See Education Code, § 87.101.

Group Life and Accident Insurance

Sec. 3. After the effective date of this Act the Board of Directors of the Agricultural and Mechani-
cal College of Texas is hereby authorized to require, as a condition of employment, all employees, except those persons who are paid on a piece-work basis, or on any basis other than by the hour, day, week, month, or year, to acquire protection under a group life and accident insurance plan approved by it.

After the effective date any workman, as defined in this Act, who sustains an injury in the course of his employment shall be paid compensation as hereinafter provided.

The institution is hereby authorized to be self-insuring and is charged with the administration of this Act. The institution shall notify the Board of the effective date of such insurance, stating in such notice the nature of the work performed by the workmen of the institution, the approximate number of workmen, and the estimated amount of payroll.

The institution shall give notice to all workmen that, effective at the time stated in such notice, the institution has provided for payment of insurance.

Compensation for Injury in Course of Employment

Sec. 4. If a workman of the institution sustains an injury in the course of his employment, he shall be paid compensation by the institution as herein provided except that compensation for any person employed on less than a full work-day basis shall not exceed sixty per cent (60%) of his average weekly earning.

Actions; Defenses

Sec. 5. If an action to recover damages for personal injuries sustained by a workman in the course of his employment, or for death resulting from personal injuries so sustained, the institution may defend in such action on the ground that the injury was caused by the willful intention of the workman to bring about the injury, or was so caused while the workman was in a state of intoxication.

Exclusiveness of Remedy; Exemption of Compensation From Legal Process; Assignability

Sec. 6. Workmen of the institution and parents of minor workmen shall have no right of action against the agents, servants, or employees of the institution for damages for personal injuries nor shall representatives and beneficiaries of deceased workmen have a right of action against the agents, servants or employees of the institution for injuries resulting in death, but such workmen and their representatives and beneficiaries shall look for compensation solely to the institution as is provided in this Act. All compensation allowed herein shall be exempt from garnishment, attachment, judgment, and all other suits or claims, and no such right of action and no such compensation and no part thereof of either shall be assignable, except as other-
wise herein provided, and any attempt to assign the
same shall be void.

Laws Governing

Sec. 7. Unless otherwise provided herein, Sections
1, 6, 7, 7b, 7c, 7d, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a,
12b, 12c, 13, 13a, 13b, 13d, 13e, 13f, 13g, 14, 14a, 15,
16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Article
8306, Revised Civil Statutes of Texas, 1925, as
amended, and Article 8306a, Acts 1931, 42nd Legis-
lature, as amended, and Sections 4a, 6a, 11, 12, 13,
and 14 of Article 8307, of the Revised Civil Statutes
of Texas, 1925, as amended, and Sections 4, and 5,
of Article 8309, of the Revised Civil Statutes of
Texas, 1925, as amended, are hereby adopted and
shall govern insofar as applicable under the provi-
sions of this law. Provided that whenever in the
above adopted Sections of Articles 8306, 8307, and
8309 of the Revised Civil Statutes of Texas, 1925,
as amended, or herein amended, the word “associa-
tion,” “subscriber,” or “employer,” or their equiva-
lets appear in such Articles, they shall be con-
strued to and shall mean “the institution.”

Sec. 8. Repealed by Acts 1969, 61st Leg., p. 586,
ch. 199, § 3, eff. May 14, 1969.

Payment of Compensation: Exhaustion of Earned
Annual and Sick Leave

Sec. 9. It is the purpose of this Act that the com-
ensation herein provided for shall be paid from
week to week and as it accrues and directly to the
person entitled thereto, unless the liability is re-
deemed as in such cases provided elsewhere herein;
except that the institution may provide that an
injured workman may remain on the payroll until
his earned annual and sick leave is exhausted, dur-
ing which time the services provided in Section 7,
Article 8306, as amended, will remain available to
the workman but no workman’s compensation pay-
ment will accrue or become due and payable to the
injured workman.

Examination by Physicians or Chiropractors;
Process and Procedure

Sec. 10. The Board may require any workman
claiming to have sustained injury to submit himself
for examination before such Board or some one
acting under its authority at some reasonable time
and place within the State, and as often as may be
reasonably ordered by the Board to a physician or
physicians, a chiropractor or chiropractors, authorized
to practice under the Laws of this State. If the
workman or the institution requests, he or it shall
be entitled to have a physician or physicians, a
chiropractor or chiropractors of his or its own selec-
tion present to participate in such examination. Re-
fusal of the workman to submit to such examination
shall deprive him of his right to compensation dur-
ing the continuance of such refusal. When a right
to compensation is thus suspended no compensation
shall be payable in respect to the period of suspen-
sion. If any workman shall persist in insanitary or
injurious practices which tend to either imperil or
retard his recovery, or shall refuse to submit to
such medical or surgical treatment, chiropractic, or
other remedial treatment recognized by the State,
as is reasonably essential to promote his recovery,
the Board may in its discretion order or direct the
institution to reduce or suspend in whole or in part the compensation of
any such injured workman. No compensation shall
be reduced or suspended under the terms of this
Section without reasonable notice to the workman
and an opportunity to be heard.

The institution shall have the privilege of having
any injured workman examined by a physician or
physicians, a chiropractor or chiropractors of its
own selection, at reasonable times, at a place or
places suitable to the condition of the injured work-
man and convenient and accessible to him. The
institution shall pay for such examination and the
reasonable expense incident to the injured workman
in submitting thereto. The injured workman shall
have the privilege to have a physician or chiroprac-
tor of his own selection present to participate in
such examination. Provided, when such examina-
tion is directed by the Board or the institution, the
institution shall pay the fee of the physician or
chiropractor selected by the workman, such fee to
be fixed by the Board.

Process and procedure shall be as summary as
may be under this Act. The Board or any member
thereof shall have power to subpoena witnesses,
administer oaths, inquire into matters of fact, exam-
ine such parts of the books and records of the
parties to a proceeding as relate to questions in
dispute. All rulings and decisions of the Board
relating to disputed claims shall be upon questions
of fact and in accord with the provisions of this Act.

Decisions of Board; Suits; Enforcement of Award

Sec. 11. All questions arising under this Act, if
not settled by agreement of the parties interested
therein and within the provisions of this Act, shall,
extcept as otherwise provided, be determined by the
Board. Any interested party who is not willing and
does not consent to abide by the final ruling and
decision of said Board shall within twenty (20) days
after the rendition of said final ruling and decision
by said Board, file with said Board notice that he
will not abide by said final ruling and decision. And
he shall within twenty (20) days after giving such
notice bring suit in the county where the injury
occurred to set aside said final ruling and decision
and said Board shall proceed no further toward the
adjustment of such claim, other than hereinafter
provided. Whenever such suit is brought, the
rights and liability of the parties thereto shall be
determined by the provisions of this Act and the
suit of the injured workman or person suing on
account of the death of such workman shall be
against the institution. If the final order of the
Board is against the institution, then the institution
shall bring suit to set aside said Board decision.
And decision of the Board, if it so desires, and the court
shall in either event determine the issues in such cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation. The Board shall furnish any interested party in said claim pending in court upon request free of charge, with a certified copy of the notice of the institution becoming an insurer filed with the Board and the same when properly certified to shall be admissible in evidence in any court in this State upon trial of such claim therein pending and shall be prima-facie proof of all facts stated in such notice in the trial of said cause unless same is denied under oath by the opposing party therein. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this Act. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the institution, it shall at once comply with such final ruling and decision.

In all cases where the Board shall make a final order, ruling, or decision, as provided in the preceding Section and against the institution, and the institution shall willfully fail and refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section is provided, then in that event the claimant in addition to the rights and remedies given him and the Board in said Section may, after demanding compliance, bring suit in a Court of competent jurisdiction, upon said order, ruling, or decision. If he secures a judgment sustaining such order, ruling, or decision in whole or in part, he shall also be entitled to recover the further sum of twelve per cent (12%) as damages upon the amount of compensation so recovered in said judgment, together with a reasonable attorney’s fee for the prosecution and collection of such claim.

Where the Board has made an award against the institution requiring the payment to an injured workman or his beneficiaries of any weekly or monthly payments, under the terms of this Act, and the institution should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured workman or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with twelve per cent (12%) penalties and attorney’s fees as herein provided for. Suit may be brought under provisions of this Section, either in the county where the accident occurred, or in any county where the claimants reside, or where one or more of such claimants may have his place of residence at the time of the institution of the suit.

Record of Injuries: Reports
Sec. 12. The institution shall hereafter keep a record of all injuries fatal or otherwise, sustained by its workmen in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to a workman, causing his absence from work for more than one day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured workman, or if such incapacity extends beyond a period of sixty (60) days, the institution shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name, age, sex and occupation of the injured workman and the character of work in which he was engaged at the time of the injury, and shall state the place, date and hour of receiving such injury and the nature and cause of the injury, and such other information as the Board may require. The institution shall be responsible for the submission of the reports in the time specified in this Section.

Rules and Regulations; Physicians or Chiropractors for Examinations; Reports of Examinations
Sec. 13. The institution is authorized to promulgate and publish such rules and regulations and to prescribe and furnish such forms as may be necessary to the effective administration of this Act, and the institution shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary. The institution may obtain and record, on a form and in a manner prescribed by the institution, the medical history of a person to be employed in the service of the institution. The institution may designate a convenient number of regularly licensed practicing physicians, surgeons and chiropractors for the purpose of making physical examinations of persons to be employed in the service of the institution to determine who may be physically fit to be classified as “workman” as that term is defined in subsection 2 of Section 2 of this Act, and said physicians, surgeons and chiropractors so designated and so conducting such examinations shall make and file with the institution a complete transcript of said examination in writing and sworn to upon a form to be furnished by the institution. The institution, in a form and manner prescribed by the institution, shall preserve as a part of the permanent records of the institution all reports of all such examinations and medical histories so filed with it.

Requiring Physical Examination for Certification as Workman
Sec. 14. The institution may require that no person be certified as a workman in the institution under the terms and provisions of this Act until he has submitted himself for a physical examination as provided in Section 13 herein and has been certified by the examining physician, surgeon, or chiroprac-
Art. 8309b

Compensation Laws

Certification as Workman of Person having Preexisting Disqualifying Physical Condition; Waiver of Insurance Coverage

Sec. 15. In the discretion of the institution, any person who indicates a preexisting disqualifying physical condition in a medical history provided under Section 13, or any person found to have a preexisting disqualifying medical condition in a physical examination as provided in Section 14 may be certified as a workman on the condition that such person shall execute in writing, prior to his employment, a waiver of coverage under the provisions of this Act for the preexisting disqualifying physical condition. Such waiver shall be valid and binding on the workman so executing it and, in the event of injury or death of the workman suffered in the course of his employment and attributable to the condition for which coverage was waived, no compensation or death benefits shall be paid to him or his beneficiaries.

Certified Copies of Orders, Awards and Decisions

Sec. 16. Any order, award, or proceeding of said Board when duly attested by any member of the Board or its secretary shall be admissible as evidence of the act of said Board in any court of this State.

Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State's office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision, or paper on file in the office of said Board and the fees so received for such copies shall be paid into the State Treasury and credited to the General Revenue Fund; provided that the institution shall be furnished such certified copies without charge. No fee or salary shall be paid to any person in said Board for making such copies in excess of the fees charged for such copies.

Suit to Set Aside Final Decision

Sec. 17. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall, in the manner and within the time provided by Section 11 of this Act, file notice with said Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the court in which the suit is brought shall be bound to abide by the final ruling and decision of the Board, and in no case, shall such suit, upon ascertaining that it does not have jurisdiction to render judgment upon the merits, transfer the case to the court which is the proper court in the county where the injury occurred. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in said court.

Hearing of Claim

Sec. 18. When an injured workman has sustained an injury in the course of his employment, and filed claim for compensation and given notice as required by law, the Board shall hear his claim for compensation within a reasonable time; provided, however, when such injured workman is being paid compensation as provided in this Act, and the institution is furnishing either hospitalization, medical treatment, or chiropractic care to such workman, the Board may, within its discretion, delay or postpone the hearing of his claim, and no appeal shall be taken from any such order made by the Board.

Amounts to be Set Aside for Awards and Expenses

Sec. 19. The institutions covered by this Act are hereby authorized to set aside from available appropriations other than itemized salary appropriations an amount not to exceed two per cent (2%) of the annual workman pay roll of the institution for the payment of all costs, administrative expense, charges, benefits, and awards authorized by this Act.

The amounts so set aside shall be set up in a separate account in the records of the institution, which account shall show the disbursements authorized by this Act; provided the amounts so set aside in this account shall not exceed two per cent (2%) of the annual workman pay roll at any one time. A statement of the amounts set aside for and disbursements from said account shall be included in reports made to the Governor and the Legislature as required by the Statutes.

Attorney General as Legal Representative

Sec. 20. The Attorney General of the State of Texas shall be the legal representative of the institution and is hereby given power and authority to bring and defend all suits and hearings necessary to carry out the purposes of this Act.

Notice by Clerk on Appeal

Sec. 21. In every case appealed from the Board to any District or County Court, the Clerk of such Court shall, within twenty (20) days after the filing thereof, mail to the Board a notice giving the style, number, and date of filing such suit, and shall, within twenty (20) days after judgment is rendered in such suit, mail to the Board a certified copy of such judgment. The duties devolving upon District and County Clerks under this Act shall constitute a part of their ex officio duties and for such services they shall not be entitled to any fee.

In every such case the attorney preparing the judgment shall file the original and a copy of same with the Clerk of the Court. However, the failure of such attorney to comply with this provision shall not excuse the failure of the Clerk of a District or
COMPENSATION LAWS

Art. 8309d

Texas Western College, El Paso
Postgraduate School of Medicine, Houston

Any other agencies now or hereafter under the direction and control of said Board of Regents.

2. “Workman” shall mean every person in the service of the University of Texas System under any appointment or expressed contract of hire, oral or written, whose name appears upon the payroll of the University of Texas System.


4. “Board” shall mean the Industrial Accident Board of the State of Texas.

5. “Legal beneficiaries” shall mean the relatives named in Section 8a of Article 8306, Revised Civil Statutes of Texas of 1925, adopted in Section 7 of this Act.

6. “Average weekly wages” shall be as defined in Section 1, Article 8309, Revised Civil Statutes of Texas of 1925.

7. Any reference to a workman herein who has been injured shall, when the workman is dead, also include the legal beneficiaries, as that term is herein used, of such workmen to whom compensation may be payable. Whenever in this Act the singular is used, the plural shall be included; whenever the masculine gender is used, the feminine and neuter shall be included.

Group Insurance of Employees Other Than Workmen; Compensation for Workmen; Acceptance of Provisions

Sec. 3. After the effective date of this Act the Board of Regents of The University of Texas is hereby authorized to require, as a condition of employment, all employees except workmen as defined above, to acquire protection under a group life and accident insurance plan approved by it.

After the effective date, any workman, as defined in this Act, who sustains an injury in the course of his employment shall be paid compensation as hereinafter set forth.

Definitions

Sec. 2. The following words and phrases as used in this Act shall, unless a different meaning is plainly required by the context, have the following meanings, respectively:

1. “Institution” whenever used in this Act shall be held to mean each of the institutions and agencies under the direction or government of the Board of Regents of The University of Texas including the following:

   Main University, Austin
   Medical Branch, Galveston
   Dental Branch, Houston
   M.D. Anderson Hospital for Cancer Research, Houston
   Southwestern Medical School, Dallas
Compensation for Injury in Course of Employment

Sec. 4. If a workman of the institution sustains an injury in the course of his employment, he shall be paid compensation by the institution as herein provided except that compensation for any person employed on less than a full work-day basis shall not exceed sixty per cent (60%) of his average weekly earning.

Defenses

Sec. 5. In an action to recover damages for personal injuries sustained by a workman in the course of his employment, or for death resulting from personal injuries so sustained, the institution may defend in such action on the ground that the injury was caused by the willful intention of the workman to bring about the injury, or was so caused while the workman was in a state of intoxication.

Non-Assignability

Sec. 6. Workmen of the institution and parents of minor workmen shall have no right of action against the agents, servants, or employees of the institution for damages for personal injuries, nor shall representatives and beneficiaries of deceased workmen have a right of action against the agents, servants or employees of the institution for injuries resulting in death, but such workmen and their representatives and beneficiaries shall look for compensation solely to the institution as is provided in this Act. All compensation allowed herein shall be exempt from garnishment, attachment, judgment, and all other suits or claims, and no such right of action and no such compensation and no part thereof of nor of either shall be assignable, except as otherwise herein provided, and any attempt to assign the same shall be void.

Applicability of Existing Laws

Sec. 7. The following sections are adopted and shall govern as applicable under the provisions of this Act: Sections 1, 6, 7, 7b, 7c, 7d, 7e, 8, 8a, 8b, 9, 10, 11, 11a, 12, 12a, 12b, 12c, 12d, 12e, 12f, 12i, 13, 15, 15a, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, and 27 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended; Section 1, Chapter 248, Acts of the 42nd Legislature, Regular Session, 1931 (Vernon's Texas Civil Statutes), as last amended by Section 2, Chapter 26, Acts of the 54th Legislature, Regular Session, 1955, and as may be hereafter amended; Sections 4a, 6a, 10, 11, 12, 13, 14, and 15 of Article 8307, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended; Sections 4 and 5, Article 8309, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended; Section 1, Chapter 179, Acts of the 42nd Legislature, Regular Session, 1931 (Vernon's Texas Civil Statutes), as amended by Section 7, Chapter 178, Acts of the 53rd Legislature, Regular Session, 1953, and as may be hereafter amended.

Wherever the words "association," "subscriber," or "employee," or the equivalent of any of these words, are used in Article 8306, 8307, or 8309, Revised Civil Statutes of Texas, as amended, or as may be hereafter amended, and in Section 1, Chapter 179, Acts of the 42nd Legislature, Regular Session, 1931 (Vernon's Texas Civil Statutes), as amended by Section 7, Chapter 178, Acts of the 53rd Legislature, Regular Session, 1953, and as may be hereafter amended, for the purpose of this Act they mean "the institution."


Weekly Payments: Annual and Sick Leave

Sec. 9. It is the purpose of this Act that compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein; except that the institution may provide that an injured workman may remain on the payroll until his earned annual and sick leave is exhausted, during which time the services in Section 7, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, and as may be hereafter amended, will remain available to the workman, but no workmen's compensation payment will accrue or become due and payable to the injured employee.

Medical Examinations; Insanitary or Injurious Practices; Process and Procedure

Sec. 10. The Board may require any workman claiming to have sustained injury to submit himself for examination before such Board or someone acting under its authority at some reasonable time and place within the State, and as often as may be reasonably ordered by the Board to a physician or physicians authorized to practice under the Laws of this State. If the workman or the institution requests, he or it shall be entitled to have a physician or physicians of his or its own selection present to participate in such examination. Refusal of the workman to submit to such examination shall deprive him of his right to compensation during the continuance of such refusal. When a right to compensation is thus suspended no compensation shall be payable in respect to the period of suspension. If any workman shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment or other remedial treatment recognized by the State, as is reasonably essential to promote his recovery, the Board may in its discretion order or direct the institution to reduce or suspend the compensation of any such injured workman. No compensation shall be reduced or suspended under the terms of this Section without reasonable notice to the workman and an opportunity to be heard.
The institution shall have the privilege of having any injured workman examined by a physician or physicians of its own selection, at reasonable times, at a place or places suitable to the condition of the injured workman and convenient and accessible to him. The institution shall pay for such examination and the reasonable expense incident to the injured workman in submitting thereto. The injured workman shall have the privilege to have a physician of his own selection present to participate in such examination. Provided, when such examination is directed by the Board or the institution, the institution shall pay the fee of the physician selected by the workman, such fee to be fixed by the Board.

Process and procedure shall be as summary as may be under this Act. The Board or any member thereof shall have power to subpoena witnesses, administer oaths, inquire into matters of fact, examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. All rulings and decisions of the Board relating to disputed claims shall be upon questions of fact and in accord with the provisions of this Act.

Board to Determine Questions; Suits to Set Aside or Enforce Rulings; Failure to Make Payments

Sec. 11. All questions arising under this Act, if not settled by agreement of the parties interested therein and within the provisions of this Act, shall, except as otherwise provided, be determined by the Board. Any interested party who is not willing and does not consent to abide by the final ruling and decision of said Board shall have twenty (20) days after the rendition of said final ruling and decision by the said Board, file with said Board notice that he will not abide by said final ruling and decision. And he shall within twenty (20) days after giving such notice bring suit in the county where the injury occurred to set aside said final ruling and decision and said Board shall proceed no further toward the adjustment of such claim, other than hereinafter provided. Whenever such suit is brought, the rights and liability of the parties thereto shall be determined by the provisions of this Act and the suit of the injured workman or person suing on account of the death of such workman shall be against the institution. If the final order of the Board is against the institution, then the institution shall bring suit to set aside said final ruling and decision of the Board, if it so desires, and the court shall in either event determine the issues in such cause instead of the Board upon trial de novo and the burden of proof shall be upon the party claiming compensation.

The Board shall furnish any interested party in said claim pending in court upon request free of charge, with a certified copy of the notice of the institution becoming an insurer filed with the Board and the same when properly certified shall be admissible in evidence in any court in this State upon trial of such claim wherein pending and shall be prima-facie proof of all facts stated in such notice in the trial of said cause unless same is denied under oath by the opposing party thereto. In case of recovery the same shall not exceed the maximum compensation allowed under the provisions of this Act. If any party to any such final ruling and decision of the Board, after having given notice as above provided, fails within said twenty (20) days to institute and prosecute a suit to set the same aside, then said final ruling and decision shall be binding upon all parties thereto, and, if the same is against the institution, it shall at once comply with such final ruling and decision.

In all cases where the Board shall make a final order, ruling, or decision, as provided in the preceding section and against the institution, and the institution shall willfully fail and refuse to obey or comply with the same and shall fail or refuse to bring suit to set the same aside as in said Section is provided, then in that event the claimant in addition to the rights and remedies given him and the Board in said Section may, after demanding compliance, bring suit in a Court of competent jurisdiction, upon said order, ruling, or decision. If he secures a judgment sustaining such order, ruling, or decision in whole or in part, he shall also be entitled to recover the further sum of twelve per cent (12%) as damages upon the amount of compensation so recovered in said judgment, together with a reasonable attorney's fee for the prosecution and collection of such claim.

Where the Board has made an award against the institution requiring the payment to an injured workman or his beneficiaries of any weekly or monthly payments, under the terms of this Act, and the institution should thereafter fail or refuse, without justifiable cause, to continue to make said payments promptly as they mature, then the said injured workman or his beneficiaries, in case of his death, shall have the right to mature the entire claim and to institute suit thereon to collect the full amount thereof, together with twelve per cent (12%) penalties and attorney's fees as herein provided for.

Records and Reports

Sec. 12. The institution shall hereafter keep a record of all injuries fatal or otherwise, sustained by its workmen in the course of their employment. Within eight (8) days after the occurrence of an accident resulting in an injury to a workman, causing his absence from work for more than one day, a written report thereof shall be made to the Board on blanks to be procured from the Board for that purpose. Upon the termination of the incapacity of the injured workman, or if such incapacity extends beyond a period of sixty (60) days, the institution shall make a supplemental report upon blanks to be procured for that purpose. The said report shall contain the name, age, sex and occupation of the
injured workman and the character of work in which he was engaged at the time of the injury, and shall state the place, date and hour of receiving such injury and the nature and cause of the injury, and such other information as the Board may require. The institution shall be responsible for the submission of the reports in the time specified in this Section.

Rules and Regulations; Designation of Physicians and Surgeons; Reports of Examinations

Sec. 13. The institution is authorized to promulgate and publish such rules and regulations and to prescribe and furnish such forms as may be necessary to the effective administration of this Act, and the institution shall have authority to make and enforce such rules for the prevention of accidents and injuries as may be deemed necessary. It shall be the duty of the institution to designate a convenient number of regularly licensed practicing physicians and surgeons for the purpose of making physical examinations of all persons employed or to be employed in the service of the institution to determine who may be physically fit to be classified as “workman” as that term is defined in subsection 2 of Section 2 of this Act, and said physicians and surgeons so designated and so conducting such examinations shall make and file with the institution a complete transcript of said examination in writing and sworn to upon a form to be furnished by the institution. It shall be the duty of the institution to preserve as a part of the permanent records of the institution all reports of such examinations so filed with it.


Waiver of Rights

Sec. 15. An agreement to waive his rights under this Act made in writing by any workman prior to his employment shall be valid.

Evidence; Certified Copies

Sec. 16. Any order, award, or proceeding of said Board when duly attested by any member of the Board or its secretary shall be admissible as evidence of the Act of said Board in any Court of this State.

Upon the written request and payment of the fees therefor, which fees shall be the same as those charged for similar services in the Secretary of State’s office, the Board shall furnish to any person entitled thereto a certified copy of any order, award, decision, or paper on file in the office of said Board and the fees so received for such copies shall be paid into the State Treasury and credited to the General Revenue Fund; provided that the institution shall be furnished such certified copies without charge. No fee or salary shall be paid to any person in said Board for making such copies in excess of the fees charged for such copies.

Venue of Suits; Transfer to Proper County

Sec. 17. Any interested party who is not willing and does not consent to abide by the final ruling and decision of the Board shall, in the manner and within the time provided by Section 11 of this Act, file notice with said Board, and bring suit in the county where the injury occurred to set aside said final ruling and decision; however, in the event such suit is brought in any county other than the county where the injury occurred, the court in which same is filed shall, upon ascertaining that it does not have jurisdiction to render judgment upon the merit, transfer the case to the proper court in the county where the injury occurred. Provided, however, that notice of said transfer shall be given to the parties and said suit when filed in the court to which the transfer is made, shall be considered for all purposes, the same as if originally filed in said court.

Time for Hearing

Sec. 18. When an injured workman has sustained an injury in the course of employment and filed claim for compensation and given notice as required by law, the Board shall hear his claim for compensation within a reasonable time. Provided, however, when such injured workman is being paid compensation as provided in this Act, and the institution is furnishing either hospitalization or medical treatment to such workman, the Board may, within its discretion, delay or postpone the hearing of his claim, and no appeal shall be taken from any such order made by the Board.

Setting Aside Funds; Account; Reports

Sec. 19. The institutions covered by this Act are hereby authorized to set aside from available appropriations other than itemized salary appropriations an amount not to exceed two per cent (2%) of the annual payroll of the institution for the payment of all costs, administrative expense, charges, benefits, and awards authorized by this Act.

The amounts so set aside shall be set up in a separate account in the records of the institution, which account shall show the disbursements authorized by this act; provided the amounts so set aside in this account shall not exceed two per cent (2%) of the annual workman payroll at any one time. A statement of the amounts set aside for and disbursements from said account shall be included in reports made to the Governor and the Legislature as required by the Statutes.

Legal Representative

Sec. 20. The Attorney General of the State of Texas shall be the legal representative of the institution and is hereby given power and authority to bring and defend all suits and hearings necessary to carry out the purposes of this Act.
Duties of Clerk of Court and Attorneys

Sec. 21. That in every case appealed from the Board to any District or County Court, the Clerk of such Court shall, within twenty (20) days after the filing thereof, mail to the Board a notice giving the style, number, and date of filing such suit, and shall, within twenty (20) days after judgment is rendered in such suit, mail to the Board a certified copy of such judgment. The duties devolving upon District and County Clerks under this Act shall constitute a part of their ex officio duties and for such services they shall not be entitled to any fee.

In every such case the attorney preparing the judgment shall file the original and a copy of same with the Clerk of the Court. However, the failure of such attorney to comply with this provision shall not excuse the failure of the Clerk of a District or County Court to mail a certified copy of such judgment to the Board as above provided.

Any Clerk of a District or County Court who fails to comply with the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Two Hundred and Fifty Dollars ($250).

Partial Unconstitutionality

Sec. 22. If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, sentence, clause and part thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

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Acts 1969, 61st Leg., p. 2311, §§ 4, 5 provided:

"Sec. 4. As respects claims for injury sustained prior to the effective date of this Act, no inclusions, vested, matured, existing or other rights, remedies, powers, duties, or authority, either of any employer or legal beneficiary, or of the Board, or of the institution, nor of any other person shall be in any way affected by any of the amendments or repeals herein made to the original law hereby amended or repealed, but all such rights, remedies, powers, duties, and authority shall remain and be in force as under the original law just as if the amendments or repeals hereby adopted had never been made, and to that end it is hereby declared that as respects such injuries occurring prior to the effective date of this Act, the original law is not repealed, but remains in full force and effect as to all such rights, remedies, powers, duties, and authority; and further this Act insofar as it adopts the law of which it is an amendment is a continuation thereof, and only in other respects a new enactment.

"Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."
Art. 8309g

(4) “Board” means the Industrial Accident Board.

(5) “Division” means the State Employees Division of the Attorney General’s Office.

(6) “Director” means the director of the State Employees Division.

State Self-insuring

Sec. 2. With respect to injuries sustained by employees in the course of their employment, the state is self-insuring.

State Employees Division; Director

Sec. 3. The Attorney General shall establish a state employees division within his office to administer this article. He shall appoint a director to act as the chief executive and administrative officer of the division, and shall provide him with office space and sufficient personnel to administer this article. The director shall administer this article with money appropriated by the Legislature. The director, with the approval of the Attorney General, may contract with a company authorized to do business in this state for any or all of the administrative services required by this article. Such contract shall be awarded on the basis of competitive bidding by qualified companies.

Director’s Standing as Employer and Insurer

Sec. 4. In administering and enforcing this article, the director shall act in the capacity of employer and insurer. He shall act as an adversary before the board and courts, presenting the legal defenses and positions of the state as an employer and insurer. For these purposes he is entitled to the legal counsel of the Attorney General of the State of Texas.

Procedural Rules

Sec. 5. The director shall make procedural rules and prescribe forms necessary to the effective administration of this article.

Rules for Accident Prevention

Sec. 6. The director shall make and enforce reasonable rules for the prevention of accidents and injuries. He shall hold hearings on all proposed rules under this section and afford reasonable opportunity for officers of the departments, boards, commissions, and agencies of the state to testify. The director’s responsibility includes reporting to the legislature any agency that fails to meet its obligation regarding the prevention of accidents and injuries to state employees.

Distribution of Copies of Rules

Sec. 7. The director shall furnish copies of all rules to the board and to the administrative heads of all departments, boards, commissions, and agencies affected by this article.

Records and Reports of Injuries

Sec. 8. The director shall keep a record of all injuries sustained by employees in the course of their employment. Within eight days after the occurrence of an accident resulting in an injury to an employee, causing his absence from work for more than one day, the director shall make a written report to the board on a form provided by the board. He shall submit a supplemental report within 10 days after the termination of the incapacity of the employee. If the incapacity extends beyond a period of 60 days, he shall submit a supplemental report before the 70th day. The director shall make other reports as required by the board.

Reports to Legislature

Sec. 9. The director shall make a report to the legislature at the beginning of each regular session. The report shall be dated January 1 and shall include the following:

(1) a list of all recipients of benefits under this article, the nature and causes of their injuries, and the amounts paid in weekly compensation and for medical, hospital, and other services;

(2) a summary of administrative expenses;

(3) a statement showing how much of the money appropriated by the preceding legislature remains unexpended as of January 1, and estimating how much of this balance will be needed to administer this article for the remainder of the fiscal year;

(4) an estimate, based on experience factors, of the amount of money which will be required to administer this article and pay for the compensation and services provided by this article during the next succeeding biennium.

Director Subject to Actions of Board

Sec. 10. The director is subject to the regulations, orders, and decisions of the board in the same manner as private employers, insurers, and associations.

Right to Compensation

Sec. 11. (a) If an employee sustains an injury in the course of his employment, he is entitled to compensation by the director as provided in this article.

(b) The director shall pay the compensation directly to the person entitled to it, from week to week and as it accrues, unless the liability is redeemed as provided in this article.

Effect of Sick Leave and Emergency Leave

Sec. 12. (a) An employee may elect to utilize accrued sick leave before receiving weekly payments of compensation. If the employee elects to utilize sick leave, the employee is not entitled to weekly payments of compensation under this article until he has exhausted his accrued sick leave.
(b) If in accordance with the General Appropriations Act the administrative head or heads of an agency or institution authorize payment for emergency leave to an employee receiving workers' compensation benefits, the payments may not exceed an amount equal to the difference between the basic monthly wage of the employee and the amount of benefits received and may not extend beyond six months from the date on which compensation payments begin. In authorizing these payments for emergency leave, the administrative head or heads of the agency or institution must review the merits of each case individually. If payment for emergency leave is authorized, the agency or institution shall attach a statement of the reasons for the authorization to its duplicate payroll voucher for the first payroll period affected by the leave.

(c) The director has authority under Section 5 of this article to provide rules for the administration of this section.

Beneficiaries of Deceased Employee

Sec. 13. The provisions of this article and the rules of the director affecting an employee also apply to the legal beneficiaries of a deceased employee.

Notice by Clerk on Appeal

Sec. 14. (a) In every case appealed from the board to a district or county court, the clerk of the court shall within 20 days after the filing of the suit mail to the board a notice giving the style, number, and date of filing; and within 20 days after judgment is rendered in the suit, the clerk shall mail to the board a certified copy of the judgment. District and county clerks are not entitled to a fee for this service.

(b) The attorney preparing the judgment shall file the original and a copy with the clerk of the court. However, the failure of the attorney to comply with this requirement does not excuse the clerk of the court from the duty to mail a certified copy of the judgment to the board.

(c) Any clerk of a county or district court who fails to comply with this section is guilty of a misdemeanor, and on conviction he shall be punished by a fine of not more than $250.

Adoption of General Workers’ Compensation Laws; Employer

Sec. 15. (a) The following laws as amended or as they may hereafter be amended are adopted except to the extent that they are inconsistent with this Act:

(1) Article 8306, except Sections 5 and 28, and Articles 8307, 8307h, and 8309, Revised Civil Statutes of Texas, 1925, as amended;

(2) Chapter 248, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 8306a, Vernon’s Texas Civil Statutes);

(3) Chapter 77, Acts of the 65th Legislature, Regular Session, 1977 (Article 8900b, Vernon’s Texas Civil Statutes);

(4) Chapter 208, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 8907a, Vernon’s Texas Civil Statutes);

(5) Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon’s Texas Civil Statutes);

(6) Chapter 335, Acts of the 64th Legislature, 1975 (Article 8307d, Vernon’s Texas Civil Statutes); and


(b) Wherever the words “association,” “insurer,” “subscriber,” or “employer” are used in the adopted laws, the word “state,” “division” or “director,” whichever is applicable, is substituted for the purposes of this article.

(c) For purposes of Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon’s Texas Civil Statutes), the individual agency shall be considered the employer.

Entitlement to Benefits

Sec. 16. An employee is not entitled to benefits under this article unless the accident causing his injury occurs at least 90 days after the effective date of this article.

Coverage for Out-of-State Employees

Sec. 17. Notwithstanding Section 19, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, an employee who performs services outside this state is entitled to benefits under this article even if the person is hired or not hired in this state, does not work in this state, works both in this state and out of state, is injured outside this state, or has been outside this state for more than one year. An employee who elects to pursue remedies provided by the state or the District of Columbia in which an injury occurs is not entitled to benefits under this article.


Effective Date

Section 21 of the 1973 Act provides, in part: " * * * Section 16 [enacting this article] takes effect on the first day that money becomes available for its administration, pursuant to legislative appropriation. * * *"
Art. 8309g. COMPENSATION LAWS

Section 3 of the 1975 Act provided:

“If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.”

Art. 8309g-1. Texas Tech University Employees

Eligible employees of Texas Tech University, Pan Tech Farm, Texas Tech University School of Medicine at Lubbock, and other agencies under the direction and control of the board of regents of Texas Tech University are entitled to participate in the workmen’s compensation program for state employees provided in Article 8309g, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1977, 65th Leg., p. 266, ch. 127, § 1, eff. Sept. 1, 1977.]

Section 2 of the 1977 Act repealed art. 8309h, § 3 thereof provided:

“This Act takes effect on September 1, 1977.”

Art. 8309h. Workmen’s Compensation Insurance for Employees of Political Subdivisions

Definitions

Sec. 1. The following words and phrases as used in this article shall unless a different meaning is plainly required by the context, have the following meanings, respectively:

(1) “Political subdivision” means a county, homerule city, a city, town, or village organized under the general laws of this state, a special district, a school district, a junior college district, or any other legally constituted political subdivision of the state.

(2) “Employee” means every person in the service of a political subdivision who has been appointed in accordance with Article 54.041, Family Code.

(b) Notice shall also be given to the employees of a political subdivision who has been appointed in accordance with the provisions of the article. No person in the service of a political subdivision who is paid on a piecework basis or on a basis other than by the hour, day, week, month, or year shall be considered an employee and entitled to compensation under the terms of the provisions of this article. Provided, however, a political subdivision may cover volunteer firefighters, policemen, emergency medical personnel, and other volunteers that are specifically named who shall be entitled to full medical benefits and the minimum compensation payments provided under the law. A political subdivision may cover children who are in a program established by the political subdivision to assist children in rendering personal services to a charitable or educational institution as authorized by Subsection (b), Section 54.041, Family Code. Members of a self-insurance fund created hereunder may provide coverage for themselves as well as their staff by a majority vote of such members of the fund. No class of persons who are paid as a result of jury service or an appointment to serve in the conduct of elections may be considered employees under this article unless declared to be employees by a majority vote of the members of the governing body of a political subdivision.

(3) “Board” means the Industrial Accident Board.

Self-insurance; Effective Date; Notice to Board and Employees; Municipal Utilities

Sec. 2. (a) All political subdivisions of this state shall become either self-insurers, provide insurance under workmen’s compensation insurance contracts or policies, or enter into interlocal agreements with other political subdivisions providing for self-insurance, extending workmen’s compensation benefits to their employees.

(b) Subsection (a) of this section and Sections 1 and 4, Article 8306, Revised Civil Statutes of Texas, 1925, as amended or as may hereafter be amended, shall not apply to political subdivisions having an annual budget within the amounts indicated below, until the effective date shown for such budget brackets:

<table>
<thead>
<tr>
<th>Budget Bracket</th>
<th>Effective Date</th>
</tr>
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<tbody>
<tr>
<td>30 to $250,000</td>
<td>June 30, 1977</td>
</tr>
<tr>
<td>$250,001 to $500,000</td>
<td>June 30, 1976</td>
</tr>
<tr>
<td>$500,001 to $750,000</td>
<td>June 30, 1975</td>
</tr>
</tbody>
</table>

(c) Each political subdivision shall notify the board stating the method by which their employees will receive benefits, the approximate number of employees covered, and the estimated amount of payroll.

(d) Notice shall also be given to the employees of a political subdivision of the provision so made for benefits and the effective date thereof; and employees of a political subdivision shall be conclusively deemed to have accepted the compensation provisions in lieu of common-law or statutory liability or cause of action, if any, for injuries received in the course of employment or death resulting from injuries so received.

(e) In cities, towns, or villages in which a public utility or utilities is operated by a board of trustees set up and appointed in accordance with Article 1115, Revised Civil Statutes of Texas, 1925, or any similar law, such board of trustees shall have all of the powers and authority of the governing body of the city with reference to the adoption of a program of self-insurance under this article or in the taking out of a policy or policies of workmen’s compensation insurance hereunder, and all funds set aside or expended for such purposes shall be considered operating expenses of the municipal utilities. All funds set aside or paid by such boards of trustees in connection with self-insurance or for premiums on policies of insurance shall be paid out of the revenues of the utilities operated by the board of trustees and neither the provisions for self-insurance nor the obligations incurred under insurance policies shall be general liabilities of the city, town, or
village, but shall constitute only obligations payable out of the revenues. The boards of trustees shall be authorized to adopt all resolutions, give all notices and to do all things concerning workmen's compensation under this article with reference to employees employed by the boards of trustees which the governing body of the city, town, or village would be authorized to do with reference to other city employees, or groups of employees.

Adoption of General Workers' Compensation Laws

Sec. 3. (a) The following laws as amended or as they may hereafter be amended are adopted except to the extent that they are inconsistent with this article:

(1) Article 8306, except Sections 5 and 28, and Articles 8307, 8307b, and 8309, Revised Civil Statutes of Texas, 1925, as amended;
(2) Chapter 248, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 8306a, Vernon's Texas Civil Statutes);
(3) Chapter 77, Acts of the 65th Legislature, Regular Session, 1977 (Article 8306h, Vernon's Texas Civil Statutes);
(4) Chapter 208, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 8307a, Vernon's Texas Civil Statutes);
(5) Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon's Texas Civil Statutes), except that if the city provides by Charter or ordinance for ultimate access to the district court for wrongful discharge, Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon's Texas Civil Statutes) is not applicable;
(6) Chapter 358, Acts of the 64th Legislature, 1975 (Article 8307d, Vernon's Texas Civil Statutes); and

(b) Provided that whenever in the above adopted laws the words "association," "subscriber," or "employer," or their equivalents appear, they shall be construed to and shall mean "a political subdivision."

Establishment of Joint Fund

Sec. 4. A joint fund, as herein provided for, may be established by the concurrence of any two or more political subdivisions. The fund may be operated under the rules, regulations, and bylaws as established by the political subdivisions which desire to participate therein. Each political subdivision shall be and is hereby empowered to pay into said fund its proportionate part as due and to contract for the fund, by and through its directors, to make the payments due hereunder to the employees of the contracting political subdivision. The joint insurance fund herein provided for shall not be considered insurance for the purpose of any other statute of this state and shall not be subject to the regulations of the State Board of Insurance.

Purpose

Sec. 5. (a) It is the purpose of this article that the compensation herein provided for shall be paid from week to week and as it accrues and directly to the person entitled thereto, unless the liability is redeemed as in such cases provided elsewhere herein. Provided further, however, that any and all sums for incapacity received in accordance with Chapter 325, Acts of the 59th Legislature, 1947, as amended (Article 1269m, Vernon's Texas Civil Statutes), and any other statutes now in force and effect that provide for payment for incapacity to work because of injury on the job that is also covered by this Act are hereby offset as against the benefits provided under this Act to the extent applicable. Provided that when an employee's wage is offset as prescribed above, both the employer and the employee shall pay into the pension fund on the amount of money by which his wage was offset and provided further that under no circumstances shall an employer's pension benefit be reduced as a result of his injuries or any compensation received under the provision of this Act, unless such reduction is a result of a pension revision passed by majority vote of the affected members of a pension system.

(b) When benefits are offset as in Subsection (a) of Section 5 of this Act, the employer shall not withhold the offset portion of the employees wages until such time as the benefits from this Act are received.

Rules and Regulations; Forms

Sec. 6. The political subdivision is authorized to promulgate and publish rules and regulations and to prescribe and furnish forms as may be necessary to the effective administration of this article, and the political subdivision shall have authority to make and enforce rules for the prevention of accidents and injuries as may be deemed necessary.

Appropriations for Disbursements; Separate Account; Report

Sec. 7. (a) The political subdivision is hereby authorized to set aside from available appropriations, other than remitted salary appropriations, an amount sufficient for the payment of all costs, administrative expenses, charges, benefits, insurance, attorney fees, and awards authorized by this article.

(b) The amount so set aside shall be set up in a separate account in the records of the political subdivision, which account shall show the disbursements authorized by this article. A statement of the amount set aside for the disbursements from the account shall be included in an annual report made to the political subdivision treasurer and the
Art. 8309h

COMPENSATION LAWS

Suits and Proceedings; Municipal Utilities

Sec. 8. The political subdivision attorney, his assistants, or outside counsel may represent the political subdivision in the bringing of defense or suits and proceedings in connection with workmen's compensation benefits provided by the political subdivision as a self-insurer, except in cases where municipal utilities are operated by boards of trustees set up and appointed in accordance with Article 1115, Revised Civil Statutes of Texas, 1925, and similar statutes, and in such instances the regularly employed attorneys or outside counsel for the boards of trustees shall represent the city in all cases and proceedings involving workmen's compensation for the employees employed under the jurisdiction of the boards of trustees and for whom benefits have been provided by the board of trustees on a self-insurer basis.

CETA Employees

Sec. 9. Notwithstanding any other provision of this law or any applicable workers' compensation law, an employee hired in accordance with the federal Comprehensive Employment and Training Act of 1973 shall be considered an employee of the federal Comprehensive Employment and Training Act prime sponsor, or its contractor or subcontractor, whichever assumes responsibility for disbursement of wages directly to the employee, and the "borrowed servant doctrine" shall not apply.

1 29 U.S.C.A. § 801 et seq.


Section 5 of the 1933 amendatory act provides:

"This Act applies only to a child's conduct that occurs and civil liability for a cause of action that arises on or after the effective date of this Act."

Art. 8309i.

Payment of Judgments Against State or Department, Division, or Political Subdivision Thereof

In all cases where the State of Texas or any department, division, or political subdivision of the state fails or refuses to comply within 30 days with a judgment against that entity under Articles 8309g and 8309h, Revised Civil Statutes of Texas, 1925, as amended; Chapter 229, Acts of the 55th Legislature, Regular Session, 1947, as amended (Article 8309b, Vernon's Texas Civil Statutes); Chapter 310, Acts of the 52nd Legislature, Regular Session, 1951, as amended (Article 8009d, Vernon's Texas Civil Statutes); Chapter 252, Acts of the 55th Legislature, Regular Session, 1957 (Article 8309f); Vernon's Texas Civil Statutes; or Chapter 502, Acts of the 45th Legislature, Regular Session, 1977, as amended (Article 6674e, Vernon's Texas Civil Statutes), and the workmen's compensation claimant secures a mandamus that the entity comply with the judgment, the claimant is also entitled to receive an award of:

(1) the sum of 12 percent of the amount of compensation recovered in the judgment, as a penalty; and

(2) a reasonable attorney's fee for the prosecution of the mandamus action.

[Acts 1977, 66th Leg., p. 761, ch. 289, § 1, eff. Aug. 29, 1977.]

1 Repealed; see, now, art. 8309g-1.

PART 5

Art. 8309-1. Crime Victims Compensation Act

Short Title

Sec. 1. This Act may be cited as the Crime Victims Compensation Act.

Declaration of Purpose

Sec. 2. The legislature recognizes that many innocent persons suffer personal injury or death as a result of criminal acts. Crime victims and persons who intervene in crimes on behalf of peace officers may suffer disabilities, incur financial burdens, or become dependent on public assistance. The legislature finds and determines that there is a need for indemnification of victims of crime and citizens who suffer personal injury or death in the prevention of crime or the apprehension of criminals.

Definitions

Sec. 3. In this Act:

(1) "Board" means the Industrial Accident Board.

(2) "Claimant" means a victim or an authorized person acting on behalf of any victim.

(3) "Collateral source" means a source of benefits or advantages for pecuniary loss awardable other than under this Act which the victim has received, or which is readily available to him or her from:

(A) the offender under an order of restitution to the claimant imposed by a court as a condition of probation;

(B) the United States or a federal agency, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them in excess of or secondary to benefits under this Act;

(C) Social Security, Medicare and Medicaid;

(D) state-required temporary nonoccupational disability insurance;

(E) workers' compensation;
(F) wage continuation programs of any employer;
(G) proceeds of a contract of insurance payable to the victim for loss which he or she sustained because of the criminally injurious conduct; or
(H) a contract providing prepaid hospital and other health care services, or benefits for disability.

(4) "Criminally injurious conduct" means conduct that:
(A) occurs or is attempted in this state;
(B) poses a substantial threat of personal injury or death;
(C) is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; and
(D) is not conduct arising out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water vehicle except when intended to cause personal injury or death in violation of Section 38, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), or Article 6701f-1 or 6701f-2, Revised Civil Statutes of Texas, 1925, as amended.

(5) "Dependent" means:
(A) a surviving spouse;
(B) a person who is a dependent of a deceased victim or intervenor within the meaning of Section 152, Internal Revenue Code of 1954, as amended (26 U.S.C. Section 152); or
(C) a posthumous child of the deceased intervenor or victim.

(6) "Financial stress" means financial hardship experienced by a claimant as a result of pecuniary loss from criminally injurious conduct giving rise to a claim under this Act. A claimant suffers financial stress only if he or she cannot maintain his or her customary level of health, safety, and education for himself or herself and his or her dependents without undue financial hardship. In making its finding, the board shall consider all relevant factors, including:
(A) the number of the claimant's dependents;
(B) the usual living expenses of the claimant and his or her family; 
(C) the special needs of the claimant and his or her dependents;
(D) the claimant's income and potential earning capacity; and
(E) the claimant's resources.

(7) "Pecuniary loss" means the amount of expense reasonably and necessarily incurred:
(A) regarding personal injury for:
(i) medical, hospital, nursing, or psychiatric care or counseling, and physical therapy;

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<tr>
<th>COMPENSATION LAWS</th>
<th>Art. 8309-1</th>
</tr>
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<tr>
<td>(F) wage continuation programs of any employer;</td>
<td>(i) actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury at a rate not to exceed $150 per week; and</td>
</tr>
<tr>
<td>(G) proceeds of a contract of insurance payable to the victim for loss which he or she sustained because of the criminally injurious conduct; or</td>
<td>(ii) care of minor children enabling a victim or his or her spouse, but not both of them, to continue gainful employment at a rate not to exceed $30 per child per week up to a maximum of $75 per week for any number of children; and</td>
</tr>
<tr>
<td>(H) a contract providing prepaid hospital and other health care services, or benefits for disability.</td>
<td>(B) as a consequence of death for:</td>
</tr>
</tbody>
</table>

(4) "Criminally injurious conduct" means conduct that:
(A) occurs or is attempted in this state;
(B) poses a substantial threat of personal injury or death;
(C) is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state; and
(D) is not conduct arising out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water vehicle except when intended to cause personal injury or death in violation of Section 38, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), or Article 6701f-1 or 6701f-2, Revised Civil Statutes of Texas, 1925, as amended.

(5) "Dependent" means:
(A) a surviving spouse;
(B) a person who is a dependent of a deceased victim or intervenor within the meaning of Section 152, Internal Revenue Code of 1954, as amended (26 U.S.C. Section 152); or
(C) a posthumous child of the deceased intervenor or victim.

(6) "Financial stress" means financial hardship experienced by a claimant as a result of pecuniary loss from criminally injurious conduct giving rise to a claim under this Act. A claimant suffers financial stress only if he or she cannot maintain his or her customary level of health, safety, and education for himself or herself and his or her dependents without undue financial hardship. In making its finding, the board shall consider all relevant factors, including:
(A) the number of the claimant's dependents;
(B) the usual living expenses of the claimant and his or her family; 
(C) the special needs of the claimant and his or her dependents;
(D) the claimant's income and potential earning capacity; and
(E) the claimant's resources.

(7) "Pecuniary loss" means the amount of expense reasonably and necessarily incurred:
(A) regarding personal injury for:
(i) medical, hospital, nursing, or psychiatric care or counseling, and physical therapy;
Art. 8309-1

COMPENSATION LAWS

Vernon’s Texas Civil Statutes), or Article 6701-1 or 6701-2, Revised Civil Statutes of Texas, 1925, as amended.

Application

Sec. 4. (a) An applicant shall apply in writing in a form that conforms substantially to that prescribed by the board.

(b) No claimant may file an application unless the victim reports the crime to the appropriate state or local public safety or law enforcement agency within 72 hours after the crime is committed or within a longer period that is justified by extraordinary circumstances as determined by the board.

(c) A claimant must file an application not later than one year after the date of the crime, except that the board may extend the time for filing for good cause shown by the claimant.

(d) The application shall be verified and shall contain the following:

1. a description of the date, nature, and circumstances of the criminally injurious conduct;
2. a complete financial statement, including the cost of medical care or burial expenses and the loss of wages or support the claimant has incurred or will incur and the extent to which the claimant has been indemnified for these expenses from any collateral source;
3. when appropriate, a statement indicating the extent of any disability resulting from the injury incurred;
4. an authorization permitting the attorney general to verify the contents of the application; and
5. other information as the board may require.

Review, Verification, Hearing

Sec. 5. (a) The board shall appoint a clerk to review all applications for assistance made by claimants under Section 4 of this Act in order to ensure that they are complete. If an application is not complete, the clerk shall return it to the claimant with a brief statement of the additional information required. Within 30 days after receiving the returned application, the claimant may either supply the additional information or appeal the action to the board, which shall review the application to determine whether or not it is complete.

(b) Immediately on receipt of the application, the board shall send a copy of the application and all pertinent documents to the attorney general. The attorney general may investigate the application, appear in hearings on the application, and present evidence supporting or opposing approval of the application.

(c) The board shall appoint one of its members to determine whether a hearing is necessary. If the member determines that a hearing is not necessary, he or she may approve the application in accordance with the provisions of Section 6 of this Act. If the member determines that a hearing is necessary or if the attorney general or the claimant requests a hearing, the board shall then consider the application at a hearing at a time and place of its choosing. The board shall notify all interested persons, including the attorney general, not less than 10 days prior to the date of the hearing.

(d) At the hearing the board shall:

1. review the application for assistance and the report prepared by the attorney general and any other evidence obtained as a result of his or her investigation; and
2. receive other evidence that the board finds necessary or desirable to evaluate the application properly.

(e) Incident to its review, verification, and hearing duties under this Act, the board shall have the following powers:

1. to request from prosecuting attorneys and law enforcement officers investigations and data to enable the board to determine whether and the extent to which a claimant qualifies for an award;
2. the powers given to the board under Section 4, Article 8307, Revised Civil Statutes of Texas, 1925, as amended (Article 8307, Vernon’s Texas Civil Statutes), except as modified by this Act; and
3. if the mental, physical, or emotional condition of a victim is material to a claim, to order the victim to submit to a mental or physical examination by a physician or psychologist and to order an autopsy of a deceased victim. The order may be made for good cause shown upon notice to the person to be examined and to all persons who have appeared. The order shall specify the time, place, manner, conditions, and scope of the examination or autopsy and the person by whom it is to be made and shall require that person to file with the board a detailed written report of the examination or autopsy. The report shall set out his or her findings, including results of all tests made, diagnoses, prognoses, and other conclusions and reports of earlier examinations of the same conditions. The physician or psychologist shall be compensated from funds appropriated for the administration of this Act.

(f) On request of the person examined, the board shall furnish him or her a copy of the report. If the victim is deceased, the board on request shall furnish the claimant a copy of the report.

Approval or Rejection of Claim

Sec. 6. (a) The board shall award compensation for pecuniary loss arising from criminally injurious conduct if satisfied by a preponderance of the evidence that the requirements set forth in this Act have been met.

(b) The board shall establish that as a direct result of criminally injurious conduct the victim suffered physical injury or death that resulted in a pecuniary loss which the victim is unable to recoup.
without suffering financial stress and for which he or she is not compensated from any collateral source.
(c) The board shall deny the application if:
(1) the criminally injurious conduct is not report-
ed or the application is not made in the manner
specified in Section 4 of this Act;
(2) the victim or person whose injury or death
gives rise to the application knowingly and willingly
participated in the criminally injurious conduct;
(3) the claimant will not suffer financial stress as
a result of the pecuniary loss arising out of crim-
nally injurious conduct; or
(4) the victim resided in the same household as
the offender or his or her accomplice.
(d) The board may deny or reduce an award oth-
erwise payable:
(1) if the victim has not substantially cooperated
with appropriate law enforcement agencies; or
(2) if the behavior of the victim at the time of the
act or omission giving rise to the claim was such
that he or she bears a share of the responsibility for
the act or omission; or
(3) to the extent that pecuniary loss is recouped
from other persons, including collateral sources.
Types of Assistance; Awards
Sec. 7. (a) If an application for compensation is
approved under Section 6 of this Act, the board
shall determine what type of state assistance will
best aid the claimant. The board may take any or
all of the following actions:
(1) authorize cash payment or payments to or on
behalf of the claimant for pecuniary loss as defined
in Subdivision (7), Section 3 of this Act;
(2) refer the claimant to a state agency for
voca-
tional or other rehabilitative services; and
(3) provide counseling services for victims or con-
traxt with private entities to provide these services.
(b) Awards payable to a victim and all other
claimants sustaining pecuniary loss because of inju-
ry or death of that victim may not exceed $25,000 in
the aggregate.
(c) The board may provide for the payment of an
award in a lump sum or in installments. The part
of an award equal to the amount of pecuniary loss
accrued to the date of the award shall be paid in a
lump sum. An award for allowable expense that
would accrue after the award is made may not be
paid in a lump sum. Except as provided in Subsec-
tion (d) of this section, the part of an award that
may not be paid in a lump sum shall be paid in in-
stallments.
(d) At the instance of the claimant, the board may
compute future pecuniary loss to a lump sum but
only upon a finding by the board that:
(1) the award in a lump sum will promote the
interests of the claimant; or
(2) the present value of all future pecuniary loss
does not exceed $1,000.
(e) An award for future pecuniary loss payable in
installments may be made only for a period as to
which the board can reasonably determine future
pecuniary loss.
(f) An award is not subject to execution, attach-
ment, garnishment, or other process, except that an
award is not exempt from a claim of a creditor to
the extent that he or she provided products, serv-
ces, or accommodations, the costs of which are in-
cluded in the award.
(g) An assignment or agreement to assign a right
to reparations for loss accruing in the future is
unenforceable except:
(1) an assignment of a right to reparations for
work loss to secure payment of alimony, mainte-
nance, or child support; or
(2) an assignment of a right to reparations to the
extent that the benefits are for the cost of products,
services, or accommodations necessitated by the
injury or death on which the claim is based and are
provided or to be provided by the assignee.
Emergency Award
Sec. 8. If prior to taking action on an application
it appears likely that a final award will be made and
that the claimant will suffer undue hardship if
immediate economic relief is not had, the board or
board member may make an emergency award in an
amount not to exceed $1,500. The amount paid
shall be deducted from the final award or repaid by
and recoverable from the claimant to the extent that
it exceeds the final award.
Reconsideration; Judicial Review
Sec. 9. (a) The board on its own motion or on
request of the claimant may reconsider a decision
making or denying an award or determining its
amount. The board shall reconsider at least annual-
y every award being paid in installments. An
order on reconsideration of an award shall not re-
quire refund of amounts previously paid unless the
award was obtained by fraud.
(b) The right of reconsideration does not affect
the finality of a board decision for the purpose of
judicial review.
(c) Within 20 days after the rendition of a final
ruling and decision by the board, the claimant or the
attorney general may file with the board notice of
dissatisfaction with the final ruling and decision.
The dissatisfied party shall within 20 days after
the rendition of a final ruling and decision by the
board, the claimant or the attorney general may file with the board notice of
dissatisfaction with the final ruling and decision.
The dissatisfied party shall within 20 days after
giving the notice bring suit in the district court
having jurisdiction in the county where the injury or
death occurred or the county where the victim resid-
ed at the time the death or injury occurred, and the
board shall provide for the suspension of payments
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to a claimant and may not reconsider an award during the pendency of an appeal of the ruling and decision on that claim. The court shall determine the issues in the cause by trial de novo, and the burden of proof is on the claimant. In computing the 20 days for filing a notice of dissatisfaction or the 20 days to bring suit, if the last day is a legal holiday or Sunday, the last day shall not be counted, and the time shall be extended to include the next business day.

Rules and Regulations; Notice of Provisions of Act

Sec. 10. (a) The board shall promulgate and adopt rules consistent with this Act governing its administration, including rules relating to the method of filing claims and the proof of entitlement to compensation. Sections 1 through 12 of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), except Subdivision (3) of Subsection (a) and Subsection (b) of Section 4, apply to the board. Sections 13 through 29 of that Act do not apply to the board or its orders and decisions.

(b) The board may appoint hearing officers to conduct hearings or prehearing conferences under this Act when hearings or prehearing conferences are necessary to determine eligibility for compensation.

(c) When hearings or prehearing conferences are conducted, they shall be open to the public unless in a particular case the hearing officer or board determines that the hearing or prehearing conference or a part of it should be held in private because it is in the interest of the claimant.

(d) The board may suspend the proceedings pending disposition of a criminal prosecution that has been commenced or is imminent, but may make an emergency award under Section 8 of this Act.

(e) Every hospital licensed under the laws of this state shall display prominently in its emergency room posters giving notification of the existence and general provisions of this Act. The board shall set standards for the location of the display and shall provide posters, application forms, and general information regarding this Act to each hospital and physician licensed to practice in the State of Texas.

(f) Every local law enforcement agency shall inform victims of criminally injurious conduct of the provisions of this Act and provide application forms to victims who desire to seek assistance. The board shall provide application forms and all other documents that local law enforcement agencies may require to comply with this section. The attorney general shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with him or her a description of the procedures adopted by each agency to comply.

Subrogation; Notice of Private Action

Sec. 11. (a) If compensation is awarded, the state is subrogated to all the claimant's rights to receive or recover benefits for pecuniary loss to the extent compensation is awarded from a source which is or is readily available to the claimant would be a collateral source.

(b) Before a claimant may bring an action to recover damages related to criminally injurious conduct for which compensation is claimed or awarded, the claimant must give the board prior written notice of the proposed action. After receiving the notice, the board shall promptly:

1. join in the action as a party plaintiff to recover reparations awarded;
2. require the claimant to bring the action in his or her individual name as a trustee in behalf of the state to recover reparations awarded; or
3. reserve its rights and do neither in the proposed action.

(c) If, as requested by the board under Subsection (b) of this section, the claimant brings the action as a trustee and recovers compensation awarded by the board, he or she may deduct from the reparations recovered in behalf of the state the reasonable expenses of the suit, including attorney's fees, expended in pursuing the recovery for the state. The claimant shall justify this deduction in writing to the board on a form provided by the board.

Attorney's Fees

Sec. 12. As part of an order, the board shall determine and award reasonable attorney's fees, commensurate with services rendered, to be paid by the state to the attorney representing the claimant. Additional attorney's fees may be awarded by a court in the event of review. Attorney's fees may be denied on a finding that the claim or appeal is frivolous. Awards of attorney's fees shall be in addition to awards of compensation. It is unlawful for an attorney to contract for or receive any larger sum than the amount allowed. Attorney's fees may not be paid to an attorney of a claimant unless an award is made to the claimant.

Annual Report

Sec. 13. The board shall prepare and transmit annually to the governor and the legislature a report of its activities, including a statistical summary of claims and awards made and denied. The report shall be based on the state fiscal year and shall be filed not more than 30 days after the end of each fiscal year.

Funds

Sec. 14. (a) The Compensation to Victims of Crime Fund is created in the State Treasury to be used by the board for the payment of compensation to claimants under this Act and other expenses in administering this Act. The Compensation to Vic-
Compensation Laws

Section 8309-1

The city or county may also retain all interest earned on the funds collected from appeals and other actions under this section. The city and the county may retain ten percent of the funds collected from appeals and other actions under this section as a collection fee. If no funds due as costs under this section have been collected in a quarter, the report required for the quarter shall be filed in the regular manner, and the report must state that no funds due under this section were collected.

Section 8309-1.1

The custodian of a municipal or county auxiliary fund is created in the State Treasury to be used by the board only for the payment of compensation to claimants under this Act. The board shall make no compensation payments which exceed the amount of money in the combined funds. No general revenues may be used for payments under this Act.

(b) A person shall pay $20 as a court cost, in addition to other court costs, on conviction of any felony, $15 as a court cost, in addition to other court costs, on conviction of a misdemeanor punishable by imprisonment or by a fine of more than $200, and $12.50 as a court cost, in addition to other court costs, on conviction of a misdemeanor punishable by a fine of not more than $200. A conviction that arises under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6677b, Vernon's Texas Civil Statutes), or under the Uniform Act: Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes), is specifically excluded. The court shall require a person convicted of an offense listed under this section to pay the court cost whether or not the court grants the person a deferred adjudication sentence. If a person is granted deferred adjudication under Article 42.12, 42.13, or 45.54, Code of Criminal Procedure, 1965, as amended, at the time the court grants deferred adjudication, the person shall pay as a court cost the amount that the person would have otherwise been required to pay under this subsection had the adjudication not been deferred and had the person been finally convicted of the offense.

(c) Court costs under this section are collected in the same manner as other fines or costs.

(d) The officer collecting the costs in a municipal court case shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the municipal treasury. The officer collecting the costs in a justice, county, or district court case shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the county treasury.

(e) On receipt, the custodian of a municipal or county auxiliary fund may deposit the funds collected under this section in interest-bearing accounts. The custodian shall keep records of the amount of funds on deposit collected under this section and shall remit to the comptroller of public accounts before the last day of each calendar quarter the funds collected under this section during the preceding quarter. The city and the county may retain ten percent of the funds collected under this section as a collection fee. If no funds due as costs under this section have been collected in a quarter, the report required for the quarter shall be filed in the regular manner, and the report must state that no funds due under this section were collected.

(f) The comptroller of public accounts shall deposit the funds received by him or her under this section in the Compensation to Victims of Crime Fund. Funds collected are subject to audit by the comptroller and funds expended are subject to audit by the State Auditor.

(g) The board shall establish a policy to adjust awards and payments so that the total amount of awards granted in each calendar year does not exceed the amount of money deposited in the fund during that year.

Section 8309-1.2

(h) If the board finds that a court is not assessing costs due under this section or is not making a reasonable effort to collect the costs, the board shall issue a public letter of warning to the court. If the court is a county court, the board shall send a copy of the letter to the commissioners court of the county in which the court presides. If the court is a municipal court, the board shall send a copy of the letter to the governing body of the municipality in which the court presides.

Section 8309-1.3

(h) If the board finds that a court is not assessing costs due under this section or is not making a reasonable effort to collect the costs, the board may not make any awards under this Act to residents of the jurisdiction served by the court.

Effective Date

Sec. 15. Sections 1 through 13 of this Act take effect January 1, 1980. The board may not award reparations for economic loss arising from criminally injurious conduct that occurred before that date. Sections 14 and 15 of this Act take effect September 1, 1979.

Sec. 16. Every firm, person, corporation, association, or other legal entity contracting with a person or the representative or assignee of any person, accused or convicted of crime in this state, with respect to the reenactment of the crime in a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, live entertainment, or from the expression of the accused or convicted person's thoughts, feelings, opinions, or
emotions regarding the crime shall submit a copy of the contract to the board and pay to the board any money that would otherwise by terms of the contract be owing to the accused or convicted person or his representatives. The board shall deposit the money in an escrow account.

Funds Available to Victim

Sec. 17. Money placed in an escrow account is available to satisfy a judgment against the accused or convicted person in favor of a victim of the crime if the court in which the judgment is taken finds that the judgment is for damages incurred by the victim caused by the commission of the crime.

Maintenance of Escrow Account

Sec. 18. The board shall pay money in an escrow account to the accused person if he is acquitted of the crime. The board shall pay the money in the account to the accused or convicted person if five years elapse from the date when the account was established and the money has not been ordered paid to a victim in satisfaction of a judgment.


Section 2 of Acts 1983, 68th Leg., p. 2766, ch. 475 provides:

"This Act takes effect January 1, 1984, and applies only to the imposition of an additional court cost under the Crime Victims Compensation Act for conviction of an offense committed on or after that date. Court costs for an offense committed before that date are covered by the law in effect on the date the offense was committed, and the prior law is continued in effect for this pur-

pose."
TITLE 131
WRECKS

CHAPTER ONE. WRECK-MASTERS
Arts. 8310 to 8318. Repealed by Acts 1953, 53rd Leg., p. 28, ch. 22, § 1

CHAPTER TWO. COTTON SALVAGE
Arts. 8319 to 8324. Repealed by Acts 1953, 53rd Leg., p. 29, ch. 23, § 1

TITLE 132
OCCUPATIONAL AND BUSINESS REGULATION

Chapter Article
1. Barbers ... 8401
2. Cosmetology ... 8401a
3. Boxing and Wrestling ... 8501-1
4. Gasoline and Petroleum Products ... 8601
5. Commodity Exchanges ... 8651
6 to 19. Reserved.
20. Miscellaneous ... 9001

CHAPTER ONE. BARBERS

Art. 8401. Repealed.
8402. Registering Name and Location; Jurisdiction of State Board of Barber Examiners and Cosmetology Commission.
8403. Equipment.
8404. Employé With Disease.
8405. Cleanliness.
8406. No Place to Sleep.
8407. Penalty.
8407a. Texas Barber Law.


Art. 8402. Registering Name and Location; Jurisdiction of State Board of Barber Examiners and Cosmetology Commission

(a) Every person, firm, or corporation owning, operating or managing a barber shop shall register his full name and the location of said shop with the State Board of Barber Examiners. Each owner, operator or manager of a barber shop that is first opened for business hereafter shall within three days after the opening of such shop submit an application to the barber board for a barber shop permit.

(b) In order that the public may fix responsibility for services, acts, or treatments performed by persons licensed by the State Board of Barber Examiners vis-a-vis those performed by persons licensed by the Texas Cosmetology Commission, to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology and to avoid confusion of the public as well as avoiding conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdictions, from and after January 31, 1980:

(1) a person licensed by the barber board may practice barbering only at a location for which the board has issued a barber shop permit, barber school or college permit, or any other permit. If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the board may not adopt rules restricting or prohibiting the practice by a Class A barber in the facility; and

(2) a person licensed by the cosmetology commission may practice cosmetology only at a location for which the commission has issued a beauty shop license, private beauty culture school license, or any other license. If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the commission may not adopt rules restricting or prohibiting the practice by a cosmetologist in the facility.

(c) If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the agencies may not adopt rules requiring:

(1) that the work areas of barbers and cosmetologists practicing in the facility be separated;
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(2) that the waiting areas for customers of the barbers and cosmetologists practicing in the facility be separated;

(3) that the facility have separate restrooms for the barbers or cosmetologists practicing in the facility or for the customers of the barbers and cosmetologists;

or

(4) that the barbers and cosmetologists practicing in the facility or the customers of the barbers and cosmetologists be treated separately from each other in any similar manner.

(d) There shall at all times be prominently displayed in each shop and salon regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals licensed under this Act and which shall contain a statement informing consumers that complaints against licensees can be directed to the regulatory board.

[1925 P.C. Amended by Acts 1975, 64th Leg., p. 2144, ch. 693, § 27, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1983, ch. 613, § 1, eff. Sept. 1, 1979.]

Art. 8403. Equipment

The owner, operator or manager of any barber shop or beauty parlor shall equip and keep equipped the same with facilities and supplies and with all such appliances, furnishings and materials as may be necessary to enable persons employed in and about the same to comply with the law.

[1925 P.C.]

Art. 8404. Employe With Disease

No owner, operator or manager of a barber shop or a beauty parlor shall knowingly permit any person suffering from a communicable skin disease or from a venereal disease to act as a barber or employ or work or be employed in said shop or parlor. No person who to his own knowledge is suffering from a communicable disease or from venereal disease shall act as a barber or work or be employed in said shop or parlor.

[1925 P.C.]

Art. 8405. Cleanliness

Every person in charge of a barber shop or beauty parlor shall keep said shop or parlor and all furniture, tools, appliances and other equipment used therein at all times in a cleanly condition, and shall cause all combs, hair brushes, hair dusters and similar articles used therein to be washed thoroughly at least once a day and to be kept clean at all times, and shall cause all mugs, shaving brushes, razors, shears, scissors, clippers and tweezers used therein to be sterilized at least once after each time used as hereinafter provided. The term "persons affected by this chapter" shall include any person working or employed in a barber shop or beauty parlor or acting as a barber, beauty specialist or manicurist. Every barber or other person affected by this chapter, immediately after using a mug, shaving brush, razor, scissors, shears, clippers, or tweezers, for the service of any person, shall sterilize the same by immersing it in boiling water for not less than ten minutes in a five percent aqueous solution of carbolic acid. No barber or other person affected by this chapter shall:

1. Use for the service of any customer a comb, hair brush, hair duster or any similar article that is not thoroughly clean, nor any mug, shaving brush, razor, shears, scissors, clippers, or tweezers, that are not thoroughly clean or that have not been sterilized since last used.

2. Serve any customer unless he shall immediately before such service cleanse his hands thoroughly.

3. Use for the service of a customer any towel or wash cloth that has not been boiled and laundered since last used.

4. To stop the flow of blood use the same piece of alum or other material for more than one person.

5. Shave any person when the surface to be shaved is inflamed or broken out or contains pus, unless such person be provided with a cup, razor and lather brush for his individual use.

6. Permit any person to use the head rest of any barber’s chair under his control until after the head rest has been covered with a towel that has been washed and boiled since having been used before, or by clean new paper or similar clean substance.

7. Use a powder puff or a sponge in the service of a customer unless it has been sterilized since last used.

8. Use a finger bowl unless it has been sterilized since last used and fresh water or other liquid placed therein.

[1925 P.C.]

Art. 8406. No Place to Sleep

No owner or manager of any barber shop or beauty parlor shall permit any person to sleep in any room used wholly or in part as such shop or parlor, and no person shall pursue the barber business or be employed in a barber shop or beauty parlor in any room used as a sleeping apartment.

[1925 P.C.]

Art. 8407. Penalty

Whoever violates any provision of this chapter or fails or refuses to comply with any provision thereof shall be fined not to exceed one hundred dollars.

[1925 P.C.]
Art. 8407a. Texas Barber Law

Registration Required

Sec. 1. It shall be unlawful for any person to engage in the practice or attempt to practice barbering in the State of Texas without a certificate or registration as a registered barber issued pursuant to the provisions of this Act, by the Board of Barber Examiners hereinafter created.

Unlicensed Practice Prohibited

Sec. 2. From and after the effective date of this Act, unless duly licensed and registered in accordance with all laws of this state regulating the practice of barbering, no person shall:

(a) practice, continue to practice, offer, or attempt to practice barbering or any part thereof;

(b) directly or indirectly, employ, use, cause to be used, or make use of any of the following terms or any combinations, variations, or abbreviations thereof, as a professional, business, or commercial identification, title, name, representation, claim, asset, or means of advantage or benefit: "barber," "barbering," "barber school," "barber college," "barber shop," "barber salon";

(c) directly or indirectly, employ, use, cause to be used, or make use of any letter, abbreviation, word, symbol, slogan, sign, or any combination or variation thereof, which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice barbering or own or manage any barber shop, barber school or college.

Barber Shop Permit; Application; Fees; Display; Transfer; Renewal; Supervision; Moving Operation

Sec. 3. (a) No person may own, operate, or manage a barber shop without a barber shop permit issued by the board.

(b) Any firm, corporation or person who opens a new barber shop shall within three days submit an application to the board for a temporary barber shop permit together with an inspection fee not to exceed $50. The applicant must place in his application the permanent address of his shop in the application. The board shall issue a barber shop permit upon receipt of the application and an inspection fee.

(c) The board shall issue a barber shop permit to an applicant who holds a valid class A barber license and whose shop meets the minimum health standards for barber shops as promulgated by the State Department of Public Health and all rules and regulations of the board.

(d) A barber shop permit must be displayed in a conspicuous place in the barber shop for which the permit is issued.

(e) Permits are not transferable to another person. If the ownership of a barber shop is transferred to another person, the shop may continue in operation if the new owner applies for and obtains a new permit within 30 days after the transfer of ownership.

(f) To continue operating a barber shop, a person must renew the permit issued to his shop by paying a renewal fee not to exceed $50. All permits expire on July 1 of odd-numbered years.

(g) No person may operate a barber shop unless the shop is at all times under the sole and exclusive supervision and management of a registered Class A barber, and no person is practicing on the premises by authority of any license, permit or certificate issued by the Texas Cosmetology Commission.

(h) A person operating under a permit who wishes to move his operation to another location approved by the board may do so by notifying the Board of Barber Examiners ten days before he makes the move.

Definitions

Sec. 4. In this Act, unless the context otherwise requires:

(a) "barber" shall mean any person who performs, offers, or attempts to perform any act of barbering, professes to do barbering or to be engaged in the practice thereof, or who directly or indirectly or in any manner whatsoever advertises or holds himself out as a barber or as authorized to practice barbering;

(b) "barbering," "practicing barbering," or the "practice of barbering" shall mean the performing or doing, or offering or attempting to do or perform, any, all or any combination of the following acts, services, works, treatments, or undertakings:

1. arranging, beautifying, coloring, processing, shaving, styling, or trimming the mustache or beard by any means or method;

2. arranging, beautifying, bleaching, cleansing, coloring, curling, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, tinting, waving, or otherwise treating the hair as primary services, treatments, or undertakings by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to such primary services;

3. cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident preparatory or ancillary to those primary services enumerated in Section 4(b)(2), or primarily engaging in the occupation of cutting hair or practicing primarily as a haircutter by cutting hair as a separate and independent service, treatment, or undertaking for which haircut a charge is made, as such, separate and apart from any other service, treatment, or undertaking, directly or indirectly, or in any manner whatsoever;
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(4) cleansing, stimulating, or massaging the scalp, face, neck, arms, shoulders, or that part of the body above the shoulders, by means of the hands, devices, apparatuses, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

(5) beautifying the face, neck, arms, shoulders, or that part of the body above the shoulders, by the use of cosmetic preparations, antiseptics, tonics, lotions, powders, oils, clays, creams, or appliances;

(6) cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person or attaching false nails;

(7) massaging, cleansing, treating, or beautifying the hands of any person;

(8) administering facial treatments;

(9) hair weaving;

(10) shampooing or conditioning hair;

(11) servicing a wig, toupee, or artificial hairpiece on a human head or on a block, subsequent to the initial retail sale by any of the acts, services, works, treatments, or undertakings enumerated in Section 4(b)(2) of this Act;

(12) advertising or holding out to the public by any manner whatsoever that any person is a barber or authorized to practice barbering;

(13) advertising or holding out to the public by any manner whatsoever that any location or place of business is a barber shop, barber school, barber college, or barber salon;

(14) receiving any fee, salary, compensation, or financial benefit, or the promise of any fee, salary, compensation, or financial benefit, for performing, doing, offering, or attempting to perform or do any act, work, service, or thing, which is any part of the practice of barbering as herein defined;

(e) "barber shop" or "barber salon" shall mean any place where barbering is practiced, offered, or attempted to be practiced except when such place is duly licensed as a barber school or college;

(d) "board" shall mean the State Board of Barber Examiners as established and provided for in the Texas Barber Law;

(e) "certificate" shall mean a certificate of registration issued by the board in accordance with the provisions of this Act;

(f) "license" shall mean any license issued by the board in accordance with the provisions of this Act;

(g) "manager" shall mean any person who controls or directs the business affairs of a barber shop or directs the work of a person employed in a barber shop or both;

(h) "permit" shall mean any permit issued by the board in accordance with the provisions of this Act;

(i) "person" shall mean any individual, association, firm, corporation, partnership, or other legal entity.

(j) In addition to the foregoing definitions, the board shall have authority to define by rule any words or terms necessary in the administration or enforcement of this Act.

Registered Assistant Barber Classification Terminated and Considered Class A Registered Barber

Sec. 5. The classification of "registered assistant barber" is hereby terminated. Any person holding a valid certificate as a registered assistant barber, as of the effective date of this Act, shall for all purposes of this Act be considered as a Class A registered barber and on the next renewal of any certificate as a registered assistant barber the board shall issue such assistant barber a certificate as a Class A registered barber on payment of the applicable renewal fee.

Exemptions

Sec. 6. The following persons shall be exempt from the provisions of this Act, provided such persons are not represented, advertised, or held out to the public, directly or indirectly, or in any manner whatsoever, as barbers, journeymen barbers, barber technicians or under any name, title, or designation indicating such person is authorized to practice by authority of any license or permit issued by the board:

(a) physicians, osteopaths, and registered nurses licensed and regulated by the State of Texas;

(b) commissioned or authorized medical or surgical officers of the United States Army, Navy, or Marine Hospital Service;

(c) persons licensed or practicing by authority of the Texas Cosmetology Commission under the provisions of Chapter 1956, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8451a, Vernon's Texas Civil Statutes), so long as such persons practice within the scope of the license or permit duly issued by the Texas Cosmetology Commission.

Qualifications of Applicant for Registration

Sec. 7. The following shall be considered as minimum evidence satisfactory to the board that an applicant is qualified for registration as a Class A registered barber:

(a) being at least 16% years of age;

(b) successfully passing a written and practical examination demonstrating to the satisfaction of the board the applicant's fitness and competence to practice the art and science of barbering;

Forms for Applications

Sec. 8. All applications for any certificate, license, or permit issued by the board shall be on forms prescribed and furnished by the board, shall contain statements made under oath showing the
an applicant's education and other information required by the board.

Permit to Operate Barber School or College

Sec. 9. (a) Any person desiring to conduct or operate a barber school or college in this state shall first obtain a permit from the board after demonstrating that said school or college has first met the requirements of this section. Said permit shall be prominently displayed at all times at such school or college. No such school or college shall be approved unless such school or college requires as a prerequisite to graduation a course of instruction of not less than 1,500 hours as determined by the board, to be completed within a period of not less than four months, for a Class A certificate, and at least 800 hours of such course of instruction shall be in the actual practice of cutting hair as a primary service in accordance with the definition set forth in Section 4(b)(3) of this Act. No certificate or permit shall be issued as provided for herein to an applicant to be a student in such a school or college unless said applicant has completed at least a seventh grade education and such other requirements as shall be specified by the board. Provided, however, that any person licensed as a Class A registered barber or registered assistant barber as of the effective date of this Act shall be considered qualified to perform any acts or services within the scope of the definition of barbering and shall be entitled to any or all licenses, certificates, or permits which the board is authorized to issue on payment of the required fees but without meeting further educational or experience requirements.

(b) Such schools or colleges shall instruct students in the theory and practice of such subjects as may be necessary and beneficial in the practice of barbering, including the following: scientific fundamentals of barbering; hygiene bacteriology, histology of the hair, skin, muscles, and nerves; structure of the head, neck and face; elementary chemistry relating to sterilization and antiseptics; common disorders of the skin and hair; massaging muscles of the scalp, face, and neck; hair-cutting; shaving; hair cutting; skin; electric epidemics; hair; weaver, servicing wigs, or any other skills, techniques, services, treatments, or undertakings within the definition of the practice of barbering provided for in this Act.

(c) No barber school or college which issues "Class A" certificate shall be approved by the Board unless it is under the direct supervision and control of a barber who holds a current registered "Class A" certificate to practice barbering under the Texas Barber Law, and who can show evidence of at least five (5) years experience as a practicing barber. Each school shall have at least one (1) teacher who has a teacher's certificate issued by the Board on examination and who is capable and qualified to teach the curriculum outlined herein to the students of such school. All such teachers are required to obtain a teacher's certificate from the Board and, in addition to requirements set forth by the Board, must meet the following requirements:

1. An adequate school site housed in a substantial building of a permanent-type construction containing a minimum of not less than two thousand, eight hundred (2,800) square feet of floor space. Such space shall be divided into the following separate departments: a junior department, a senior department, a class theory room, a supply room, an office space, a dressing and cloak room, and two (2) sanitary, modern separate rest rooms, equipped with one (1) commode each and a urinal in one (1) rest room.
2. A hard-surface floor covering of tile or other suitable material.
3. A minimum of twenty (20) modern barber chairs with cabinet and mirror for each chair.
4. One (1) lavatory in back of each two (2) chairs.
5. A liquid sterilizer for each chair.
6. An adequate number of latherizers, vibrators, and hair dryers for the use of students.
7. Adequate lighting of all rooms.
8. At least twenty (20) classroom chairs, a blackboard, anatomical charts of the head, neck and face, and one (1) barber chair in the class theory room.
9. A library and library facilities available to students, containing a medical dictionary and a standard work on the human anatomy.
10. Adequate drinking fountain facilities, but at least one (1) to each floor.
11. Adequate toilet facilities for the students.
12. Adequate fire-fighting equipment to be maintained in case of emergency.

(d) Anything to the contrary in this Act notwithstanding, each such school shall place a sign on the front outside portion of its building in a prominent place. Such sign shall read "BARBER SCHOOL—STUDENT BARBERS", and shall be a minimum size of ten-inch block letters. Printed signs containing the foregoing information shall be prominently displayed upon each inside wall of the establishment.

(e) A minimum of five (5) one-hour periods of each week shall be devoted to the instruction of theory in the classroom with Saturdays being devoted exclusively to practical work over the chair. An attendance record book must be maintained by the school showing a record of the students' daily attendance. These records are subject to inspection at any and all times by the Board.

(f) No barber school or college which issues "Class A" certificates shall be approved by the Board unless it is under the direct supervision and control of a barber who holds a current registered "Class A" certificate to practice barbering under the Texas Barber Law, and who can show evidence of at least five (5) years experience as a practicing barber. Each school shall have at least one (1) teacher who has a teacher's certificate issued by the Board upon examination and who is capable and qualified to teach the curriculum outlined herein to the students of such school. All such teachers are required to obtain a teacher's certificate from the Board and, in addition to requirements set forth by the Board, must meet the following requirements:
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(1) Demonstrate their ability to teach the said curriculum outlined herein through a written and practical test to be given by the Board.

(2) Hold a current certificate as a registered "Class A" barber under this law.

(3) Demonstrate to the Board that such applicant is qualified to teach and instruct, to be determined at the discretion of the Board, and show evidence that the applicant has had at least six (6) months experience as a teacher in an approved school or college in Texas or in another state approved by the Board, or have completed a six-month postgraduate course as a teacher in an approved barber school or college in Texas.

Applicants desiring an examination for a teacher's certificate shall make an application to the Board and accompany same with an examination fee not to exceed $70. A new application and fee must be presented for each examination taken by the applicant and fees paid are not refundable. A teacher's certificate shall be issued upon satisfactory completion of the examination and payment of a certificate fee not to exceed $70 if the applicant fulfills the requirements during the period from November 1 of an odd-numbered year and extending through October 31 of the following odd-numbered year or not to exceed $35 if the applicant fulfills the requirements during the period from November 1 of an even-numbered year and extending through October 31 of the following odd-numbered year. Teacher's certificates shall be renewed biennially on or before November 1st of odd-numbered years upon the payment of a renewal fee not to exceed $70.

(g) In addition to a minimum of one (1) teacher required in paragraph (3) above, each barber school or college which issues "Class A" certificates shall maintain at least one (1) qualified instructor, holding a registered "Class A" certificate, for each twenty (20) students or any fraction thereof for instruction in practical work; provided, however, that a teacher can also serve as an instructor in practical work in addition to his position as a theory teacher.

(h) No barber school or college shall be issued a permit to operate under the provisions of this Section until it has first furnished the following evidence to the Board:

1. A detailed drawing and chart of the proposed physical layout of such school, showing the departments, floor space, equipment, lights and outlets.

2. Photographs of the proposed site for such school including the interior and exterior of the building, rooms and departments.

3. A detailed copy of the training program.

4. A copy of the school catalog and promotional literature.

5. A copy of the building lease or proposed building lease where the building is not owned by the school or college.

(6) A sworn statement showing the true ownership of the school or college.

(7) A permit fee not to exceed $1,000.

No such school or college shall be operated and no students shall be solicited or enrolled by it until the Board shall determine that the school has been set up and established in accordance with this Section and the proposal submitted to the Board and approved by it prior to the issuance of a permit. Any such school or college must obtain renewal of its certificate by September 1st each year by the payment of an annual renewal fee not to exceed $300.

(i) When a barber school or college changes ownership, the Board shall be notified of the transfer within ten (10) days from the date of such change.

(j) Any school or college desiring to change the location of such school or college must first obtain approval by the Board by showing that the proposed location meets the requirements of this Section.

(k) If said Board refuses to issue a permit to any such school or college, such school or college may by written request demand the reasons for said refusal and if said school or college shall thereupon meet said requirements and makes a showing that the requirements of this law have been complied with, then if said Board refuses to issue said permit, a suit may be instituted by such school or college in any of the District Courts of Travis County, Texas, to require said Board to issue such permit. Any such suit must be filed within twenty (20) days after the final order of said Board refusing to issue such permit is entered, provided registered notice is mailed or it is otherwise shown that said school or college has notice within ten (10) days from the entering or making of said order.

(l) In the event such school or college after a permit is issued to it violates any of the requirements of this law, either directly or indirectly, then said Board shall suspend or revoke the permit of any such school or college. Before suspending or revoking any such permit, said Board must give such school or college a hearing, notice of which hearing shall be delivered to such school or college at least twenty (20) days prior to the date of said hearing. If said Board suspends or revokes said permit at said hearing, then such school or college may file suit to prevent the same or to appeal from said order. Any and all suits filed hereunder shall be filed within twenty (20) days from the date of the order of said Board in any of the District Courts of Travis County, Texas, and not elsewhere, and the order shall not become effective until said twenty (20) days has expired.

(m) The Attorney General or any District or County Attorney may institute any injunction proceedings or such other proceeding as to enforce the provisions of this Act, and to enjoin any barber, assistant barber, or school or college from operating...
without having complied with the provisions hereof, and each shall forfeit to the State of Texas the sum of Twenty-five Dollars ($25) per day as a penalty for each day's violation, to be recovered in a suit by the District or County Attorney, and/or the Attorney General.

(n) Repealed by Acts 1975, 64th Leg., p. 2136, ch. 691, § 10, eff. Sept. 1, 1975.

Application for Examination; Examination Results; Reciprocity

Sec. 10. Each applicant for an examination shall
(a) Make application to the Board on blank forms prepared and furnished by the Board for an examination before the Board, which application shall be in such form and shall contain such matters as may be required by the Board, and shall be verified by the oath of said applicant:
(b) Each applicant shall at the time of the presentation of the application furnish to the Board photographs of such applicant, one to accompany the application and one to be returned to the applicant to be presented to the Board when applicant appears for examination.
(c) Each applicant shall at the time of the presentation of the application pay to the Board the fee required under this Act.
(d) Not later than the thirtieth day after the day on which a person completes an examination administered by the Board, the Board shall send to the person his examination results. If requested in writing by a person who fails the examination, the Board shall send to the person not later that the thirtieth day after the day on which the request is received by the Board an analysis of the person's performance on the examination.
(e) On a reciprocal basis with other states or countries, the Board may issue, without examination, a certificate, license, or permit to an applicant who has a corresponding certificate, license, or permit issued by another state or country having standards for the certificate, license, or permit that are at least substantially equivalent to those of this state and who pays the fee prescribed by this Act.

Conduct of Examinations

Sec. 11. (a) The Board shall conduct examination of applicants for certificates of registration to practice as Class A registered barbers and of applicants to enter barber schools to determine their educational fitness, not less than four times each year, or such times and places as the Board may determine and designate. The examination of applicants for certificates of registration as Class A registered barbers shall include both a practical demonstration and a written and oral test, and shall embrace the subjects usually taught in schools of barbering approved by the Board.
(b) No examination shall be held at a barber school, college, or shop owned, managed, or operated by a member of the State Board of Barber Examiners.

Certificates to Successful Applicants

Sec. 12. Whenever the provisions of this Act have been complied with, the Board shall issue to any applicant a certificate of registration as Class A registered barber, where such applicant shall have passed a satisfactory examination making an average grade of not less than seventy-five per cent, and who shall possess the other qualifications required by this Act.

Permit to Practice as Journeyman Barber

Sec. 13. Any person who is at least sixteen and one-half years of age, and who has a diploma showing graduation from a seven-grade grammar school, or its equivalent as determined by an examination conducted by the Board, and either
(a) Has a license or certificate of registration as a practicing barber from another State or country, which has substantially the same requirements for licensing or registering barbers as required by this Act, or
(b) Who can prove by personal affidavit that he has practiced as a barber in another State for at least two years immediately prior to making application in this State, and who possesses the qualifications required by this Act, shall, upon payment of the required fee, be issued a permit to practice as a journeyman barber only until he is called by the Board of Barber Examiners to determine his fitness to receive a certificate of registration to practice barbering. Should such applicant fail to pass the required examination he shall be allowed to practice as a journeyman barber until he is called by the Board for the next term of examination. Should he fail at the examination he must cease to practice barbering in this State.

Assistant Barbers; Barbers' Technicians

Sec. 14. (a) Any assistant barber who is at least sixteen and one-half years of age and who has a diploma showing graduation from a seventh grade grammar school, or an equivalent education as determined by an examination conducted by the Board, and who has a certificate of registration as an assistant barber in a State or country which has substantially the same requirements for registration as an assistant barber as is provided for by this Act, shall, upon payment of the required fee be issued a permit to work as an assistant barber until called by the Board of Examiners for examination to determine his fitness to receive a certificate of registration as an assistant barber. Should such person be able to pass the required examination, he will be issued a certificate of registration as a registered assistant barber, and that the time spent in such other State or country as an assistant barber shall be credited upon the period of assistant barber required by this Act as a qualification to take the examination to determine his fitness to
receive a certificate of registration as a registered barber.

(b) Any person who has spent at least 30 working days at a licensed barber school or college as a barber's technician including the study of shampooing, shampoos, manipulations, making appointments, preparing patrons, sterilizing tools, and the study of sterilization and the barber laws may be licensed to practice as a barber's technician. Any licensed barber's technician may assist the barber in shampooing and sterilizing in a barber shop and shall work under the personal supervision of a registered Class A barber.

Manicurist License

Sec. 15. (a) A person holding a manicurist license issued by the board may perform for compensation only the practice of barbering defined in Section 4(b)(6) and Section 4(b)(7) of this Act.

(b) An applicant for a manicurist license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 150 hours instruction in manicuring.

(c) The application shall be made on a form prescribed by the board and a $5 manicurist administration fee must accompany the application. The application and fee shall be filed at least 10 days prior to the date set for the examination.

(d) The applicant is entitled to a manicurist license if such applicant possesses the qualifications enumerated in Section 16(b), satisfactorily completes the examination, pays a license fee not to exceed $30, and has not committed an act which constitutes grounds for denial of a license under this Act.

Wig Specialist License

Sec. 16. (a) A person holding a wig specialist license issued by the board may perform for compensation only the practice of barbering defined in Section 4(b)(11) of this Act.

(b) An applicant for a wig specialist license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 300 hours of instruction in the care and treatment of wigs.

(c) The application shall be made on a form prescribed by the commission and a $5 administration fee must accompany the application. The application and fee must be filed at least 10 days prior to the date set for the examination.

(d) The applicant is entitled to a wig specialist license if he possesses the qualifications enumerated in Section 15(b), satisfactorily completes the examination, pays a license fee not to exceed $30, and has not committed an act which constitutes grounds for revocation of a license under this Act.

(e) Any person who at the time this Act takes effect holds a cosmetology license or manicurist license issued by the cosmetology commission may make application for and upon paying the fee be granted a manicurist license by the barber board without examination.

Wig Instructor License

Sec. 17. (a) A person holding a wig instructor license issued by the board may perform for compensation the practice of barbering as defined in Section 4(b)(11) of this Act and may instruct a person in such practice.

(b) An applicant for a wig instructor license must have a valid wig specialist license and have completed 200 hours of instruction in advanced wig courses and methods of teaching.

(c) The application shall be made on a form prescribed by the board and a $5 administration fee must accompany the application. The application and fee must be filed at least 10 days prior to the date set for the examination.

(d) The applicant is entitled to a wig instructor license if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a license fee not to exceed $70, and has not committed any act constituting grounds for revocation of a license under this Act.

Wig Salon License

Sec. 18. (a) A person holding a wig salon license issued by the board may maintain an establishment in which only the practice of barbering as defined in Section 4(b)(11) of this Act is performed for compensation.

(b) An applicant for a wig salon license shall submit an application on a form prescribed by the board. The application shall contain proof of the particular requisites for a wig salon as established by the board and shall be verified by the applicant.

(c) The applicant is entitled to a wig salon license if the application shows compliance with the rules and regulations of the board, a license fee not to exceed $50 is paid, and such applicant has not committed an act which constitutes grounds for revocation of a license under this Act.

Wig School License

Sec. 18.1. (a) A person holding a wig school license issued by the board may maintain an establishment in which only the practice of barbering as defined in Section 4(b)(11) of this Act is taught for compensation.

(b) An applicant for a wig school license shall submit an application on a form prescribed by the board. The application shall contain proof of the particular requisites for a wig school as established by the board and shall be verified by the applicant.
(c) The applicant is entitled to a wig school license if the application shows compliance with the rules and regulations of the board, a $100 license fee is paid, and applicant has not committed an act which constitutes grounds for revocation of a license under this Act.

Display of Certificate

Sec. 19. Every holder of a certificate of registration shall display it in a conspicuous place adjacent to or near his work-chair in the shop in which he is working or employed.

Renewal of Certificates; Restoration of Expired Certificates; Fees

Sec. 20. (a) Every registered Class A barber and barber technician who continues in active practice or service shall renew his certificate of registration on or before November 1 of odd-numbered years. The Board of Barber Examiners shall issue the renewal certificate upon payment of a biennial renewal fee not to exceed $70. Every certificate of registration which has not been renewed prior to that date shall expire on November 1 of that year.

(b) A Class A registered barber, whose certificate of registration has expired, may, within 30 days thereafter, and not later, have his certificate of registration restored upon making a satisfactory showing to the Board, supported by his personal affidavit, which in the opinion of the Board, will excuse the applicant for having failed to renew his certificate within the time required by this Act.

(c) Any registered barber who retires from the practice of barbering for not more than five (5) years may renew his certificate of registration by making proper showing to the Board, supported by his personal affidavit, which, in the opinion of the Board, would justify the Board in issuing a certificate to such applicant as upon an original application upon payment of a fee not to exceed $70 if the applicant applies during the period from November 1 of an odd-numbered year and extending through October 31 of the following even-numbered year not to exceed $85 if the applicant applies during the period from November 1 of an even-numbered year and extending through October 31 of the following odd-numbered year.

(d) Any registered barber who retires from the practice of barbering for more than five (5) years may renew his certificate of registration by making application to the Board and by making proper showing to the Board, supported by his personal affidavit, and by paying an examination fee not to exceed $70, passing a satisfactory examination conducted by the Board, and paying a license fee not to exceed $50 if the applicant fulfills the requirements during the period from November 1 of an odd-numbered year and extending through October 31 of the following even-numbered year or not to exceed $25 if the applicant fulfills the requirements during the period from November 1 of an even-numbered year and extending through October 31 of the following odd-numbered year.

Renewal While in Armed Forces; Fee

Sec. 20a. Any registered barber, registered assistant barber or barber technician shall not be required to renew his certificate of registration while serving on active duty in the military, air or naval forces of the United States, and the Board shall issue a renewal certificate upon application and payment of a renewal fee within ninety (90) days from the date such registered barber, registered assistant barber, or barber technician is released or discharged from active duty in the armed forces. The renewal fee shall be:

(1) Ten Dollars ($10) if the application and payment is made during the period from November 1 of an odd-numbered year and extending through October 31 of the following even-numbered year;

(2) Five Dollars ($5) if the application and payment is made during the period from November 1 of an even-numbered year and extending through October 31 of the following odd-numbered year.

Expiration Dates of Certificates; Proration of Fees

Sec. 20b. The board by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the expiration date is changed, certificate renewal fees payable on November 1 shall be prorated on a monthly basis so that each certificate holder shall pay only that portion of the certificate renewal fee which is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

Refusal, Suspension or Revocation of Certificates; Grounds

Sec. 21. The board shall either refuse to issue or to renew, or shall suspend or revoke any certificate of registration for any one of, or a combination of the following causes:

(A) Gross malpractice;

(B) Continued practice by a person knowingly having an infectious or contagious disease;

(C) Advertising by means of knowingly making false or deceptive statements;

(D) Advertising, practicing, or attempting to practice under another's trade name or another's name;

(E) Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs;

(F) The commission of any of the offenses described in Section 24 of this Act;

(G) No certificate shall be issued or renewed, unless and until each applicant shall present a health certificate from a regular practicing medical doctor showing that the applicant is free from any
kind of infectious or contagious diseases, tuberculosis, communicable diseases, and free from the use of any kind of morphine, cocaine, or other habit-forming drug, or a habitual drunkard and that said applicant shall make affidavit to said medical examiner that all of the said facts are true.

Violation or Noncompliance with Requirement, Hearing; Denial, Revocation or Refusal to Renew Certificate; Appeal

Sec. 22. (a) If a barber inspector believes that any of the grounds specified in Section 21 exist, or that the holder of a certificate or permit has failed to comply with any of the requirements of this Act, he shall notify the holder of the certificate or permit of that fact and summons him to appear for hearing as provided in this section. The hearing shall be had not less than twenty (20) days after notification in writing to the holder of the certificate or permit, specifying the violation or noncompliance alleged. For the purpose of hearing such cases concurrent jurisdiction is vested in the county court of the county where the holder of the certificate or permit resides and in the county court of the county where the violation allegedly occurred. The court may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relative books and papers. The holder of the certificate or permit shall have the right to be represented by counsel. At the hearing, the board shall be represented by the attorney general, district attorney or county attorney. At such a hearing the issue to be determined is whether any grounds exist under Section 21 for denial, refusal to renew, suspension, or revocation of the certificate or permit. The judge who presides at the hearing shall report his finding to the board, which may, if the finding warrants, deny, suspend, revoke, or refuse to renew the certificate or permit.

(b) If, after due notice and hearing, the board denies, revokes, or refuses to renew any certificate, license, or permit, the holder thereof shall have the right to appeal from the order of the board. Any appeals filed hereunder shall be filed within twenty (20) days from the date of the order of the board in a district court of the county where the person filing such appeal has his residence, or in any of the district courts of Travis County, Texas. In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or decision. Un-
The governor shall appoint two Class A barbers to fill the offices of the incumbent members whose terms expire on May 19, 1985.

The wilful making of any false statement as to a material matter in any oath or affidavit which is required by the provisions of this Act to be made is false swearing and punishable as such under the laws of this State.

State Board of Barber Examiners: Appointment; Qualifications; Term; Removal; Vacancy

Sec. 26. (a) The State Board of Barber Examiners is hereby created and shall consist of six members appointed by the governor with the advice and consent of the senate. The board shall be composed of the following: two members shall be Class A barbers actually and actively engaged in the practice of barbering for at least five years prior to being appointed and while serving as members of the board and who are not holders of a barber shop permit issued by the board; one member shall be a barber shop owner holding a permit issued by the board and who is actually and actually engaged in the practice of barbering for at least five years prior to being appointed and while serving as a member of the board; one member shall be a person holding a permit from the board to conduct or operate a barber school or college; and two members shall be representatives of the general public who are not regulated under this Act and who do not have, other than as consumers, any financial interests in barbering. The terms of office shall be for six years with terms for two of the six board members expiring at the same time every two years. All members appointed by the governor to fill vacancies in the board caused by death, resignation, or removal shall serve during the unexpired term of such member's predecessor. Before entering upon the duties of office, each member of the board shall take the constitutional oath of office and file it with the secretary of state. Members of the board may be removed from office for cause in the manner provided by the statutes of this state for public officials who are not subject to impeachment. In case of death, resignation, or removal, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

(b) A person holding office as a member of the State Board of Barber Examiners on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

(c) The governor shall appoint two public members to fill the offices of the two incumbent members whose terms expire on May 19, 1981. The governor shall appoint a barber shop owner and a barber school owner to fill the offices of the incumbent members whose terms expire on May 19, 1983. The governor shall appoint two Class A barbers to fill the offices of the two incumbent members whose terms expire on May 19, 1985.


(e) Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(f) Each member of the board shall be present for at least one-half of the regularly scheduled board meetings held each year. Failure of a board member to meet this requirement automatically removes the member from the board and creates a vacancy on the board.

Application of Sunset Act

Sec. 26a. The State Board of Barber Examiners is subject to the Texas Sunset Act 1 and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1991.

1 Article 5429k.
The secretary shall give a surety bond, payable to the State of Texas in the sum of Five Thousand Dollars ($5,000), conditioned for the faithful performance of his duties as secretary, to be approved by the Board and filed with the State Comptroller. A majority of the Board in meetings duly assembled may perform and exercise all the duties and powers devolving upon the Board.

The compensation of the members of the Board shall be a per diem as set by the General Appropriations Act, and in addition to the per diem provided for herein, they shall be entitled to traveling expenses in accordance with the appropriate provisions of the General Appropriations Act. Each Board member shall make out, under oath, a complete itemized statement of the number of days engaged and the amount of his expenses when presenting same for payment.

Inspectors; Sale of Supplies or Engaging in Other Business

Sec. 27a. (a) No barber inspector or other employee of the State Board of Barber Examiners may sell barber supplies or engage in any other business which deals directly with barbers, barber shops, or barber schools except that he may engage in the practice of barbering.

(b) Violation of this section is a misdemeanor, and upon conviction is punishable by a fine of not more than $5,000, or by confinement in the county jail for not more than two years, or both.

Rules and Regulations; Violations

Sec. 28. (a) The State Board of Health shall make, establish and promulgate reasonable sanitary rules and regulations for the conduct of barber shops and barber schools. The State Board of Barber Examiners, by and through the Health Department of the State of Texas, shall have authority, and it is made its duty to enter upon the premises of all barber shops, barber schools or any place where any of its licensees are practicing or performing any service, act or treatment by authority of any license issued by the board and inspect same at any time during business hours. A copy of such sanitary rules and regulations adopted by the Board of Health shall be furnished to the Secretary of the State Board of Barber Examiners who shall in turn forward to each barber, barber school or licensee of the board a copy of such rules and regulations. A copy of the sanitary rules and regulations promulgated and adopted by the State Board of Health shall be posted in barber shops and barber schools in this State. Subject only to the authority of the State Board of Health to make and promulgate reasonable rules and regulations as to sanitation, the State Board of Barber Examiners shall have full authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for all persons licensed or practicing under the provisions of this Act, and to regulate the practice and teaching of barbering in all of its particulars in keeping with the purposes and intent of this Act or to insure strict compliance with and enforcement of this Act.

(b) If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

(c) The violation by any licensee, permittee, or certificate holder of the board of any provisions of this Act or any rule, regulation, or order of the board shall be sufficient reason or ground to cancel, suspend, or revoke any license, certificate, permit, or authority issued under this Act. In addition to any other action, proceeding, or remedy authorized by law, the board shall have the authority to institute any action in its own name to enjoin any violation of any provision of this Act or rule or regulation of the board, and, in order for the board to sustain such action, it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. Either party to such action may appeal to the appellate court having jurisdiction of such cause. The board shall not be required to give any appeal bond in any cause arising under this Act. The attorney general shall represent the board in all actions and proceedings to enforce the provisions of this Act.

Records of Board

Sec. 29. The Board shall keep a record of its proceedings relating to the issuance, refusal, renewal, suspension, and revocation of certificates of registration. This record shall also contain the name, place of business, and residence of each registered barber and registered assistant barber, and the date and number of his certificate of registration. This record shall be open to public inspection at all reasonable times.

Information About Complaints

Sec. 29A. (a) The State Board of Barber Examiners shall keep an information file about each complaint filed with the board relating to licensees under this Act.

(b) If a written complaint is filed with the State Board of Barber Examiners relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.
Restrictions on Board Members and Employees
Sec. 29B. (a) An employee of the State Board of Barber Examiners whose duties include the administration of the board's functions under this Act may not:
(1) have, other than as a consumer, a financial interest in barbering;
(2) be an officer, employee, or paid consultant of a trade association in the barbering industry; or
(3) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry.
(b) A member of the State Board of Barber Examiners may not be:
(1) an officer, employee, or paid consultant of a trade association in the barbering industry;
(2) related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry;
(3) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry; or
(4) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the barbering industry.
(c) An employee who violates this section is subject to dismissal. A board member who violates this section is subject to removal.

Open Meetings Law and Administrative Procedure and Texas Register Act Applicable
Sec. 29C. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Lobbying by General Counsel or Board Member Prohibited
Sec. 29D. A general counsel employed by the board or a member of the board may not lobby for the board and may not engage in conduct for which the person is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes).

Partial Invalidity
Sec. 30. If any section, sub-section, sentence, clause, or phrase of this Act for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Art. 8451a. Cosmetology Regulatory Act

Definitions
Sec. 1. As used in this Act:
(1) "Person" means any individual, association, firm, corporation, partnership, or organization.
(2) "Commission" means the Texas Cosmetology Commission.
(3) "Cosmetology" means the performing or doing, or offering or attempting to do or perform for compensation, any of the following acts, services, works, treatments, or undertakings:
(A) arranging, beautifying, bleaching, tinting, cleansing, coloring, dressing, dyeing, processing, shampooing, shaping, singeing, straightening, styling, waving, or otherwise treating the hair as primary services, treatments, or undertakings by any means or method, including any bobbing, clipping, cutting, or trimming of the hair as a necessary incident preparatory or ancillary to such primary services; cutting the hair as a primary service, treatment, or undertaking and not as a necessary incident preparatory or ancillary to those primary services enumerated in this subdivision, or primarily engaged in the occupation of cutting hair or practicing primarily as a haircutter by cutting hair as a separate and independent service, treatment, or undertaking for which haircut a charge is made, separate and apart from any other service, treatment, or undertaking, directly or indirectly, or in any manner;
(B) cleansing, stimulating, or massaging the scalp, face, neck, or arms by means of the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; beautifying the face, neck, or arms by use of cosmetic preparations, antiseptics, tonics, lotions, powders, oils, clays, creams, or appliances;
(C) removing superfluous hair from the body by the use of depilatories or mechanical tweezers;
(D) cutting, trimming, polishing, tinting, coloring, cleansing, or maneuvering the nails of any person; or attaching false nails or massaging, cleansing, treating, or beautifying the hands or feet of any person;
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(E) servicing a wig or artificial hairpiece either on a human head or on a block subsequent to the initial retail sale and servicing by any of the practices enumerated in Paragraph (A) of this subdivision;

(F) administering facial treatments;

(G) hair weaving; or

(H) shampooing and conditioning hair.

(4) "Public school" includes a public high school, public junior college, or any other nonprofit tax-exempt institution conducting a cosmetology program.

Texas Cosmetology Commission

Sec. 2. (a) The Texas Cosmetology Commission is created. The commission shall be composed of one member holding a valid beauty shop license who has no direct or indirect affiliation with or interest, financial or otherwise, in a private beauty culture school; one member holding a valid private beauty culture school license who has no direct or indirect affiliation with or interest, financial or otherwise, in a beauty shop; two members holding valid operator licenses who have no direct or indirect affiliation with or interest, financial or otherwise, in a private beauty culture school or beauty shop; and two members of the general public who are not licensees under this Act and who have no direct or indirect affiliation with or interest, financial or otherwise, in any facet of the beauty industry. The associate commissioner for occupational education and technology of the Central Education Agency or his authorized representative shall as part of his duties serve as an ex officio member of the commission with voting privileges. Members shall be appointed without consideration of race, color, religion, sex, or national origin.

(b) To qualify as a member, a person must be a citizen of the United States and a resident of Texas at least 25 years of age, must be actively engaged in the area that the person represents for a period of five years immediately preceding appointment.

(c) The members of the commission shall be appointed by the governor with the advice and consent of the senate. Members of the commission hold office for staggered terms of six years, with two members' terms expiring on December 31 of each odd-numbered year. No person may serve more than two consecutive terms.

(d) Each appointee to the commission shall qualify by taking the constitutional oath of office within 15 days from the date of his appointment. On presentation of the oath, the secretary of state shall issue commissions to appointees as evidence of their authority to act as members of the commission.

(e) Each member of the commission shall be present for at least one-half of the regularly scheduled commission meetings held each year. Failure of a commission member to meet this requirement automatically removes the member from the commission and creates a vacancy on the commission.

(f) In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

(g) The Texas Cosmetology Commission is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by the Act, the commission is abolished and this Act expires effective September 1, 1991.

(h) The commission is subject to the open meetings law, Chapter 257, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-13, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Commission Organization and Meetings

Sec. 3. (a) The commission shall elect from its members for a term of two years a chairman and may appoint committees that it considers necessary to carry out its duties.

(b) The commission shall meet at least once each year. The commission may meet at other times at the call of the chairman or as provided by commission rule.

(c) The quorum for any meeting of the commission is four members. No action by the commission or its members has any effect unless a quorum is present.

Powers and Duties of the Commission

Sec. 4. (a) The commission may issue rules consistent with this Act after a public hearing in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). If the appropriate standing committees of both houses of the legislature acting under Section 5(g), Administrative Procedure and Texas Register Act, transmit to the commission statements opposing adoption of a rule under that section, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the commission receives the committees' statements.

(b) The commission shall prescribe the minimum curricula of the subjects and hours of each to be taught by beauty culture schools.

(c) The commission may adopt rules governing continuing education programs for licensees.

(d) The commission shall establish sanitation rules designed to prevent the spread of infectious or contagious diseases.
Compensation

Sec. 5. (a) Members of the commission are entitled to receive $25 a day and reimbursement for actual travel expenses incurred in performing the duties of their office. Per diem compensation may not exceed 30 days in any fiscal year for each member.

(b) The compensation of other employees of the commission is as set by the General Appropriations Act.

Executive Director: Staff

Sec. 6. (a) The commission may employ an executive director who is the executive head of the commission and performs its administrative duties.

(b) The executive director may employ staff members necessary for administering the functions of the commission. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not act as the general counsel to the commission or serve as a member of the commission.

(c) The commission may employ directors at its discretion.

Conflict of Interest

Sec. 7. (a) An employee of the commission whose duties include the administration of the commission's functions under this Act may not:

(1) have, other than as a consumer, a financial interest in the cosmetology industry;

(2) be an officer, employee, or paid consultant of a trade association in the cosmetology industry; or

(3) be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the cosmetology industry.

(b) A member of the commission may not be:

(1) an officer, employee, or paid consultant of a trade association in the cosmetology industry; or

(2) related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the cosmetology industry.

(c) An employee who violates this section is subject to dismissal. A member who violates this section is subject to removal.

Disposition of Funds

Sec. 8. (a) The executive director shall remit, on or before the 10th day of each month, to the state treasurer all fees collected under this Act during the preceding month for deposit in the General Revenue Fund.

(b) On August 31 of each year, the commission shall file with the comptroller its annual report in a form required by the comptroller.

(c) Funds for the administration of this Act are to be provided by the General Appropriations Act.

Prohibited Acts

Sec. 9. (a) A person may not perform or attempt to perform any practice of cosmetology without first obtaining a license or certificate to perform that practice.

(b) A person may not conduct or operate a beauty shop, beauty culture school, specialty shop, or any other place of business in which the practice of cosmetology is taught or practiced without first obtaining a license.

(c) A person may not instruct in the art of cosmetology unless he holds an instructor license from this state and the instruction is done in a private beauty culture school or public school cosmetology program.

Operator License

Sec. 10. (a) A person holding an operator license may perform any practice of cosmetology defined in Subdivision (3), Section 1, of this Act.

(b) An applicant for an operator license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 1,500 hours of instruction in a licensed beauty culture school or 1,000 hours of instruction in beauty culture courses and 500 hours of related high school courses prescribed by the commission in a public school vocational program.

(c) The application must be made on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to an operator license if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a $25 license fee, and has not committed an act that constitutes a ground for denial of a license.

Manicurist License

Sec. 11. (a) A person holding a manicurist license may perform only the practice of cosmetology defined in Paragraph (D), Subdivision (3), Section 1 of this Act.

(b) An applicant for a manicurist license must be at least 16 years of age, have completed the seventh grade or its equivalent, and have completed 150 hours of instruction in manicuring.

(c) The application must be made on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to a manicurist license if he possesses the qualifications enumerated in Subsection (b) of this section, satisfactorily com-
pletes the examination, pays a $25 license fee, and has not committed an act that constitutes a ground for denial of a license.

Instructor License

Sec. 12. (a) A person holding an instructor license may perform any practice of cosmetology and may instruct a person in any practice of cosmetology as defined by this Act.

(b) An applicant for an instructor license must be at least 18 years of age, have completed the 12th grade or its equivalent, have a valid operator license, and have completed a six-month course consisting of 750 hours of instruction in cosmetology courses and methods of teaching in a licensed beauty culture school or in a vocational training program of a publicly financed postsecondary institution or at least three years of verifiable experience as an operator under a license from the Texas Cosmetology Commission.

(c) The application must be on a form prescribed by the commission and must be filed at least 10 days before the date set for the examination.

(d) The applicant is entitled to an instructor license if he possesses qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a $50 license fee, and has not committed an act that constitutes a ground for denial of a license.

Specialty Certificate

Sec. 13. (a) A person holding a specialty certificate may perform only the practice of cosmetology as defined in Paragraph (E), (F), (G), or (H) of Subdivision (3) of Section 1 of this Act.

(b) An applicant for a specialty certificate must be at least 16 years of age, have completed the seventh grade or its equivalent, and have the necessary requisites as determined by the commission in the particular specialty in which certification is sought.

(c) The application must be on a form prescribed by the commission and must be filed at least 10 days before the date set for examination.

(d) The applicant is entitled to a specialty certificate if he possesses qualifications enumerated in Subsection (b) of this section, satisfactorily completes the examination, pays a $25 certificate fee, and has not committed an act that constitutes a ground for denial of a certificate.

(e) Subsection (a) of this section does not apply to an individual who has an instructor license or operator license issued by the commission.

Grandfather Clause

Sec. 14. (a) On the effective date of this Act any person holding a specialty license issued by the commission may, before the expiration date of that license, receive an equivalent certificate by complying with the following guidelines:

1. sending the renewal portion of the specialty license to the commission along with a valid health certificate; and
2. paying a $25 certification fee.

(b) On the effective date of this Act, any person holding a wig instructor or wig school license may continue to renew that license indefinitely by paying a $50 or $65 fee, respectively, every two years.

Temporary License

Sec. 15. (a) A person holding a temporary license may perform any practice of cosmetology for which he holds a valid license in another state or nation.

(b) A temporary license shall be issued on submission of an application form prescribed by the commission and payment of a $25 temporary license fee if the applicant meets the requirements of Subsection (a) of this section.

(c) A temporary license expires on the 60th day after the date of issue and may not be renewed.

(d) A person is not required to hold a temporary license to engage in the practice of cosmetology for educational or demonstration purposes at seminars, trade shows, or conventions.

Duplicate License or Certificate

Sec. 16. (a) A duplicate license or certificate shall be issued upon application on a form prescribed by the commission and on the payment of a $10 fee.

(b) A transcript shall be given to licensees under this Act upon application on a form prescribed by the commission and payment of a $5 fee.

Reciprocal Certificates or Licenses

Sec. 17. (a) Any person who holds a valid license or certificate from another state or nation that has substantially equivalent standards or work experience may apply for a license or certificate to perform the same practice in this state.

(b) The applicant shall submit an application on a form prescribed by the commission and pay a $75 fee.

(c) A license or certificate granted under this section allows the holder to engage in the practice of cosmetology stated on the front of the license or certificate. The holder of this license or certificate is subject to the renewal procedures and fees provided in this Act for the practice of cosmetology for which he is licensed.

Student Permits

Sec. 18. (a) Any student enrolled in a school of cosmetology in this state shall be required to have a permit stating the student’s name and the name of the school he is attending. The permit shall be displayed in a reasonable manner at the school.
(b) A student permit shall be issued on submission of an application form prescribed by the commission and payment of a $10 fee which must accompany the application.

(c) The cost of the permit shall also include one examination fee and a transcript fee and may not be refunded.

**Beauty Shop License**

Sec. 19. (a) A person holding a beauty shop license may maintain an establishment in which any practice of cosmetology is performed.

(b) An applicant for a beauty shop license must submit an application on a form prescribed by the commission. The application must contain proof of the particular requisites for a beauty shop as established by the commission and must be verified by the applicant.

(c) The applicant is entitled to a beauty shop license if the application shows compliance with the rules of the commission, a $35 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) In order that the public may fix responsibility for services, acts, or treatments performed by persons licensed by the State Board of Barber Examiners vis-a-vis those performed by persons licensed by the Texas Cosmetology Commission, to promote the efficient and orderly administration of laws regulating barbers and the practice of barbering and the laws regulating cosmetologists and the practice of cosmetology, and to avoid confusion of the public as well as avoiding conflicts of jurisdiction between such board and commission which might impede effective administration or enforcement of the laws under their respective jurisdictions, from and after January 31, 1980:

(1) a person licensed by the barber board may practice barbering only at a location for which the board has issued a barber shop permit, barber school or college permit, or any other permit. If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the board may not adopt rules restricting or prohibiting the practice by a Class A barber in the facility; and

(2) a person licensed by the cosmetology commission may practice cosmetology only at a location for which the commission has issued a beauty shop license, private beauty culture school license, or any other license. If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the commission may not adopt rules restricting or prohibiting the practice by a cosmetologist in the facility.

(e) If the State Board of Barber Examiners and the Texas Cosmetology Commission license the same facility, the agencies may not adopt rules requiring:

(1) that the work areas of barbers and cosmetologists practicing in the facility be separated;

(2) that the waiting areas for customers of the barbers and cosmetologists practicing in the facility be separated;

(3) that the facility have separate restrooms for the barbers or cosmetologists practicing in the facility or for the customers of the barbers and cosmetologists;

(4) that the barbers and cosmetologists practicing in the facility or the customers of the barbers and cosmetologists be treated separately from each other in any similar manner.

**Specialty Shop License**

Sec. 20. (a) A person holding a specialty shop license may maintain an establishment in which only the practice of cosmetology as defined in Paragraph (d), (e), (f), or (g) of Subdivision (3) of Section 1 of this Act is performed.

(b) An applicant for a specialty shop license must submit an application on a form prescribed by the commission. The application must contain proof of the particular requisites for a specialty shop as established by the commission and must be verified by the applicant.

(c) The applicant is entitled to a specialty shop license if the application shows compliance with the rules and regulations of the commission, a $35 license fee is paid, and he has not committed an act that constitutes a ground for denial of a license.

(d) Subsection (b) of this section does not apply to a shop operated under a beauty shop license issued by the commission.

**Private Beauty Culture School License**

Sec. 21. (a) A person holding a private beauty culture school license may maintain an establishment in which any practice of cosmetology is taught.

(b) An applicant for a private beauty culture school license must submit an application on a form prescribed by the commission. Each application must be verified by the applicant and must contain:

(1) a detailed floor plan of the school building divided into three separate areas, one for instruction in theory, one for practice work of senior students, and one for practice work of juniors; and

(2) a statement that the building is fireproof and of permanent type construction, contains a minimum of 3,500 square feet of floor space, with separate restrooms for male and female students, and contains or will contain before classes commence the equipment established by rule of the commission as sufficient to properly instruct a minimum of 50 students.

(c) Each applicant shall furnish a good and sufficient surety bond payable to the State of Texas in the amount of $5,000. The bond must be condi-
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tioned to refund any unused portion of the tuition paid if the school closes or ceases operation before the courses of instruction have been completed.

(d) A student is entitled to a pro rata refund of tuition if the student becomes physically unable to complete the courses of instruction.

(e) Each application must be accompanied by payment of a $500 license fee.

(f) The facilities of each applicant shall be inspected. The applicant is entitled to a private beauty culture school license if the inspection shows that this Act and the rules of the commission have been met and the applicant has not committed an act that constitutes a ground for denial of a license.

Private Beauty Culture Schools

Sec. 22. A private beauty culture school shall:

(1) maintain a sanitary establishment;

(2) maintain on its staff and on duty during business hours not less than two full-time instructors licensed under this Act, except that one instructor will be sufficient whenever the student enrollment drops below 15;

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

(4) establish regular class and instruction hours and grades, and hold examinations before issuing diplomas;

(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 four weeks and not less than 150 hours instruction for a complete course in manicuring;

(7) require no student to work or be instructed or receive credit for more than eight hours of instruction in any one day or for more than six days in any one calendar week;

(8) maintain a copy of its curriculum in a conspicuous place and verify that this curriculum is being followed as to subject matter being taught; and

(9) submit to the executive director the name of each student within 10 days after enrollment in the school and notify the executive director of the withdrawal or graduation of a student within 10 days of the withdrawal or graduation.

Transfer of Hours of Instruction

Sec. 23. Any student of a private beauty culture school or a vocational cosmetology program in a public school may transfer completed hours of instruction to a private beauty culture school or vocational cosmetology program in a public school in this state. A transcript showing the number and courses of completed hours certified by the school in which the instruction was given must be submitted to the executive director. On evaluation and approval, the executive director shall certify in writing to the student and to the school to which the student desires a transfer that the stated hours and courses have been successfully completed and that the student is not required to repeat the instructions.

Student Work on Patrons

Sec. 24. (a) No school may receive compensation for work done by any student who has not completed 10 percent of the required number of hours for a license as provided by this Act.

(b) Each school shall maintain in a conspicuous place a list of the names and identifying pictures of the students who are enrolled in cosmetology courses.

(c) Any school violating this section is subject to revocation or suspension of its license.

Private Beauty Culture Schools and Beauty Shops

Sec. 25. Private beauty culture schools, beauty shops, or specialty shops may not be conducted in the same quarters or on the same premises unless they are separated by walls of permanent construction with no openings in them.

Employment of Licensees

Sec. 26. (a) A beauty culture school may not employ a person holding an operator, manicurist, or specialty certificate solely to perform the practices of cosmetology for which the person is licensed or employ a person holding an instructor license to perform any acts or practices of cosmetology.

(b) A licensee may not operate a beauty salon unless it is at all times under the direct supervision of a person holding an operator license or instructor license. A licensee or certificate holder may not operate a specialty shop unless it is at all times under the direct supervision of an operator, instructor, or specialty certificate holder.

(c) A person holding a beauty shop or specialty shop license may not employ a person as an operator or specialist who has not first obtained a license or certificate under this Act or who has not first obtained a license or certificate under the law regulating barbers.

Display of License

Sec. 27. Every holder of a license or certificate issued under this Act shall display the license or certificate in his place of business or employment.

Consumer Information

Sec. 28. There shall at all times be prominently displayed in each shop and salon regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals licensed under this Act and which shall contain a statement informing consumers that com-
plaints against licensees can be directed to the regulatory board.

Right of Access

Sec. 29. The commission, an inspector, or any duly authorized representative of the commission may enter the premises of any licensee at any time during normal business hours and in such manner as not to interfere with the conduct or operation of the business or school to determine whether or not the licensee is in compliance with this Act and the rules of the commission.

Examinations

Sec. 30. Examinations shall be conducted beginning the first of each month unless it is a legal holiday, in which case the examination shall begin on the following day. The site of the examinations shall be announced at least six months prior to the administration date. Examinations may not be conducted in the schools of commission members. Not later than the 30th day after the day on which a person completes an examination administered by the commission, the commission shall send to the person his examination results. If requested in writing by a person who fails the examination, the commission shall send to the person not later than the 60th day after the day on which the request is received by the commission an analysis of the person's performance on the examination.

Health Certificate

Sec. 31. (a) Every applicant for an original or renewal operator, instructor license, reciprocal license, or specialty certificate must submit a certificate of health signed by a licensed physician, showing that the applicant is free from any contagious disease as determined by an examination that included a tuberculosis test.

(b) Any physician who signs a health certificate required by Subsection (a) of this section showing the applicant to be free from any contagious disease without having made the physical examination guilty of a misdemeanor, and on conviction may be fined not less than $50 or more than $200.

Infectious and Contagious Diseases

Sec. 32. (a) A person holding an operator, instructor, or specialty certificate may not perform any practice of cosmetology knowing that he is suffering from an infectious or contagious disease.

(b) A person holding a beauty or specialty shop license or a beauty culture school license may not employ any person to perform any practice of cosmetology knowing that the licensee is suffering from an infectious or contagious disease.

Renewal of Licenses and Certificates

Sec. 33. (a) Except as provided by Subsection (d) of this section, all licenses and certificates issued under this Act, except temporary and private beauty culture school licenses, expire two years from the date of issue.

(b) Applications for renewal of a specialty certificate must be accompanied by a current health certificate.

(c) A renewal license shall be issued on payment of the renewal fee as established by this Act.

(d) All licenses and certificates issued by the commission may be prorated for the number of months the license or certificate will be valid.

(e) A license that has been expired for less than five years may be renewed. A renewal license shall be issued on submission of a completed application form prescribed by the commission and payment of the renewal fee established by this Act for each year the license was expired, plus a $5 delinquency fee.

(f) An applicant for renewal of a license that has been expired for more than five years shall be issued a license on submission of an application, payment of the examination fee, satisfactory completion of the examination, and payment of a $25 reinstatement fee.

Renewal Fees

Sec. 34. Renewal fees. Renewal fees under this Act are:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>Operator or specialty license</td>
<td>$25;</td>
</tr>
<tr>
<td>Instructor license</td>
<td>$50;</td>
</tr>
<tr>
<td>Manicurist license</td>
<td>$25;</td>
</tr>
<tr>
<td>Private beauty school license</td>
<td>$200 per year; and</td>
</tr>
<tr>
<td>Beauty or specialty shop license</td>
<td>$35.</td>
</tr>
</tbody>
</table>

Violation

Sec. 35. (a) If an inspector discovers a violation of this Act or of a rule established by the commission, he shall give written notice of the violation on a form prescribed by the commission to the violator, and if the violation is not corrected in 10 days from the date of notice, the inspector shall file a complaint with the executive director.

(b) If a licensee commits three or more violations of a similar nature within any 12-month period, a suit for injunction and proceedings for suspension or revocation of the license shall be instituted.

Grounds for Denial, Suspension, or Revocation of a Permit

Sec. 36. A license or certificate may be denied, or after a hearing, suspended or revoked if the applicant or licensee has:

(1) Secured a license or certificate by fraud or deceit;

(2) Violated or conspired to violate this Act or a rule issued under this Act;
(3) knowingly made false or misleading statements in any advertising of the licensee's services; 
(4) advertised, practiced, or attempted to practice under the name or trade name of another licensee under this Act; or 
(5) engaged in gross malpractice in practicing cosmetology.

Application of the Administrative Procedure and Texas Register Act
Sec. 37. (a) A person whose application for a license, certificate, or permit is denied is entitled to a hearing before the commission in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), if the person submits to the commission a written request for a hearing.

(b) Proceedings for suspension or revocation of a license or certificate and appeals from these proceedings are governed by the Administrative Procedure and Texas Register Act, as amended.

Injunction
Sec. 38. The commission may sue in district court to enjoin or restrain a person from violating any section of this Act or the commission rules.

Exemptions
Sec. 39. The following are exempt from the provisions of this Act:
(1) service in the case of an emergency;
(2) persons licensed in this state to practice medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or nurses;
(3) a person engaged in the business of or receiving compensation for makeup applications only;
(4) a person who acts as a barber regulated by the law of this state if the person does not hold himself out as a cosmetologist;
(5) a person volunteering services or an employee performing regular duties at a licensed nursing or convalescent custodial or personal care home when recipients of the services are patients residing in the home; and
(6) a person who owns, operates, or manages a licensed nursing or convalescent custodial or personal care home which allows a person with an operator license to perform services for patients residing in the home on an occasional but not daily basis.

Penalties
Sec. 40. (a) Any person who violates this Act, except Section 31 of this Act, is guilty of a misdemeanor, and on conviction is punishable by a fine of not less than $25 nor more than $200.

(b) A licensee or certificate holder who violates this Act is guilty of a misdemeanor and on conviction is punishable under Subsection (a) of this section and is subject to the revocation or suspension of his license or certificate.

Complaints
Sec. 41. (a) The commission shall keep an information file about each complaint filed with the commission relating to a cosmetologist or cosmetology establishment.

(b) If a written complaint is filed with the commission relating to a cosmetologist or cosmetology establishment, the commission, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.

Complaints
Sec. 41. (a) The commission shall keep an information file about each complaint filed with the commission relating to a cosmetologist or cosmetology establishment.

(b) If a written complaint is filed with the commission relating to a cosmetologist or cosmetology establishment, the commission, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved.


Sections 2 and 3 of the 1979 amendatory act provided:

"Sec. 2. A person holding office as a member of the Texas Cosmetology Commission on the effective date of this Act continues to hold office for the term for which the member was originally appointed.

"Sec. 3. Any law, section, or provision relating to creation, powers, duties, or functions of the Texas Cosmetology Commission which is not hereby expressly reenacted is hereby repealed." Section 69 of Acts 1983, 68th Leg., p. 363, ch. 81, provides:

"The fees prescribed by this section for a student permit, an operator license, and a beauty or specialty shop license apply to an original or renewal license or permit issued on or after the effective date of this section."

CHAPTER THREE. BOXING, SPARRING, WRESTLING, ETC.


Art. 8501-1. Boxing and Wrestling Act

Short Title
Sec. 1. This Act may be cited as the Texas Boxing and Wrestling Act.

Purpose
Sec. 2. It is the legislature's intent to improve the general welfare and safety of the citizens of this state. The legislature finds that the boxing and wrestling industry in this state should be regulated in order to protect the best interest of both contestants and the public, and it is the responsibility of the state to provide for the protection of the contestants and the public through the imposition of certain regulations on the boxing and wrestling industry and to impose a gross receipts tax upon the
proceeds obtained from boxing and wrestling performances to finance said regulation. The legislature finds this to be the most economical and efficient means of dealing with this problem and serving the public interest. Accordingly, this Act shall be liberally construed and applied to promote its underlying policies and purposes.

Definitions

Sec. 3. Whenever used in this Act, unless the context otherwise requires, the following words and terms have the following meanings:

(a) “Commissioner” means the commissioner of the Texas Department of Labor and Standards or his designated representative.

(b) “Department” means the Texas Department of Labor and Standards.

(c) “Person” includes an individual, association, partnership, or corporation.

(d) “Professional boxer or wrestler” means a person to be licensed by the department who competes for a money prize, purse, or compensation in a boxing or wrestling contest, exhibition, or match held within the State of Texas.

(e) “Exhibition” means a demonstration of boxing or wrestling skills.

(f) “Boxing” as used in the Texas Boxing and Wrestling Act includes kickboxing, a form of boxing in which blows are delivered with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot.

(g) “Judge” means a person to be licensed by the department who is at ringside during a boxing or wrestling match and who has the responsibility of scoring the performance of the participants in the match.

(h) “Referee” means a person to be licensed by the department who has the general supervision of a boxing and wrestling match or exhibition and is present inside of the ring during the match or exhibition.

(i) “Promoter” means a person to be licensed by the department who arranges, advertises, or conducts a boxing or wrestling contest, match, or exhibition.

Enforcement Responsibility

Sec. 4. The department shall have the sole jurisdiction and authority to enforce the provisions of this Act, and the commissioner shall investigate any allegations of activity which may violate the provisions of this Act.

(a) The commissioner is authorized to enter at reasonable times and without advance notice any place of business or establishment where said alleged illegal activity may occur.

(b) The commissioner is authorized to promulgate rules and regulations and hold administrative hearings in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes). The commissioner shall promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act. The commissioner is authorized to promulgate rules and regulations governing professional kickboxing contests or exhibitions, which shall be fought on the basis of the best efforts of the contestants. The commissioner shall have the power and authority to revoke or suspend the license or permit of any judge, boxer, wrestler, manager, referee, timekeeper, second, or promoter for violations of any rule or regulation promulgated pursuant to this Act or for the violation of any provision of this Act, and he may deny an application for a license when the applicant does not possess the requisite qualifications.

(c) The commissioner shall have the power and authority to hold a hearing regarding allegations that any person has violated or failed to comply with the provisions of this Act. In addition to the denial, revocation, or suspension of a license, the commissioner may order the forfeiture of the purse of any boxer, wrestler, or manager in an amount not to exceed $1,000 for the violation of any rule or regulation promulgated pursuant to the Act or for the violation of any provision of this Act, and said money shall be deposited to the credit of the General Revenue Fund of the State of Texas.

(d) In the conduct of any administrative hearing held pursuant to this Act, the commissioner may administer oaths to witnesses, receive evidence, and issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of papers and documents related to matters under investigation. Administrative hearings shall be held in conformity with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes).

Judicial Review

Sec. 5. (a) Any party to the hearing aggrieved by the decision or order of the commissioner may secure judicial review thereof in the following manner:

(1) The petition must be filed in a district court of Travis County, Texas, within 30 days after the decision or order of the commissioner becomes final.

(2) The filing of a petition for review shall not itself stay the effect of the decision or order complained of, but the commissioner or the reviewing court may order a stay upon appropriate terms and if a stay is so granted no supersedeas bond shall be required.

(3) Service of process. The petition for review shall be served on the commissioner and upon all parties of record in any hearing before the commissioner in respect to the matter for which review is sought. After service of such petition upon the commissioner and within the time permitted for
The reviewing court may affirm the action of the jury in the same manner as civil actions generally, but no evidence shall be admissible which was not adduced at the hearing on the matter before the commissioner or officially noticed in record of such hearing.

The burden of proof shall be on the plaintiff. The reviewing court may affirm the action complained of or remand the matter to the commissioner for further proceedings.

Appeals from any final judgment may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the commissioner.

Penalties

Sec. 6. (a) A person who violates a provision of this Act or any rule or regulation of the department commits a Class A misdemeanor.

(b) Any person who violates any provision of this Act or the rules and regulations of the department may be assessed a civil penalty to be paid to the State of Texas in an amount not to exceed $1,000 for each such violation as the court may deem proper.

(c) Whenever it appears that any person has violated or is threatening to violate any of the provisions of this Act or of the rules and regulations of the department, either the attorney general or the department may cause a civil suit to be instituted either for injunctive relief to restrain such person from continuing the violation or threat of violation or for assessment and recovery of the civil penalty or for both. Venue for such suit shall be in the district courts of Travis County, Texas.

Amateur Athletic Events

Sec. 7. (a) The promoting, conducting, or maintaining of boxing and wrestling matches, contests, or exhibitions when conducted by educational institutions, Texas National Guard Units, or amateur athletic organizations duly recognized by the commissioner shall be exempt from the licensing and bonding provisions of this Act provided that none of the participants in such contests or exhibitions receive a money remuneration, purse, or prize for their performance or services therein.

(b) None of the licensing and bonding provisions of this Act shall apply to or be enforced against:

1. All nonprofit amateur athletic associations chartered under the laws of the State of Texas, including their affiliated membership clubs throughout the state which have been recognized by the commissioner;

2. Any contests, matches, or exhibitions between students of educational institutions which are conducted by a college, school, or university as part of the institution’s athletic program;

3. Contests, matches, or exhibitions between members of any troop, battery, company, or units of the Texas National Guard.

(c) When an admission fee is charged by any person conducting or sponsoring an amateur boxing and wrestling contest, match, or exhibition, except those amateur events exempted in Section 7(b) herein, the gross receipts tax hereinafter provided in Section 11 of this Act shall apply and must be paid by the sponsoring person. In addition, amateur boxing or wrestling contests wherein an admission fee is charged shall be conducted under the following conditions:

1. The commissioner must approve the contest, match, or exhibition at least seven days in advance of the event.

2. All entries shall be filed with the amateur organization at least three days in advance of the event.

3. The amateur organization shall determine the amateur standing of all contestants.

4. The amateur contest, match, or exhibition shall be subject to the supervision of the commissioner, and all profits derived from such contests shall be used in the development of amateur athletics.

5. Only referees and judges licensed by the commissioner may participate in amateur contests, matches, or exhibitions.

6. All contestants shall be examined by a licensed physician within a reasonable time prior to the event, and a licensed physician shall be in attendance at the ringside during the entire event.

7. All professional boxers and wrestlers licensed under this Act are prohibited from participating in any capacity during an amateur contest, match, or exhibition.

Promoters

Sec. 8. (a) No person shall act as a promoter of boxing or wrestling until he has been licensed pursuant to this Act.

(b) The application for a promoter’s license shall be made upon a form furnished by the commissioner and shall be accompanied by an annual license fee and the license or registration fee shall be $20 for a Boxing Promoter’s License and $20 for a Wrestling Promoter’s License in a city with a population not exceeding 10,000; $50 in cities with a population exceeding 10,000.
population of 10,001 to 25,000, inclusive; $100 in cities with a population of 25,001 to 100,000, inclusive; $200 in cities with a population of 100,001 to 250,000, inclusive; and $300 in a city above 250,001 inhabitants. The application for a promoter's license shall be accompanied by a surety bond subject to the approval of the commissioner and conditioned for the payment of the tax hereby imposed. The commissioner shall fix the sum of the surety bond, but the sum may not be less than $300.

(c) The surety bond shall be issued by a company authorized to do business in Texas and shall be in conformity with the Insurance Code.

(d) The surety bond shall be to the state for the use by the state or any political subdivision thereof who establishes liability against a promoter for damages, penalties, taxes, or expenses resulting from promotional activities conducted within the State of Texas.

(e) The bond shall be open to successive claims up to the amount of face value, and a new bond must be filed each year. The bonding company is required to provide written notification to the department at least 30 days prior to the cancellation of the bond.

Other Required Licenses

Sec. 9. (a) No person shall act as a professional boxer or wrestler, manager of a professional boxer or wrestler, referee, judge, second, timekeeper, or matchmaker until he has been licensed pursuant to this Act.

(b) The application for a license shall be made upon a form furnished by the commissioner and shall be accompanied by an annual license fee as follows:

<table>
<thead>
<tr>
<th>Occupation</th>
<th>License Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boxer</td>
<td>$10</td>
</tr>
<tr>
<td>Wrestler</td>
<td>$10</td>
</tr>
<tr>
<td>Manager</td>
<td>$50</td>
</tr>
<tr>
<td>Matchmaker</td>
<td>$50</td>
</tr>
<tr>
<td>Judge</td>
<td>$15</td>
</tr>
<tr>
<td>Referee</td>
<td>$15</td>
</tr>
<tr>
<td>Second</td>
<td>$5</td>
</tr>
<tr>
<td>Timekeeper</td>
<td>$5</td>
</tr>
</tbody>
</table>

(c) Revenue obtained from license fees shall be deposited to the credit of the General Revenue Fund.

License Qualifications

Sec. 10. (a) The commissioner is authorized to promulgate rules and regulations setting forth reasonable qualifications for applicants seeking licenses as a promoter, manager, matchmaker, professional boxer or wrestler, referee, second, or timekeeper.

(b) The commissioner may after investigation and hearing deny an application for a license when the applicant has failed to meet the established qualifications or has violated any provision of this Act or any rule or regulation issued pursuant to this Act.

Gross Receipts Tax

Sec. 11. (a) Any person who conducts a boxing or wrestling match, contest, or exhibition wherein an admission fee is charged shall furnish to the department within 72 hours after the termination of the event a duly verified report on a form furnished by the department showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the event. A cashier's check or money order made payable to the State of Texas in the amount of three percent of the total gross receipts of the event shall be attached to the verified report.

(b) Any person who charges an admission fee for exhibiting a simultaneous telecast of any live, spontaneous, or current boxing or wrestling match, contest, or exhibition on a closed circuit telecast must possess a promoter's license issued pursuant to this Act and must obtain a permit for each closed circuit telecast shown in Texas. The three percent gross receipts tax described in Section 11(a) herein is applicable to said telecast, and the promoter shall furnish to the department within 72 hours after the event a duly verified report on a form furnished by the department showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the event. A cashier's check or money order made payable to the State of Texas in the amount of three percent of the total gross receipts of the event shall be attached to the verified report.

(c) Revenue obtained by the department from the three percent gross receipts tax shall be deposited to the credit of the General Revenue Fund.

(d) The admissions tax provided in Chapter 21, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, shall not be applicable to said telecast.

Arrest and Conviction Records

Sec. 12. The Department of Public Safety shall upon request supply to the Texas Department of Labor and Standards any available arrest and conviction records of individuals applying for or holding any license under this Act.


Acts 1977, 65th Leg., p. 815, § 305, § 1, revised the Texas boxing and wrestling laws, Acts 1933, 43rd Leg., p. 843, ch. 241, classified as acts 8501-1 to 8501-17c, by unclassifying the Texas Boxing and Wrestling Act.

Acts 1977, 65th Leg., p. 2196, ch. 863, § 1, amended former subsec. (a) of this article without reference to revision of the Texas Boxing and Wrestling Laws by Acts 1977, 65th Leg., p. 815, ch. 305, § 1.

Arts. 8501-2 to 8501-17c. Deleted

Acts 1977, 65th Leg., p. 815, ch. 305, § 1, revised the Texas boxing and wrestling laws, Acts 1933, 43rd Leg., p. 843, ch. 241,
Classified as arts. 8601-1 to 8601-17c, by enacting the Texas Boxing and Wrestling Act, art. 8601-1.

See, new, art. 8601-1 and notes thereunder.

CHAPTER FOUR. GASOLINE AND PETROLEUM PRODUCTS

Art. 8601. Sale Under Another Name

No person, firm, corporation, shall sell gasoline, benzine, naphtha, or other similar product of petroleum, capable of being used for illuminating, heating or power purposes, under any other than the true name of said products; and such petroleum products shall be subject to inspection by the proper authorities.

(1925 P.C.)

Art. 8602. Shall Mark Containers

No person, firm, association of persons, corporation or carrier selling or transporting for hire any gasoline, benzine, naphtha or other highly inflammable substance made from petroleum, shall fail to plainly mark the packages containing the same in accordance with the regulations of the Interstate Commerce Commission, unless such regulations should conflict with the provisions of this chapter.

(1925 P.C.)

Art. 8603. Labeling Receptacles or Reservoirs of Petroleum Products

No person, firm, association of persons, corporation or carrier selling or transporting any gasoline, benzine, naphtha or other similar product of petroleum, shall fail to truly label in large letters showing the name of such person, firm, association of persons, corporation or carrier on any tank car, barrel, cask, tank wagon, receptacle or reservoir in which any petroleum product shall be shipped or stored within this State, or from which sales or delivery of the same are to be made.

(1925 P.C. Amended by Acts 1933, 43rd Leg., p. 94, ch. 46, § 1; Acts 1935, 44th Leg., p. 396, ch. 154, § 1-a.)

Art. 8604. Must Not Flash

No person, firm, association of persons, or corporation shall sell or offer for sale any kerosene or distillate to be used for domestic cooking, illuminating, heating, or other domestic uses, having a flash point at a temperature below 112 degrees Fahrenheit, according to the United States official closed cup testing method of the United States Bureau of Mines.

[1925 P.C. Amended by Acts 1935, 44th Leg., p. 396, ch. 154, § 1; Acts 1937; 45th Leg., p. 648, ch. 318, § 1.]

Art. 8605. Standard of Gasoline or Motor Fuel

(a) No person, firm, association of persons, or corporation shall sell, offer for sale, or expose for sale, or possess or store with the intention to sell, as gasoline or motor fuel, any substance, liquid, or product of petroleum which falls below the standard of gasoline or motor fuel, the minimum requirement of which such standard shall be determined by the following distillation range:

1. When the thermometer reads 167 degrees Fahrenheit not less than ten (10) per cent shall be evaporated.

2. When the thermometer reads 284 degrees Fahrenheit not less than fifty (50) per cent shall be evaporated.

3. When the thermometer reads 392 degrees Fahrenheit not less than ninety (90) per cent shall be evaporated.

4. The end or dry point of distillation must not be over 457 degrees Fahrenheit.

5. The residue shall not exceed two (2) per cent.

6. Sulphur shall not exceed twenty one hundredths (0.20) per cent.

(b) Motor fuel or gasoline shall be volatile hydrocarbon fuel, free from water and suspended matter, and shall be practicable and/or suitable for use as fuel in internal combustion engines.

(1925 P.C. Amended by Acts 1933, 43rd Leg., p. 94, ch. 46, § 2; Acts 1935, 44th Leg., p. 396, ch. 154, § 2.)

Art. 8606. Inferior Motor Fuel

(a) Liquids, substances, or products of petroleum used, or intended for use, as gasoline or motor fuel, not meeting the minimum requirements and specifications prescribed in Article 1105 hereof for gasoline or motor fuel, shall be known and designated as "Inferior Motor Fuel," and all pumps, receptacles, tanks or containers from which such inferior motor fuel may be sold, offered for sale, or exposed for sale, or in which such inferior motor fuel is stored, or transported with the intention to sell, shall be labeled, in plain, legible lettering in the English language in the full view of the public, with the words "Inferior Motor Fuel," which such lettering shall be of solid black type not less than two (2) inches in height with not less than one-half inch paint stripe of black oil paint on white oil paint background; and it is further provided that any person who shall sell or exchange any such motor fuel shall be required to plainly show on each and every invoice, manifest, ticket or bill of exchange.
that the commodity sold or exchanged is inferior motor fuel.

(b) No person, firm, association of persons or corporation shall sell or offer for sale as lubricating oil, any oil that has been rerun, refiltered, reclaimed or refined from crank case draining or any other oil that has been theretofore used for purposes of lubrication, unless the said oil is sold as and labeled "Reconditioned Motor Oil". The words "Reconditioned Motor Oil" shall be plainly and legibly printed on each container, which said lettering shall be imprinted in two (2) places on the container or label in a manner that said lettering will appear both on the front and back surface of the container when displayed to the public in sale displays, and which said lettering shall be in letters of not less than three-sixteenths (3/16) of an inch in height and not less than one-sixteenth (1/16) of an inch in the width of each line used to form said letters.

(c) No person, firm, association of persons or corporation shall sell at retail, or offer for sale at retail, as gasoline or motor fuel to propel motor vehicles upon the roads, streets and highways of Texas, either alone or when blended with other products, any unrefined liquid, substance or residuum of natural gas formed in and extracted or expelled in its natural state from any pipe line or tank conveying or containing natural gas, unless the said liquid, substance or residuum sold at retail or offered for sale at retail in its unrefined state is labelled as "Drip Gasoline," and all pumps, receptacles, tanks or containers of any retail service station through which such drip gasoline may be sold or offered for sale to propel motor vehicles upon the roads, streets and highways of Texas, either alone or when blended with other products, shall be labelled in plain, legible lettering in full view of the public, with letters of solid black type not less than two (2) inches in height and one half (1/2) inch in width with the words "Drip Gasoline." Provided that nothing herein shall be construed as requiring the labelling of any derivative of natural gas which has been refined into an appropriate blending material free of dirt, oil and other suspended matter.

[1925 P.C. Amended by Acts 1933, 43rd Leg., p. 94, ch. 46, § 3; Acts 1935, 44th Leg., p. 396, ch. 154, § 3; Acts 1951, 52nd Leg., p. 148, ch. 88, § 1; Acts 1955, 54th Leg., p. 1038, ch. 363, § 1.]

Object of an inch in height and not less than three-sixteenths (3/16) of an inch in width with the words "Drip Gasoline." Provided that nothing herein shall be construed as requiring the labelling of any derivative of natural gas which has been refined into an appropriate blending material free of dirt, oil and other suspended matter.

Art. 8609. Breaking Seal on Incorrect Measure

The inspector shall seal and forbid the use of any inaccurate measuring device until such time as the defect is corrected. The breaking of said official seal shall be prima facie evidence of a violation of this law and no person, firm, association of persons, corporation or carrier shall refuse to permit the inspector provided for by law to inspect and seal, if deemed necessary, any such measuring device, or to break the seal after being placed by such inspector.

[1925 P.C.]

Art. 8610. Hindering Inspector

The Director of the Food and Drug Division of the State Board of Health, his inspectors, or any duly authorized representative appointed by the State Comptroller for that purpose, or any highway patrolman, or sheriff, or deputy sheriff, or any other peace officer shall have, in the performance of his duties under this law, the power to inspect any premises or place where petroleum products are made, prepared, stored, transported, sold or offered for sale or exchange, take samples of same, and test measuring devices. It shall be unlawful for any person to hinder or obstruct or refuse to permit said inspectors or any other persons duly authorized to perform said duties in the exercise of such powers.

[1925 P.C. Amended by Acts 1935, 43rd Leg., p. 94, ch. 46, § 4.]

Art. 8611. Punishment

Any person who shall knowingly violate any of the provisions of Articles 1101 through and inclusive of Article 1110 of the Penal Code shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than Twenty-five Dollars ($25) nor more than Two Hundred Dollars ($200).

[1925 P.C. Amended by Acts 1935, 44th Leg., p. 396, ch. 154, § 4.]

Art. 8612. Motor Fuel Franchisors; Requiring Franchisee to Pay Fee, Charge or Discount for Honoring Franchisor's Credit Card Prohibited

Definitions

Sec. 1. In this Act:

(1) "Franchisee" means a distributor and/or retailer who is authorized or permitted, under a franchise, to use a trademark in connection with the sale, consignment, or distribution of motor fuel.

(2) "Franchisor" means a refiner and/or distributor who authorizes or permits, under a franchise,
the use of a trademark in connection with the sale, consignment, or distribution of motor fuel.

(3) "Franchise" includes:

(A) any contract under which a distributor and/or retailer is authorized or permitted to occupy market­ing premises which are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by the franchisor-refiner or by a refiner who supplies motor fuel to a distributor who authorizes or permits such occupancy;

(B) any contract pertaining to the supply of motor fuel which is to be sold, consigned, or distrib­uted under a trademark owned or controlled by a refiner;

(C) the unexpired portion of any franchise which is transferred or assigned as authorized by the provisions of such franchise or by any applicable provision of state or federal law which permits such transfer or assignment without regard to any provi­sion of the franchise.

The term "Franchise," as used in this Act, does not include a contract made in the distribution of motor fuels through a card-lock or key-operated pumping system where neither of the parties to the contract is refiner or producer of such motor fuel.

(4) "Wholesale Price" means the invoice price or purchase price per gallon charged to the franchisee to pay to the franchisor any fee, charge, or discount designed to offset the fee, charge, or discount described in Section 2.

(5) "Motor Fuel" includes diesel fuel delivered to service stations by a franchisor and gasoline that are usable as propellants of a motor vehicle.

Prohibited Practices

Sec. 2. A franchisor shall not require a franchisee to pay to the franchisor any fee, charge, or discount for honoring the credit card issued by the franchisor or for submitting to the franchisor, for payment or credit to the franchisee's account, docu­ments or other evidence of indebtedness of the holder of the card issued by the franchisor; provided, however, that a franchisor may require a franchisee to pay such a fee, charge, or discount if such franchisor with consideration of competitive prices in the relevant market has adjusted the wholesale prices charged and/or rebates credited to fran­chisees for motor fuel by amounts which on average for franchisees in the State of Texas substantially offset such fee, charge, or discount.

Remedies

Sec. 3. (a) If a franchisor violates the provisions of Section 2 of this Act, the franchisee may main­tain a civil action against such franchisor. Such action may be brought, without regard to the amount in controversy, in the district court in any county in which the franchisor or franchisee is doing business.

(b) In any action under Subsection (a) of this section, the court shall award to the franchisee who prevails in an action brought hereunder the amount of actual damages and grant such equitable relief as the court determines is necessary to remedy the effects of franchisor's violation of the provisions of Section 2 of this Act, including declaratory judg­ment, permanent injunctive relief, and temporary injunctive relief. In addition, the court shall award to a franchisee who prevails in an action brought hereunder court costs and attorney's fees that are reasonable in relation to the amount of work expended.

(c) In addition to the remedies provided in Subsec­tion (b) of this section, if the trier of fact finds that the violation was committed willfully and knowingly by the defendant, the trier of fact shall award not more than three times the amount of actual dam­ages.

(d) In any action under Subsection (a) of this section, the franchisor shall bear the burden of establishing the offset described in Section 2 of this Act as an affirmative defense.

(e) Any action alleging a violation of Section 2 of this Act shall be commenced and prosecuted within two years after the cause of action has accrued.


CHAPTER FIVE. COMMODITY EXCHANGES

Art. 8651. Definitions.

8652. Future Contracts Valid.

8653. Future Contracts Invalid.

8654. Bucket Shop Defined and Prohibited.

8655. Shall Furnish Copy of Contract.

8656. Penalty.

8657. Permitting Exchanges.

8658. Repealer.

8659. Severability.

Art. 8651. Definitions

That for the purpose of this Act, the term "Con­tract of Sale" shall be held to include sales, purchases, agreements of sale, agreements to sell, and agreements to purchase; that the word "person" wherever used in this Act shall be construed to import the plural or singular as the case demands, and shall include individuals, associations, partnerships, and corporations.

[1925 P.C.]

Art. 8652. Future Contracts Valid

All contracts of sale for future delivery of cotton, grain, stocks, or other commodities, (1) made in accordance with the rules of any board of trade, exchange, or similar institution, and (2) actually executed on the floor of such board of trade, ex-
change, or similar institution, and performed or discharged according to the rules thereof, and (3) when such contracts of sale are placed with or through a regular member in good standing of a cotton exchange, grain exchange, board of trade, or similar institution, organized under the laws of the State of Texas or any other State, shall be and they hereby are declared to be valid and enforceable in the courts of this State, according to their terms; provided, that contracts of sale for future delivery of cotton in order to be valid and enforceable as provided herein, must not only conform to the requirements of clauses 1 and 2 of this section, but must also be made subject to the provisions of the United States Cotton Futures Act, approved August 11, 1916, and any amendments thereto; provided, further, that if this clause should for any reason be held inoperative, then contracts for the future delivery of cotton shall be valid and enforceable if they conform to the requirements of clauses 1 and 2 of this section; provided further, that all contracts as defined in Section 1 hereof where it is not contemplated by the parties thereto that there shall be an actual delivery of the commodities sold or bought shall be unlawful.

[1925 P.C.]

Art. 8653. Future Contracts Invalid

Any contract of sale for future delivery of cotton, grain, stocks, or other commodities where it is not the bona fide intention of parties that the things mentioned therein are to be delivered but which is to be settled according to or upon the basis of the public market quotations or prices made on any board of trade, exchange, or other similar institution, without any actual bona fide execution and the carrying out of such contract upon the floor of such exchange, board of trade or similar institution, in accordance with the rules thereof, shall be null and void and unenforceable in any court of this State, and no action shall be maintainable thereon at the suit of any party.

[1925 P.C.]

Art. 8654. Bucket Shop Defined and Prohibited

A bucket shop is hereby defined to be and mean any place of business wherein are made contracts of the sort or character denounced by the preceding Section 3 of this Act, and the maintenance or operation of a bucket shop at any point in this State is prohibited.

[1925 P.C.]

1 Article 8653.

Art. 8655. Shall Furnish Copy of Contract

Every person shall furnish upon demand to any principal for whom such person has executed any contract for the future delivery of any cotton, grain, stocks, or other commodities, a written instrument setting forth the name and location of the exchange, board of trade, or similar institution, upon which such contract has been executed, the date of the execution, of the contract, and the name and address of the person with whom such contract was executed, and if such person shall refuse or neglect to furnish such statement upon reasonable demand, such refusal or neglect shall be prima facie evidence that such contract was an illegal contract within the provisions of Art. 658, and that the person who executed it was engaged in the maintenance and operation of a bucket shop, within the provisions of Article 661 hereof.

[1925 P.C.]

1 See, now, article 8653.

2 See, now, article 8654.

Art. 8656. Penalty

Any person, either as agent or principal, who enters into or assists in making any contracts of sale of the sort or character denounced in the preceding Art. 658 for the future delivery of cotton, grain, stocks, or other commodities, or who maintain a bucket shop, as that term is defined in Art. 659, shall be guilty of a felony, and upon conviction, shall be imprisoned in the penitentiary not exceeding two years.

[1925 P.C.]

1 See, now, article 8653.

2 See, now, article 8654.

Art. 8657. Permitting Exchanges

There may be organized in any city, town, or municipality in the State of Texas, voluntary associations to be known as cotton exchanges, grain exchanges, boards of trade, or similar institutions, to receive and post quotations on cotton, grain, stocks, or other commodities, for the benefit of its members and other persons engaged in the production of cotton, grain, or other commodities. Such associations shall be composed of members and shall adopt a uniform set of rules and regulations not incompatible with the laws of Texas and of the United States. They shall open their books to inspection of all proper courts and officers when required so to do.

[1925 P.C.]

Art. 8658. Repealer

Articles 536 and 537 of Chapter 2, Title 11, and Articles 538 to 547 inclusive of Chapter 3, Title 11, of the Revised Penal Code of the State of Texas, of 1911, and all laws and parts of laws regulating or prohibiting dealings in future contracts, or in conflict or inconsistent herewith, be and the same are hereby repealed.

[1925 P.C.]

Art. 8659. Severability

If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the
removal thereof, but shall be confined in its operation to the clause, sentence, or paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered; and any contract valid under and satisfying the remaining clauses, sentences, paragraphs, or parts of this Act shall be valid and enforceable in the courts of this State.

[1925 P.C.] 1 So in enrolled bill; should probably read "affect".

CHAPTER SIX. AUCTIONEERS

Art. 8700. Regulation of Auctioneers

Definitions

Sec. 1. For the purpose of this Act:

(1) "Auction" means the sale of any property by competitive bid.

(2) "Person" means an individual.

(3) "Property" means any property, tangible and intangible, real, personal, or mixed.

(4) "Auctioneer" means any person who, as a bid caller, with or without receiving or collecting a fee, commission, or other valuable consideration, sells or offers to sell property at auction.

(5) "Secured party" means a person holding a security interest.

(6) "Commissioner" means the Commissioner of the Texas Department of Labor and Standards.

(7) "Licensee" means any person holding a license under this Act.

(8) "Applicant" means any person applying for a license hereunder.

(9) "Associate auctioneer" means a person who, for compensation, is employed by and under the direct supervision of a licensed auctioneer to sell or offer to sell property at an auction.

(10) "Auction company" means a person, partnership, corporation, association, or other legal entity that engages in the business of arranging, managing, sponsoring, advertising, or conducting auctions.

Exempt Transactions

Sec. 2. The provisions of this Act shall not apply to the following transactions:

(1) a sale conducted by order of any United States court pursuant to Title 11 of the United States Code relating to bankruptcy;

(2) a sale conducted by an employee of the United States or the State of Texas or its political subdivisions in the course and scope of his employment;

(3) a sale conducted by a charitable or nonprofit organization, if the auctioneer receives no compensation;

(4) a sale conducted by an individual of his own property if such individual is not engaged in the business of selling such property as an auctioneer on a recurring basis;

(5) a foreclosure sale of realty conducted personally by a trustee under a deed of trust;

(6) a foreclosure sale of personal property conducted personally by the mortgagor or other secured party or an employee or agent of such mortgagor or other secured party acting in the course and scope of his employment if the employee or agent is not engaged otherwise in the auction business and if all property for sale in the auction is subject to a security agreement;

(7) a sale conducted by sealed bid.

(8) An auction conducted in a course of study, approved by the commissioner, for auctioneers and conducted only for student training purposes;

(9) an auction conducted by a posted stockyard or market agency as defined by the Federal Packers and Stockyard Act, 1921, as amended (7 U.S.C. Section 181. et seq.);

(10) an auction of livestock conducted by a nonprofit livestock trade association chartered in this state, if the auction involves only the sale of the trade association's members' livestock; or

(11) an auction conducted by a charitable or nonprofit organization chartered in this state, if the auction involves only the property of the organization's members and the auction is part of a fair that is organized under state, county, or municipal authority.

License Requirements

Sec. 3. (a) Except as exempted under this Act, no person may act as an auctioneer or associate auctioneer in an auction held within this state unless he holds a license issued by the commissioner under this Act.

(b) A person is eligible for an auctioneer's license if he:

(1) is at least 18 years of age;

(2) is a citizen of the United States or a legal alien;

(3) either (i) passes a written or oral examination demonstrating his knowledge of the auction business and of the laws of this state pertaining to the auction business; or (ii) shows proof of his employment by a licensed auctioneer for a period of one year during which the applicant participated in at least five auctions.

(c) A person is eligible for an associate auctioneer's license if he:

(1) is a citizen of the United States or a legal alien;

(2) is employed under the direct supervision of a licensed auctioneer.
(d) Each person applying for a license must apply to the commissioner on a form provided by the commissioner that establishes the applicant's eligibility for the license. The application must be accompanied by the required bond, the required license fee, and either the limited sales tax permit number issued by the comptroller of public accounts or proof of exemption from the limited sales tax permit requirement.

(e) The commissioner shall prepare license examinations for an auctioneer's license and study and reference materials on which the examinations are based. The examination for auctioneers must be designed to establish the applicant's general knowledge of the auction business, the principles of conducting an auction, and the laws of this state pertaining to auctioneers. The license examination must be offered at least four times a year at locations designated by the commissioner.

(f) A person who establishes his eligibility for an auctioneers license may apply to the commissioner for a license examination. The application must be accompanied by an examination fee of $25. On receipt of an examination application with the required fee, the commissioner shall furnish the applicant with study materials and references on which the examination will be based and a schedule specifying the dates and places the examination will be offered. The applicant may take the examination at any scheduled offering within 90 days after receipt of the study materials. If an applicant fails the qualifying examination, he may reapply to take the license examination again. However, if the applicant fails the examination twice within a one-year period, he must wait one year to reapply.

(g) If an application for an auctioneer's license from a nonresident of this state is accompanied by a certified copy of an auctioneer's license issued to the applicant by the county, state, or political subdivision of his residence and by proof that the county, state, or political subdivision in which the applicant is licensed has competency standards at least equivalent to those of this state, and if the county, state, or political subdivision extends similar recognition and courtesies to this state, the commissioner shall accept the license as proof of the applicant's professional competence and shall waive the examination and training requirements of Paragraph (3) of Subsection (b) of this section. All other application requirements must be complied with by nonresidents, and in addition, a nonresident's application shall be accompanied by a written irrevocable consent of the person according to the laws of this or any other state. The consent of service of process shall be in such form and supported by such additional information as the commissioner may by rule require.

(h) A license issued under this Act must be issued for one year, and it expires on the anniversary of issuance unless it is affected by actions resulting from a hearing conducted according to this Act or unless enjoined by actions of a court of competent jurisdiction. Any license issued under this Act may be renewed within 30 days after the expiration date on written request by the licensee and payment of the required license fee.

(i) A person licensed under this Act on the effective date of this amendment is entitled to be relicensed as an auctioneer under this Act without complying with the examination and training requirements of Paragraph (3) of Subsection (b) of this section.

Fees
Sec. 4. (a) The annual fee for each auctioneer's license issued by the commissioner is $100. The annual fee for each associate auctioneer's license issued by the commissioner is $50. The commissioner shall issue the license upon approval of application and receipt of payment of all license fees.

(b) All fees shall be paid to the state treasury and placed in the General Revenue Fund.

Bond
Sec. 5. (a) Each application for an auctioneer's license shall be accompanied by a surety or cash performance bond in the principal amount of $5,000 and shall be in conformity with the Insurance Code.

(b) The bond shall be payable to the state for the use and benefit of any damaged party and conditioned that the licensee will pay any judgment recovered by any consumer, the state, or any political subdivision thereof in any suit for damages, penalties, or expenses, including reasonable attorney's fees resulting from a cause of action involving the licensee's auctioneering activities. The bond shall be open to successive claims, but the aggregate amount may not exceed the penalty of the bond.

Preemption
Sec. 6. No municipality or other political subdivision of this state has authority, after the effective date of this amendment, to levy or collect any license tax or fee, as a regulatory or revenue measure, or to require the licensing in any manner of any auctioneer or associate auctioneer who is licensed and complies with all applicable provisions of this Act.

Denial, Suspension, or Revocation of License
Sec. 7. (a) The commissioner may deny, suspend, or revoke the license of any auctioneer for any of the following causes:
Art. 8700 OCCUPATIONAL AND BUSINESS REGULATION 4610

(1) for obtaining a license through false or fraudulent representation;
(2) for making any substantial misrepresentation in an application for an auctioneer's license;
(3) for a continued and flagrant course of misrepresentation or for making false promises through agents, advertising, or otherwise;
(4) for failing to account for or remit, within a reasonable time, any money belonging to others that comes into his possession and for commingling funds of others with his own or failing to keep such funds of others in an escrow or trustee account;
(5) for conviction in a court of competent jurisdiction of this state or any other state of a criminal offense involving moral turpitude or a felony;
(6) for violation of this act or any rule or regulation of the department; or
(7) for any violation of the Business & Commerce Code in the conduct of an auction.

Before denying an application for a license or before suspending or revoking any license, the commissioner shall in all cases set the matter for a hearing and shall, at least 30 days before the date set for the hearing, notify in writing the applicant or licensee of the charges made against him or of the question to be determined, including notice of when and where the hearing will be held.

The applicant or licensee is entitled to an opportunity to be present and to be heard in person or by counsel and to an opportunity to offer evidence by oral testimony, by affidavit, or by deposition.

Written notice may be served by delivery of the notice personally to the applicant or licensee or by mailing the notice by certified mail to the last known mailing address of the applicant or licensee. In the event the applicant or licensee is an associate auctioneer, the commissioner shall also notify the auctioneer employing him or in whose employ he is about to enter by mailing the notice by certified mail to the auctioneer's last known mailing address.

The hearing must be conducted in a manner that will give to the applicant or licensee due process of law and that is consistent with the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

If, after a hearing, the commissioner determines that a license should be denied, revoked, or suspended, the applicant or licensee has 90 days in which to appeal the commissioner's decision to the district court of Travis County or of the county in which the violation is alleged to have occurred.

Investigation of Complaint; Action

Sec. 8. The commissioner may, upon his own motion, and shall, on the written and verified complaint of any person aggrieved by the actions of an auctioneer in the conduct of an auction, investigate alleged violations of this Act by any licensed or unlicensed auctioneer or any applicant.

Rules and Regulations; Hearing of Testimony

Sec. 9. The commissioner may make reasonable rules and regulations relating to the form and manner of filing applications for licenses, the issuance, denial, suspension, and revocation of licenses, and the conduct of hearings consistent with the provisions of The Administrative Procedures Act. The commissioner or other person authorized by him may administer oaths and hear testimony in matters relating to the duties imposed on the commissioner.

Advertising an Auction

Sec. 10. Any auctioneer who advertises to hold or conduct an auction within this state shall indicate in such advertisement his name and license number.

Employment by Auction Company

Sec. 10A. A person who holds a license issued under this Act may not act as an auctioneer for an auction company unless the company is owned or operated by a person who is licensed under this Act.

Penalties

Sec. 11. (a) Whoever acts as an auctioneer as defined in this Act without first obtaining a license commits a Class B misdemeanor.

(b) Whoever violates any other provisions of this Act or any rule or regulation promulgated by the commissioner in the administration of this Act, for the violation of which no other penalty is provided, commits a Class C misdemeanor.


CHAPTER SEVEN. IRRIGATORS

Art. 8751. Regulation of Irrigators.

Art. 8751. Regulation of Irrigators

Definitions

Sec. 1. In this Act:
(1) “Person” means a natural person.
(2) “Board” means the Texas Board of Irrigators.
(3) “Executive director” means the executive director of the Texas Department of Water Resources.
(4) “Executive secretary” means the executive secretary of the board.
(5) “Commission” means the Texas Water Commission.
Sec. 2. This Act does not apply to:

(1) any person licensed by the Texas State Board of Plumbing Examiners;
(2) a registered professional engineer or architect or landscape architect if his or her acts are incidental to the pursuit of his or her profession;
(3) irrigation or yard sprinkler work done by a property owner in a building or on premises owned or occupied by him or her as his or her home;
(4) irrigation or yard sprinkler work done by a maintenance person incidental to and on premises owned by the business in which he or she is regularly employed or engaged and who does not engage in the occupation of licensed irrigator or in yard sprinkler construction or maintenance for the general public;
(5) irrigation or yard sprinkler work done on the premises or equipment of a railroad by a regular employee of the railroad who does not engage in the occupation of licensed irrigator or in yard sprinkler construction or maintenance for the general public;
(6) irrigation and yard sprinkler work done by a person who is regularly employed by a county, city, town, special district, or political subdivision of the state on public property;
(7) a temporary or portable water device such as a garden hose, hose sprinkler, soaker hose, or agricultural irrigation system;
(8) a portable or solid set or other type of commercial agricultural irrigation system; or
(9) irrigation or yard sprinkler work done by an agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, or grader or cultivator of land on land owned by himself or herself.

Texas Board of Irrigators
Sec. 3. (a) There is created a Texas Board of Irrigators composed of six members, each of whom shall be a citizen of the United States and a resident of this state.
(b) Each member of the board and his or her successor shall be appointed by the governor with the advice and consent of the senate. Two members shall be members of the public not licensed under this Act, and four members shall be licensed irrigators who have been actively engaged in the practice of irrigation of the type licensed under this Act for a period of at least five years. A person is not eligible for appointment to the board if the person has contributed more than $1,000 on behalf of the political candidacy of the governor who makes the appointments under this Act. Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.
(c) Except for the initial appointees to the board, the members of the board hold office for terms of six years, with the terms of two members expiring on January 31 of each odd-numbered year. In making initial appointments, the governor shall designate two members to serve terms expiring January 31, 1981, one member to serve terms expiring January 31, 1983, and two members to serve terms expiring January 31, 1985.
(d) The board shall select one of its members as chairman. The chairman shall serve for the term of his or her successor, provided by the rules of the board and may be removed for cause, but his or her removal does not disqualify him or her from continuing as a member of the board.
(e) Four members of the board constitute a quorum for transaction of business.
(f) The initial board shall hold its first meeting within 90 days after all members have qualified, and the board shall hold at least two regular meetings each year at a time and place designated by the chairman. The board may hold special meetings at times and places considered necessary by a majority of the members of the board.
(g) Each member shall receive as compensation for his or her services $25 a day for each day he or she is actively engaged in official duties in addition to actual travel expenses.
(h) It is a ground for removal of a member from the board that the member does not attend at least one-half of the regularly scheduled meetings held by the board in a calendar year.
Art. 8751  OCCUPATIONAL AND BUSINESS REGULATION  4612

Conflict of Interest

Sec. 4. A member of the board may not be an officer, employee, or paid consultant of a trade association in the field of landscape irrigation. No board member may be related within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the irrigation industry.

Executive Secretary; Staff; Services

Sec. 5. (a) The board may employ an executive secretary to perform the duties and functions provided by this Act and as directed by the board. On approval of the board the executive secretary may contract with the executive director for staff necessary to assist in the administration of this Act. In the event staff is unavailable through contract, the executive secretary with approval of the board and the executive director may employ such staff.

(b) The executive director shall provide necessary services as available to assist the executive secretary and the board in performing their duties and functions under this Act.

(c) The commission shall hear all contested cases as defined in the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon’s Texas Civil Statutes), arising under this Act. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1987, as amended (Article 6252-17, Vernon’s Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon’s Texas Civil Statutes).

(d) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9e, Vernon’s Texas Civil Statutes), may not act as the general counsel to the board.

Board Finances

Sec. 6. (a) Money paid to the board under this Act shall be deposited in the State Treasury in a special fund known as the Texas Board of Irrigators Fund.

(b) The Texas Board of Irrigators Fund shall be used to pay expenses under this Act.

(c) Before September 1 of each year, the board shall make a written report to the governor accounting for all receipts and disbursements under this Act.

(d) The state auditor shall audit the financial transactions of the board during each fiscal year.

Rules

Sec. 7. (a) The board shall adopt only those rules consistent with this Act to govern the conduct of its business and proceedings and shall adopt standards governing revocation of certificates of registration and connections to public or private water supplies by a licensed irrigator or a licensed installer.

(b) The board does not have authority to amend or enlarge by rule on any provision of this Act, to change the meaning of this Act by rule in any manner, to adopt a rule that is contrary to the underlying and fundamental purposes of this Act, or to make a rule that is unreasonable, arbitrary, capricious, illegal, or unnecessary.

(c) The board shall adopt no rules which would preclude advertising or competitive bidding.

(d) If the appropriate standing committee of either house of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as added (Article 6252-13a, Vernon’s Texas Civil Statutes), transmits to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the board receives the committee’s statements.

Registration Requirement

Sec. 8. (a) No person may act as an irrigator or installer unless he or she has a valid certificate of registration under this Act.

(b) The board shall issue certificates of registration to persons of good moral character who have shown themselves fit, competent, and qualified to act as licensed irrigators or licensed installers by passing a uniform, reasonable examination which will include the principles of cross connections and safety devices to prevent contamination of potable water supplies.

(c) The board shall provide in its rules for the preparation, administration, and grading of examinations to acquire certificates of registration under this Act. The fee for taking the examination is $50 for the irrigator certificate of registration and $35 for the installer certificate of registration.

(d) A person holding a certificate of registration under this Act shall not be required to comply with any other licensing requirements of other state agencies to perform connections to private or public raw or potable water supply systems.

(e) Not later than the 30th day after the day on which a person completes an examination administered by the board, the board shall send to the person his or her examination results. If requested in writing by a person who fails the examination, the board shall send to the person not later than the 30th day after the day on which the request is received by the board an analysis of the person’s performance on the examination.

Reciprocity

Sec. 9. (a) The board may certify for registration without examination an applicant who is registered as a licensed irrigator or licensed installer in another state or country that has requirements for
registration that are at least substantially equivalent to the requirements of this state and that extends the same privilege of reciprocity to licensed irrigators or licensed installers registered in this state.

(b) The application for registration under this section shall be accompanied by a fee of not to exceed $50 for a licensed irrigator or $35 for a licensed installer as determined by the board.

Renewal

Sec. 10. (a) Certificates of registration expire on August 31 of each year.

(b) The board or the executive secretary shall notify every person registered under this Act of the date of expiration of his or her certificate and the amount of the fee that is required for renewal for one year. The notice shall be mailed at least two months in advance of the date of expiration of the certificate.

(c) A person may renew his or her certificate at any time during the months of July and August of each year by payment of the fee adopted by the board in an amount of not more than $100 for a licensed irrigator or $80 for a licensed installer.

(d) Failure of a registrant to renew his or her certificate by August 31 does not deprive the registrant of the right to renewal, but the fee paid for renewal of a certificate after the August 31 expiration date shall be increased 10 percent for each month or part of a month that renewal payment is delayed. If the registrant fails to renew within 90 days after the date of expiration of the registration certificate, the registrant must reapply for registration and must qualify under Section 8 of this Act to act as a licensed irrigator or licensed installer.

(e) Renewal certificates carry the same registration number as the original certificates.

(f) By rule, the board may adopt a system under which certificates of registration may expire on various dates during the year. Renewals may be made at any time during the two-month period before the designated expiration date, and renewal fees paid after the expiration date shall be increased 10 percent for each month or part of a month that renewal payment is delayed. If a registrant fails to renew within 90 days after the expiration date of the registration, the registrant must reapply for registration and must qualify under Section 8 of this Act to act as a licensed irrigator or licensed installer.

Sec. 11. (a) The commission may revoke a certificate of registration of any registrant whom it finds guilty of:

(1) violations of this Act or rules adopted under this Act;
(2) fraud or deceit in obtaining a certificate of registration; or
(3) gross negligence, incompetency, or misconduct while acting as a licensed irrigator or licensed installer.

(b) The commission shall hear complaints under Subsection (a) of this section subject to standards adopted by the board in its rules.

(c) Any person may file a complaint with the board. The complaint shall be in writing, shall be notarized, and shall set forth the facts alleged. Three copies of the written allegations shall be filed with the executive director. One copy shall be sent by certified mail to the alleged violator.

(d) On receipt of written allegations, the board, if it considers the information sufficient to support further action, shall issue an order referring the complaint to the commission for setting a hearing.

(e) If the executive director determines through investigation that evidence exists of a violation, he may refer such evidence to the board or may proceed directly to the commission to request setting of a hearing.

(f) The commission may compel the attendance of a witness before it as in civil cases in the district court by issuance of a subpoena.

Penalty; Injunction

Sec. 12. (a) A person who represents himself or herself as a licensed irrigator or licensed installer in this state without being licensed or exempted under this Act, who presents or attempts to use as his or her own the certificate of registration or the seal of another person who is a licensed irrigator or licensed installer, who gives false or forged evidence of any kind to the board or to any member of the board in obtaining or assisting in obtaining for another a certificate of registration, or who violates a provision of this Act or a rule adopted under this Act shall be guilty of a Class C misdemeanor. Each day a violation of this subsection occurs constitutes a separate offense.

(b) The board or the executive director may request the attorney general to seek injunctive relief to prevent any of the acts of violation listed in Subsection (a) of this section.

Enforcement of Act

Sec. 13. The executive director with the assistance of the attorney general shall enforce this Act and the rules adopted by the board.
Art. 8751  OCCUPATIONAL AND BUSINESS REGULATION

Local Rules and Regulations

Sec. 14. The regulatory authority of any city, town, county, special purpose district, or other political subdivision of the state may require licensed irrigators or licensed installers to comply with any reasonable inspection requirements or ordinances and regulations designed to protect the public water supply and pay any reasonable fees imposed by that local entity relating to work performed by licensed irrigators within its jurisdiction.

Certification of Certain Persons

Sec. 15. A person who holds a license as a landscape irrigator under Chapter 457, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 249c, Vernon’s Texas Civil Statutes), on the effective date of this Act is entitled to be certified as a licensed irrigator without meeting the requirements of Section 8 of this Act; however, persons seeking to become licensed installers must comply with Section 8 of this Act.

Sunset Provision

Sec. 16. The board is subject to the Texas Sunset Act,1 and unless continued in existence as provided by that Act, the board is abolished and this Act expires effective September 1, 1991.

1 Article 5429k.


Sections 17 and 18 of the 1979 Act provided:

“Sec. 17. All laws or parts of laws in conflict with the provisions of this Act shall be and the same are hereby repealed; provided, however, that this Act shall only be construed as repealing or amending any laws affecting or regulating any other profession as necessary to allow a licensed irrigator or a licensed installer under this Act to connect an irrigation system to any public or private raw or potable water supply system.

“Sec. 18. If any article, section, subsection, sentence, clause, or phrase of this Act is for any purpose or reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have passed the valid portions of the Act irrespective of the fact that any one or more portions thereof be declared unconstitutional.”

CHAPTER EIGHT. COIN-OPERATED SERVICES

Art. 8801. Definitions.

8802. Amount of Tax.

8803. Exemptions From Tax.

8804. Public nuisance.

8805. Injunction; Venue; Payment of Tax as Condition Precedent; Records and Reports.

8806. Attachment of Permit to Machine.

8807. Rules and Regulations; Revocation of Licenses or Permits.

8808. Permits; Collection of Tax; Payment of Expenses.

8809. Exigent Laws; Violations Not Authorized.

8810. Records.

8811. Violations of Act; Penalty; Suit to Recover Penalty.

8812. Offenses; Penalty.

Art. 8813. Sealing Machine to Prevent Operations; Penalty for Breaking Seal.

8814. Apporitionment of Tax; Tax Levy by Counties and Cities.

8815. Sealing of Machines by City or County.

8816. Taxes, Penalties and Interest Under Re-Enacted or Repealed Statutes; Offenses and Penalties Under Prior Laws.

8817. Regulation of Music and Skill or Pleasure Coin-Operated Machines.

Acts 1981, 67th Leg., p. 1779, § 33, transferred this Chapter from Title 122A, Taxation—General, Chapter 13, Tax on Coin-Operated Machines. Section 1 of the 1981 Act enacted Title 2 of the Tax Code.

Art. 8801. Definitions

The following words, terms and phrases as used in this Chapter are defined as follows:

1. The term “owner” means any person, individual, firm, company, association or corporation owning any “coin-operated machine” in this State.

2. The term “operator” means any person, firm, company, association or corporation who exhibits, displays or permits to be exhibited or displayed, in a place of business other than his own, any “coin-operated machine” in this State.

3. The term “coin-operated machine” means every coin-operated machine of any kind or character which is operated by or with coins, or metal slugs, tokens or checks, “music coin-operated machines” and “skill or pleasure coin-operated machines” as those terms are hereinafter defined, shall be included in such terms.

4. The term “music coin-operated machine” means every coin-operated machine of any kind or character, which dispenses or vends or which is used or operated for dispensing or vending music which is operated by or with coins or metal slugs, tokens or checks. The following are expressly included within said term: phonographs, pianos, graphophones, and all other coin-operated machines which dispense or vend music.

5. The term “skill or pleasure coin-operated machines” means every coin-operated machine of any kind or character whatsoever, when such machine or machines dispense or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of “merchandise or music” or “service” exclusively, as those terms are defined in this Chapter. The following are expressly included within said term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, and all other coin-operated machines which dispense or afford
§ 33, eff. Jan. 1, 1982.

Art. 8803. Exemptions from Tax

Gas meters, pay telephones, pay toilets, food vending machines, confection vending machines, beverage vending machines, merchandise vending machines, and cigarette vending machines which are not subject to an occupation or gross receipts tax, stamp vending machines, and "service coin-operated machines," as that term is defined, are expressly exempt from the tax levied herein, and the other provisions of this Chapter.

Art. 8804. Public Nuisance

Every coin-operated machine subject to the payment of the tax levied herein, and upon which the said tax has not been paid as provided herein, is hereby declared to be a public nuisance, and may be seized and destroyed by the commission, its agents, or any law enforcement agency of this State as in such cases made and provided by law for the seizure and destruction of common nuisances.

Art. 8805. Injunction; Venue; Payment of Tax as Condition Precedent; Records and Reports

(1) Any person who shall invoke the power and remedies of injunction against the commission to restrain or enjoin it from enforcement of the collection of the tax levied herein upon any grounds for which an injunction may be issued, shall file such proceedings in a court of competent jurisdiction in Travis County, Texas, and venue for such injunction is hereby declared to be in Travis County, Texas.

(2) Before any restraining order or injunction shall be granted against the commission to restrain or enjoin the collection of the taxes levied herein, the applicant therefor shall pay into the suspense account of the State Treasury all taxes, fees, and assessments then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent, or attorney. Provided that said applicant shall keep for the inspection at all times of the Attorney General and the commission or their authorized representatives, a complete, itemized record maintained in accordance with generally accepted auditing and accounting practices, showing all coin-operated vending machines possessed and in operation during the pendency of such restraining order or injunction. Such record shall show the make and kind of machine, the serial number, the date such machine was put in operation, and the location and serial number of each and every ma-
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State. Said report shall also show the county, city, and location within the city and county of each machine and the date such machine was placed in operation. In the event the location or ownership of any machine is changed such information shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing if said applicant fails, at any time before the case shall have been finally disposed of by the court of last resort, to keep the records or make and file the reports required herein or to pay daily, excluding Sundays and legal holidays, into the suspense account of the Treasurer all taxes, fees and assessments due and thereafter becoming due, and such taxes shall be paid before such machines are operated, exhibited or displayed for operation within this State. The commission, or its authorized representatives, may file in the court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Chapter or has violated the same. Upon the filing of said affidavit, the clerk of said court shall issue notice to the said applicant to appear before such court upon the date named therein, which shall be within five (5) days from service of such notice or as soon thereafter as the court can hear the same, to show cause why such injunction should not be dismissed, which notice shall be served by the sheriff of the county in which applicant resides or any other peace officer in this State. In the event the injunction is finally dissolved or dismissed, all taxes, fees and assessments paid into the suspense account of the Treasurer under the provisions of this Chapter shall be paid to the funds to which such taxes, fees and assessments are allocated. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes the funds so deposited shall be refunded by the Treasurer to said applicant.

(3) No person, firm, association or corporation required to pay the taxes levied herein except such person, firm, association or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the commission all taxes, fees, and assessments due by him under the provisions of this Chapter and said restraining order or injunction shall in no way interfere with or impair the power of the commission to collect and enforce the payment of the taxes, fees, and assessments involved in any litigation from taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as hereinbefore provided.


Art. 8806. Attachment of Permit to Machine

Provided further, the permit issued by the commission to evidence the payment of the tax levied herein shall be securely attached to the machine in a manner that will require continued application of steam and water to remove the same.


Art. 8807. Rules and Regulations; Revocation of Licenses or Permits

(1) The commission may make and publish rules and regulations, not inconsistent with this Chapter or the other laws or the Constitution of this State or of the United States, for the enforcement of the provisions of this Chapter and the collection of the revenues hereunder.

(2) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Chapter or any rule and regulation promulgated hereunder, the commission shall investigate the violation, make findings of fact, and may recommend to the Attorney General that a license, permit, or registration certificate be revoked. If the licenses, permits, or registration certificate of any individual, company, corporation, or association owning, operating or displaying coin-operated machines in this State is revoked, such individual, company, corporation, or association shall not operate, display or permit to be operated or displayed such machines until the licenses, permits, or registration certificates are reinstated or until new licenses, permits, or registration certificates are granted.


Art. 8808. Permits; Collection of Tax; Payment of Expenses

The commission shall collect, and issue permits for the payment of the tax levied herein and to employ all the agencies of the law available to him
for the enforcement of the provisions of this Chapter. Provided that Twenty-five Thousand Dollars ($25,000) of the funds derived under the provisions of this Chapter shall be deposited annually to the credit of the General Revenue Fund as payment for the services of the commission and other State agencies in the enforcement of this Chapter.


Art. 8809. Existing Laws; Violations Not Authorized

Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or coin-operated machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any Article of the Penal Code of this State or the Constitution of this State.


Art. 8810. Records

Every “owner” of one or more coin-operated machines in this State shall keep for a period of two (2) years for the inspection at all times by the Attorney General and the commission, or their authorized representatives, a complete, itemized record maintained in accordance with accepted auditing and accounting practices of each and every such machine purchased, received, possessed, handled, exhibited or displayed in this State. Such record shall be kept at a permanent address which address shall be designated on the application for permit and shall include the following information: The kind of each such machine, the date acquired or received in Texas, the date placed in operation, the location or locations of each machine including county, city, street and/or rural route number, the date of each and every change in location, the name and complete address of each and every operator, the full name and address of the owner, or if other than an individual the principal officers or members thereof and their addresses. Such information shall be shown completely and separately for each and every machine.


Art. 8811. Violations of Act; Penalty; Suit to Recover Penalty

If any “owner” of a coin-operated machine within this State shall (a) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said permit being attached thereto, or (b) if any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a permit issued by the commission showing the payment of the tax due thereon for the current year, or (c) if any person required to keep records of coin-operated machines in this State shall falsify such records, or (d) shall fail to keep such records, or (e) shall refuse or fail to present such records for inspection upon the demand of the commission or its authorized representatives, or (f) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Chapter, or (g) mislead the commission or its authorized representatives in the enforcement of this Chapter, or (h) if any person in this State shall fail to comply with the provisions of this Chapter, or violate the same, or (i) if any person in this State shall fail to comply with the rules and regulations promulgated by the commission, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Five Dollars ($5) nor more than Five Hundred Dollars ($500). Each day’s violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas, or any court having jurisdiction.


Art. 8812. Offenses; Penalty

(a) If any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a valid permit issued by the commission showing the payment of the tax due thereon for the current year, or (b) if any person required to keep records of coin-operated machines in this State shall falsify such records or (c) shall fail to keep such records, or (d) shall refuse or fail to present such records for inspection upon the demand of the commission or its authorized representatives, or (e) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Chapter, or (f) mislead the commission or its authorized representatives in the enforcement of this Chapter, or (g) if any person in this State shall fail to comply with the provisions of this Chapter, or violate the same, or (h) if any person in this State shall fail to comply with the rules and regulations promulgated by the commission, or violate the same, he shall be guilty of a Class C misdemeanor.

Art. 8813. Sealing Machine to Prevent Operations; Penalty for Breaking Seal

Provided that the commission or its authorized representatives, may seal any such machine upon which the tax has not been paid in a manner that will prevent further operation. Whoever shall break the seal affixed by said commission or its authorized representatives, or whoever shall exhibit or display any such coin-operated machine after said seal has been broken or shall remove any coin-operated machine from location after the same has been sealed by the commission shall be guilty of a misdemeanor and upon conviction shall be punished as set out in Article 13.12 of this Chapter. The commission shall charge a fee of $25.00 for the release of any coin-operated machine sealed for nonpayment of tax. The fee shall be paid to the commission by cashier's check or money order.


Art. 8814. Apportionment of Tax; Tax Levy by Counties and Cities

Except as herein provided in this Chapter, one-fourth (1/4) of the net revenue derived from this Chapter shall be credited to the Available School Fund of the State of Texas and three-fourths (3/4) of the net revenue derived from this Chapter shall be credited to the General Revenue Fund. Provided that all counties and cities within this State may levy an occupation tax on coin-operated machines in this State in an amount not to exceed one-half (1/2) of the State tax levied herein. Further provided that all political subdivisions of this State shall, for zoning purposes, treat the exhibition of a music and skill or pleasure coin-operated machine as indistinguishable from the principal use to which the property where exhibited is devoted. This does not prohibit cities from restricting the exhibition of coin-operated amusement machines within three hundred (300) feet of a church, school, or hospital.


Art. 8815. Sealing Machines by City or County

Any city or county levying an occupation tax on coin-operated machines is hereby authorized to seal any such machine on which the tax has not been paid. Any city or county levying an occupation tax on coin-operated machines is hereby authorized to charge a fee not exceeding Five Dollars ($5) for the release of any machine sealed as provided herein for nonpayment of tax. Whoever shall break the seal affixed in the name of any city or county or exhibit, display or remove from location any machine on which the seal has been broken shall be guilty of a Class C misdemeanor.


Art. 8816. Taxes, Penalties and Interest Under Re-Enacted or Repealed Statutes; Offenses and Penalties Under Prior Laws

All occupation taxes, penalties and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Chapter before the effective date of this Chapter shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Chapter are hereby expressly preserved and declared to be legal and valid obligations to the State.

The passage of this Chapter shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense.


Art. 8817. Regulation of Music and Skill or Pleasure Coin-Operated Machines

Purpose

Sec. 1. The purpose of this Article is to provide comprehensive regulation of music and skill or pleasure coin-operated machines.

Construction

Sec. 1(a). Notwithstanding any language in this Chapter or any other Chapter to the contrary, the term “music or skill or pleasure coin-operated machine” shall include coin-operated billboard and pool games and shall exclude coin-operated amusement machines designed exclusively for children.

Definitions

Sec. 2. In this Article, unless the context requires a different definition,

(1) “person” includes any natural person, association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant, or employee of any of them;
(2) "financial interest" includes any legal or equitable interest, and specifically includes the ownership of shares or bonds of a corporation.

Administration

Sec. 3. The commission shall administer this Article. The commission may initiate investigations, hearings, and take other necessary measures to ensure compliance with the provisions of this Article or to determine whether violations may exist. If the commission finds evidence of a violation, it shall notify the Attorney General who may institute a civil action in the name of the commission against a person who violates a provision of this Article. If the commission finds evidence of violation of penal provisions, it shall present it to the District or County Attorney of the county wherein such violation occurred.

Powers of Commission

Sec. 4. In addition to its other authority, the commission may, for the purpose of administering this Article,

(1) prescribe all necessary regulations and rules to ensure that all persons affected by this Article are afforded due process of law;

(2) hold hearings and prescribe rules of procedure and evidence for the conduct of hearings;

(3) issue licenses;

(4) prescribe the procedure for registration of music and skill or pleasure coin-operated machines and the method of securely attaching registration stamps;

(5) disclose confidential information to appropriate officials; and

(6) prescribe the form and content of

(a) license applications;

(b) registration certificates;

(c) tax permits;

(d) reports concerning the location of coin-operated machines; and

(e) reports of the consideration of each party to contracts concerning the placement of coin-operated machines in establishments owned by a person other than the licensee.

Disposition of Fees

Sec. 4A. Fees received by the commission under this article shall be deposited in the State Treasury to the credit of the General Revenue Fund.

Delegation of Authority

Sec. 5. The commission may delegate to an authorized representative any authority given it by this Article, including the conduct of investigations and the holding of hearings.

Agency Cooperation

Sec. 6. All state agencies are directed to cooperate with the commission in its investigatory functions under this Article, and shall provide it access to their relevant records and reports including those declared or designated as confidential by other law.

Confidentiality; Penalty for Disclosure

Sec. 7. (1) All information derived from books, records, reports, and applications required to be made available under this Article to the commission or the Attorney General is confidential unless specifically designated a public record, and may be used only for the purpose of enforcing the provisions of this Article.

(2) Any employee of the commission or Attorney General who discloses confidential information obtained from the administration of this Article to an unauthorized person is guilty of a Class C misdemeanor.

Consumer Information

Sec. 7A. (1) The commission shall prepare information of consumer interest describing the regulatory functions of the commission relating to coin-operated machines and describing the commission procedures by which consumer complaints relating to coin-operated machines are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

(2) Each written contract between a licensed owner and an operator in this state shall contain the name, mailing address, and telephone number of the commission.

License or Registration Certificate Required; Penalty; Exceptions

Sec. 8. (1) No person shall engage in business to manufacture, own, buy, sell, or rent, lease, trade, lend, or furnish to another, or repair, maintain, service, transport within the state, store, or import, a music coin-operated machine or a skill or pleasure coin-operated machine without a license or registration certificate issued under this Article.

(2) A person who knowingly violates this Section is guilty of a Class B misdemeanor.

(3) No license is required for a corporation or association organized and operated exclusively for religious, charitable, educational, or benevolent purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, to own, or lease or rent from another, a music or skill or pleasure coin-operated machine for the corporation’s or association’s exclusive use and in furtherance of the purposes for which it is established. No tax may be assessed against any of these entities if otherwise prohibited by law.

(4) No license or tax is required for an individual to own a music or skill or pleasure coin-operated
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machine for personal use and amusement in his private residence.

(5) No license is required for any person subject to regulation by the Railroad Commission of Texas to transport or store in the due course of business a music or skill or pleasure coin-operated machine not owned by him.

(6) A person who knowingly secures or attempts to secure a license under this Article by fraud, misrepresentation or subterfuge is guilty of a third-degree felony.

Nature of License

Sec. 9. (a) A license issued under this Article:

(1) is an annual license which expires on December 31st of each year, unless it expires as provided in subdivision (5) of this Section or is suspended or cancelled earlier;

(2) is effective for a single business entity;

(3) vests no property or right in the licensee except to conduct the licensed business during the period the license is in effect;

(4) is nontransferable, nonassignable, and not subject to execution; and

(5) expires upon the death of an individual licensee, or upon the dissolution of any other licensee.

(b) An application for the renewal of a license must be made to the commission before December 1 of each year.

Temporary Extension of License

Sec. 10. When a license issued under this Article expires because of the death of an individual licensee, or the dissolution of any other licensee, or upon conditions involving receivership or bankruptcy, the commission, except for good cause shown, shall permit the successor in interest to operate the business under the same license through December 31st of the year. The commission shall give this permission in writing upon certification by the County Judge of the county in which the business is located that the person requesting the extension is the successor in interest. The extended license is subject to suspension or cancellation as is any other license issued under this Article. An original license application is necessary upon expiration of the extension.

Display; Penalty

Sec. 11. (1) A person licensed to do business under this Article shall prominently display his current license certificate at his place of business at all times.

(2) A person who violates this Section is guilty of a Class C misdemeanor.

Application for License

Sec. 12. (1) An application for a license to do business under this Article shall contain a complete statement regarding the ownership of the business to be licensed. This statement of ownership must specify

(a) the nature of the business entity to be licensed;

(b) the name and residence address of every person who has a financial interest in the business, and the nature, type, and extent of that financial interest, except corporate applicants may omit any shareholder holding less than 10% of the corporate shares.

(2) The application shall designate a single individual who is responsible for keeping a record and reporting to the commission the following information regarding each music or skill or pleasure coin-operated machine owned, possessed or controlled by the licensee:

(a) the make, type, and serial number of machine;

(b) the date put in operation;

(c) the dates of the first, and the most recent registration of the machine;

(d) the specific location of each machine;

(e) any change in ownership of a machine.

(3) The application shall be accompanied by a sworn written statement executed by the individual designated to maintain the records and make reports that he is aware of and accepts this responsibility.

(4) The individual designated to maintain the records and to make reports must have the following relationship to the business to be licensed:

(a) the owner of a sole proprietorship;

(b) a partner of the partnership;

(c) an officer of the corporation;

(d) a trustee of the trust;

(e) a receiver of the receivership; or

(f) an officer or principal member of the association, joint venture, organization, or other entity not specified.

(5) The commission may require any other pertinent information to be included in the application.

(6) The application must contain a statement that the information contained in it is true and complete, and this statement shall be made under oath.

(7) The statement of ownership contained in the application becomes a public record upon issuance of a license. Other information in the application is confidential.

(8) The application shall designate an office in this state where the applicant proposes to maintain the records which he is required to maintain by this Article, otherwise by law, or by rule or regulation of the commission.
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Sec. 13. The application must be accompanied by the annual license fee in the form of a cashier's check or money order payable to the commission.

Sec. 14. (1) The licensee shall keep records and make reports to the commission of the information specified in Subsection (2) of Section 12 of this Article at intervals specified by the commission, and upon demand by the commission. He shall immediately notify the commission in writing of any change in ownership of the licensed business.

(2) It is an offense for a person to willfully fail or refuse to make reports required by this Section.

(3) It is an offense for a person to willfully withhold or conceal any information required to be reported by this Section from a person who has the duty to make the report.

(4) A person who violates this Section is guilty of a Class B misdemeanor.

Types of Licenses

Sec. 15. (1) A person who wishes to engage in certain business dealing with music coin-operated machines or skill or pleasure coin-operated machines shall apply for a general business license, or an import license, or a repair license, or any combination of these.

(2) A general business licensee may engage in business to manufacture, own, buy, sell, rent, lease, trade, repair, maintain, service, transport or exhibit within the state, and store music and skill or pleasure coin-operated machines.

(3) An import licensee may engage in business to import, transport, own, buy, repair, sell, and deliver, music and skill or pleasure coin-operated machines, for sale and delivery within this State.

(4) A repair licensee may engage in the business of repairing, maintaining, servicing, transporting, or storing music, skill, or pleasure coin-operated machines.

Sec. 16. (1) The annual license fee for a general business license shall be as follows:

For an applicant with 50 or fewer machines, $200;
For an applicant with 51–200 machines, $400;
For an applicant with over 200 machines, $500.

(2) The annual license fee for an import license is $500.

(3) The annual license fee for a repair license is $50.

(4) The commission may not refund any part of a license fee after the license is issued. In the event a license is not issued, the commission may retain $25 to cover administrative costs, and may refund the balance.

(5) Cities and counties within this state may charge a license fee in an amount not to exceed one-half of the license fee required herein.

(6) A person must renew an unexpired license by paying to the commission before the expiration date of the license the annual license fee. If a person's license has been expired for not more than 90 days, the person must renew the license by paying to the commission a fee that is 1 1/2 times the annual license fee. If a person's license has been expired for more than 90 days but less than two years, the person must renew the license by paying to the commission a fee that is two times the annual license fee. If a person's license has been expired for two years or more, the person may not renew the license. The person must obtain a new license by complying with the requirements and procedures for obtaining an original license.

Exemptions

Sec. 16A. (1) A person who owns or exhibits coin-operated machines is exempt from the licensing and record keeping requirements imposed by this Article if:

(a) he operates or exhibits his machines exclusively on premises occupied by him, and in connection with his business; and

(b) he owns no machine subject to the occupation tax imposed by this chapter located on the business premises of another person; and

(c) he has no financial interest, direct or indirect, in the coin-operated music, skill, or pleasure machine industry, except for the interest he owns in his machines used exclusively on premises occupied by him.

(2) Machines which are exhibited by a nonlicensed owner exempt under this section must be registered with the commission. The owner shall obtain a registration certificate each year. The registration certificate shall show the name and address of the location of each machine and shall certify that the machine has a valid tax stamp affixed to it. The owner shall obtain his registration certificate by filing sworn application.

(3) Each time the location of a machine is changed, the owner of the registration certificate shall notify the commission of the change by filing an amendment to the registration certificate within 10 days of the change.

(4) The fee for registration of machines affected by this section is $50 for the business entity in which the owner's machines are exhibited. The fee shall be paid to the commission by cashier's check or money order.

(5) An application for the renewal of a registration certificate must be made to the commission before December 1 of each year.
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(6) A person must renew an unexpired registration for a machine by paying to the commission before the expiration date of the registration the required registration fee. If a person's registration has been expired for not more than 90 days, the person must renew the registration by paying to the commission a fee that is $1.5 times the registration fee. If a person's registration has been expired for more than 90 days but less than two years, the person must renew the registration by paying to the commission a fee that is two times the registration fee. If a person's registration has been expired for two years or more, the person may not renew the registration. The person must obtain a new registration by complying with the requirements and procedures for obtaining an original registration.

Removal of Stamp Prohibited; Penalty

Sec. 17. (1) No person other than the commission may intentionally remove a current registration stamp from a music or skill or pleasure coin-operated machine.

(2) A person who violates this Section is guilty of a Class C misdemeanor.

License as Consent to Entry

Sec. 18. Acceptance of a license issued under this Article constitutes consent by the licensee that the commission or any peace officer may freely enter upon the licensed business premises during normal business hours for the purpose of ensuring compliance with this Article.

Grounds for Refusal, Suspension, or Revocation of License

Sec. 19. (1) The commission may not issue a general business or import license for a business under this Article if it finds that the applicant:

(a) has been finally convicted of a felony in a court of competent jurisdiction during the five years preceding the filing of the application; or

(b) has been on probation or parole as a result of a felony conviction during the two years preceding the filing of the application.

(2) The commission may not issue or renew a license for a business under this Article, and shall suspend for any period of time, or cancel a license, if it finds that the applicant or licensee is indebted to the State by judgment for any fees, costs, penalties, or delinquent taxes.

(3) The commission may not issue or renew a license for a business pursuant to the terms of this Article if the applicant does not designate and maintain an office in this state or if the applicant does not permit inspection by the commission of all records which the applicant or licensee is required to maintain.

Grounds for Reprimand of Licensee or Suspension or Revocation of License

Sec. 20. (1) A licensee may be reprimanded or a license issued pursuant to the authority of this Article may be suspended or revoked if:

(a) the licensee has intentionally violated a provision of this Article or a regulation promulgated pursuant to the authority of this Article;

(b) the licensee has intentionally failed to answer a question, or intentionally made a false statement in, or in connection with, his application or renewal;

(c) the licensee extends credit without registering his intent to do so with the consumer credit commission;

(d) the licensee uses coercion to accomplish a purpose or to engage in conduct regulated by the commission;

(e) a contract or agreement between the licensee and a location owner contains a restriction of any kind and to any degree, on the right of the location owner to purchase, agree to purchase, or use a product, commodity, or service not regulated under the terms of this Article; or

(f) failure to suspend or revoke the license would be contrary to the intent and purpose of this Article.

(2) The commission shall conduct a hearing to ascertain whether a licensee has engaged in conduct which would be grounds for revocation or suspension. The commission shall make findings of fact, and, if the commission determines that grounds for revocation exist, the commission shall file those findings with the Attorney General. The Attorney General upon receipt of the record may institute an action to impose the penalties provided by this Act in Article 13.11 or to revoke or suspend the license. The action shall be instituted in a district court in the county of the licensee's place of business.

Complaints

Sec. 20A. (1) The commission shall maintain an information file about each complaint filed with the commission relating to a licensee.

(2) If a written complaint is filed with the commission relating to a licensee, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notification would jeopardize an undercover investigation.

Applicant and Licensee Defined

Sec. 21. In Sections 19 and 20 of this Article, unless the context requires a different definition, the words "applicant" and "licensee" include each partner of a partnership; each trustee of a trust; each receiver of a receivership; each officer and director of a corporation; and each shareholder owning not less than 25 percent of the outstanding shares; any individual applicant or licensee; each
officer, director, and member of any association or other entity not specified and, when applicable in context, the business entity itself.

Notice and Hearing

Sec. 22. (1) An applicant or licensee is entitled to at least ten days' notice and a hearing in the following instances:

(a) after his original application for a license has been refused;
(b) before his application for a renewal of a license may be refused;
(c) before the commission may file a recommendation of revocation, denial, or other sanction, with the Attorney General.

(2) Notice of hearing for refusal, cancellation, or suspension may be served personally by the commission or its authorized representative or sent by United States certified mail addressed to the applicant or licensee at his last known address. In the event that notice cannot be effected by either of these methods after due diligence, the commission may prescribe any reasonable method of notice calculated to inform a person of average intelligence and prudence in the conduct of his affairs. The commission shall publish notice of a hearing in a newspaper of general circulation in the area in which the licensee conducts his business activities.

Notice of Commission's Order

Sec. 23. (1) Any order refusing an application or renewal application shall state the reasons for refusal, and a copy of the order shall be delivered immediately to the applicant or licensee.

(2) An order recommending cancellation or suspension of a license shall state the reasons for the cancellation or suspension, and a copy of the order shall be delivered immediately to the licensee.

(3) Delivery of the commission's recommendation of refusal, cancellation, or suspension may be given by

(a) personal service upon an individual applicant or licensee;
(b) personal service upon any officer or director or partner or trustee or receiver, as the case may be;
(c) personal service upon the person in charge of the business premises, temporarily or otherwise, of the applicant or licensee;
(d) sending such notice by United States certified mail addressed to the business premises of the applicant or licensee;
(e) posting notice upon the outside door of the business premises of the applicant or licensee.

(4) Notice is complete upon performance of any of the above.

Review of Commission Action

Sec. 24. (1) Appeal by an affected person from all actions of the commission other than a recommendation to the Attorney General for the revocation of a license as provided in Article 13.07(2) and Article 13.17 Section 20(2) of this Act 1 or from denial of requested action shall be to a District Court of the county of the licensee's place of business. The review shall be conducted by the court and shall be confined to the record. If the record is found to be incomplete, the court may order that additional evidence be taken before the commission. The commission may modify its findings and decision or order by reason of the additional evidence and shall file such evidence and any modifications, new findings, decisions, or orders with the court. In cases of alleged irregularities in procedure before the commission, not shown in the record, proof thereon may be taken in the court.

(2) The court shall not substitute its judgment for that of the commission as to the weight of the evidence on questions of fact committed to commission discretion. The court may affirm the decision of the commission in whole or in part; the court shall reverse or remand the case for further proceeding if substantial rights of the appellant have been prejudiced because the commission's findings, inferences, conclusion, or decisions are:

(a) in violation of constitutional or statutory provisions;
(b) in excess of the statutory authority of the commission;
(c) made upon unlawful procedure;
(d) affected by other error of law;
(e) not reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole; or
(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

1 Article 8807(2) and § 20(2) of this article.

Appeals

Sec. 25. Appeal from any final judgment of the District Court may be taken by any party, including the commission, in the manner provided for in civil actions generally; provided that the commission may not appeal a decision on motion of the Attorney General to revoke a license.

Prohibited Financial Relationships; Credit Transactions; Penalty

Sec. 26. (1) It shall be unlawful for a person who has a financial interest in a business required to be licensed by this Article or for any agent on behalf of such person to contract either orally or in writing to convey an interest in real property whether by lease, sub-lease or otherwise if such contract contains a provision or provisions in any way limiting the other party's right to secure music
or skill or pleasure coin-operated machines from any source.

(2) It shall be unlawful for a person to secure or attempt to secure a contract of lease or bailment of a music or skill or pleasure coin-operated machine by coercion, threats or intimidation, through the commission of, or threat to commit, any act prohibited by the penal laws of this State or the Consumer Credit Code of this State.

(3) A person who violates Subsection (1) or (2) of this Section shall be guilty of a third-degree felony.

(4) Any person required to be licensed by this Article may make an extension of credit or lend the licensee's credit to a lessee or a bailee of a music or skill or pleasure coin-operated machine, or on behalf of either for business or commercial purposes when the following terms and conditions have been met and the following duties and obligations satisfactorily assumed and discharged.

(a) Before making the first such extension of credit, the licensee under this Article shall first notify the Consumer Credit Commissioner of the State of Texas of the intent of such licensee to make extensions of credit in the conduct of the licensee’s business.

(b) The consideration for such extensions of credit shall not be less than one-half of one percent or exceed interest or its equivalent at the rate of one and one-half percent (1 1/2%) per month, computed according to the United States Rule. Consideration excludes court costs and attorney's fees as determined by the court, but includes the aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, and enforcing an extension of credit or forbearance of money, credit, goods, or things in action, or any other service rendered. If in any transaction any consideration in excess of that provided above is charged or received by the licensee directly, or indirectly, except as the result of an accidental and bona fide error corrected upon discovery, the unpaid balance of the indebtedness created by such transaction shall be void, and that portion of any indebtedness so created which has been paid to the licensee, either the principal or its equivalent or interest or its equivalent, or both, shall be repaid by the licensee to the person.

(c) No extension of credit may be made by any person required to be licensed by this Article unless it is evidenced by a written agreement signed by the parties thereto specifying both the amount of credit extended, the consideration for such extension of credit, and the terms according to which such extension of credit is to be repaid.

(d) Each licensee making extensions of credit authorized by this Section shall keep in this State books and records, which shall be consistent with accepted accounting and auditing practices, relating to all such extensions of credit authorized by this Section sufficient to enable any competent person to determine whether or not such licensee is complying with this Section. Such records shall be preserved for four (4) years from the date of the transaction to which they relate, or two (2) years from the date of the final entry made with regard to such transaction, whichever is later.

(e) At such times as the Consumer Credit Commissioner may deem necessary, or at the request of the commission or the Attorney General, the Consumer Credit Commissioner, or his duly authorized representative, may make an examination of the place of business of each licensee hereunder, and may inquire into and examine the transactions, books, accounts, papers, correspondence, or records of such licensee insofar as they pertain to the extensions of credit regulated by this Section. In the course of such examinations, the Consumer Credit Commissioner or his duly authorized representative shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The Consumer Credit Commissioner or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Commissioner is authorized or required by this Section to consider, investigate or secure information. Any licensee who shall fail or refuse to let the Consumer Credit Commissioner or his duly authorized representative examine or make copies of of such books or other relative documents shall thereby be deemed in violation of this Section. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the Consumer Credit Commissioner an amount assessed by the Commissioner to cover the direct and indirect costs of such examination, including a proportionate share of general administrative expenses, which amount shall be retained and held by the Consumer Credit Commissioner, and no part of such fee shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Consumer Credit Commissioner in conducting such examinations shall be paid only from such fees, and no such expense shall ever be charged against the funds of this State.

(f) The Consumer Credit Commissioner may make regulations necessary for the enforcement of this Section and consistent with all its provisions. Before making a regulation the Consumer Credit Commissioner shall give each licensee at least thirty (30) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or other person may be heard and may introduce evidence, data, or arguments or place the same on file. The Consumer Credit Commissioner,
after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form, stating the date of adoption and date of promulgation. Each regulation shall be entered in a permanent record book which shall be a public record and be kept in the Consumer Credit Commissioner’s office. A copy of every regulation shall be mailed to each licensee, and no regulation shall become effective until the expiration of at least twenty (20) days after such mailing. On the application of any person and payment of the cost thereof, the Consumer Credit Commissioner shall furnish such person a certified copy of any such regulation.

(5) Any person who violates Subsection (4) of this Section is guilty of a misdemeanor.


CHAPTER NINE—OCCUPATIONAL THERAPISTS

Art. 8851. Occupational Therapy Title Act.

Art. 8851. Occupational Therapy Title Act

Short Title

Sec. 1. This Act shall be known and may be cited as the "Occupational Therapy Title Act."

Definitions

Sec. 2. In this Act:

(1) "Occupational therapy" means the evaluation and treatment of individuals whose ability to perform the tasks of living is threatened or impaired by developmental deficits, the aging process, environmental deprivation, sensory impairment, physical injury or illness, or psychological or social dysfunction. Occupational therapy utilizes therapeutic goal-directed activities to evaluate, prevent, or correct physical or emotional dysfunction or to maximize function in the life of the individual. Such activities are applied in the treatment of patients on an individual basis, in groups, or through social systems, by means of direct or monitored treatment or consultation.

(2) "Occupational therapist" means a person licensed to practice occupational therapy.

(3) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under the general supervision of an occupational therapist.

(4) "Board" means the Texas Advisory Board of Occupational Therapy.

(5) "Person" means any individual, partnership, unincorporated organization, or corporate body, except that only an individual may be licensed under this Act.

(6) "Evaluation" shall not mean "diagnosis," a medical term which refers to the identification of a disease from its signs and symptoms nor shall such evaluation or "treatment" mean psychological services of the type typically performed by licensed psychologists.

(7) "Commissioner" means the Texas Rehabilitation Commission.

(8) "Commissioner" means the commissioner of the Texas Rehabilitation Commission.

Creation of Board

Sec. 3. (a) A Texas Advisory Board of Occupational Therapy is hereby created. The board is created as a part of the commission and shall perform its duties as a board with the commission. The board shall consist of six members appointed by the governor with the advice and consent of the senate for staggered terms of six years, except for the first board appointed hereunder. Appointments to the board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. Members of the board are appointed for staggered terms of six years, with two members' terms expiring on February 1 of each odd-numbered year. In making the initial appointments, the governor shall designate two members for terms expiring February 1, 1985, two members for terms expiring February 1, 1987, and two members for terms expiring February 1, 1989. The appointments shall be made within 30 days after this Act becomes effective.

(b) Three members of the board must be occupational therapists, be residents of this state, and have practiced occupational therapy for at least three years immediately preceding appointment. One member of the board must be an occupational therapy assistant, be a resident of this state, and have practiced as an occupational therapy assistant for at least three years immediately preceding appointment. All four of these members of the board must be licensed under this Act, except for the members of the first board appointed hereunder. Two members of the board must be members of the general public who are not occupational therapists.

(c) A member or employee of the board may not be an officer, employee, or paid consultant of a trade association in the field of occupational therapy.

(d) A member or employee of the board may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the field of occupational therapy.

(e) A vacancy on the board shall be filled by appointment by the governor with the advice and consent of the senate for the remainder of the term.
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(f) A member of the board is not liable to civil action for any act performed in good faith in the execution of his or her duties in this capacity.

(g) The board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon’s Texas Civil Statutes). Unless the board is continued in existence as provided by that Act, the board is abolished, effective September 1, 1985.

Removal From Board
Sec. 4. (a) It is ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required for appointment to the board;

(2) does not maintain during the service on the board the qualifications required for appointment to the board; or

(3) violates the prohibition established by Section 9 of this Act.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal for a member of the board existed.

Powers and Duties of the Board
Sec. 5. (a) The board shall approve applicants for licenses at least once each year at such reasonable times and places as shall be designated by the board in its discretion.

(b) The board shall prescribe and publish fees for the following:

(1) application for licensure fee (nonrefundable);

(2) initial license fee;

(3) renewal of license fee;

(4) late renewal fee;

(5) endorsement license fee; and

(6) temporary license fee.

These fees shall be determined by and limited to the board’s operational costs in implementing the provisions of this Act.

(c) The board shall approve the examination as described in Subsection (b) of Section 17 of this Act.

(d) The board may investigate complaints; issue, suspend, deny, and revoke licenses; reprimand licensees and place them on probation; issue subpoenas; and hold hearings.

(e) The board shall propose rules consistent with this Act to carry out its duties in administering this Act, shall submit said rules to the office of the Attorney General of Texas for review, and shall then adopt rules consistent with the advice of the attorney general.

(f) The commissioner with the advice of the board shall appoint an executive director to implement the purposes of this Act at a salary as determined by legislative appropriation.

(g) The executive director of the board or her/his designee shall develop an intragency career ladder program, one part of which shall be the intragency posting of all nonentry level positions for at least 10 days before any public posting.

(h) The executive director of the board or her/his designee shall develop a system of annual performance evaluation based on measurable job tasks. All merit pay for board employees must be based on the system established under this section.

(i) The board shall contract for space, computer services, office materials, employees, and any other needed services, materials, or assistants deemed necessary.

(j) The board shall prepare information of consumer interest describing the regulatory functions of the board and the legal rights of consumers as provided in this Act.

(k) The board shall assist the proper legal authorities in the prosecution of all persons violating any provisions of this Act.

(l) The board may recognize, prepare, implement, and require continuing education programs for persons it licenses.

Information for the Public
Sec. 6. The board shall prepare information of consumer interest describing the functions of the board and describing the board’s procedures by which consumer complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate state agencies.

Organization of Board
Sec. 7. (a) The members of the board shall, on appointment, elect from their number a chairman, secretary, and other officers required for the conduct of business. Special meetings of the board shall be called by the chairman or on the written request of any three members. The board may adopt bylaws necessary to govern its proceedings and to implement the purposes of this Act.

(b) The secretary or the executive director shall keep a record of each meeting of the board and maintain a register containing the names of all occupational therapists licensed under this Act, which shall be at all times open to public inspection. On March 1 of each year, the executive director shall transmit an official copy of the list of the licensees to the secretary of state for permanent record, a certified copy of which shall be admissible as evidence in any court of this state.

Compensation
Sec. 8. Each member of the board is entitled to a per diem as set by legislative appropriation for
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each day that the member engages in the business of the board.

Conflict of Interest

Sec. 9. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6522-9c, Vernon's Texas Civil Statutes), may not serve as a member of the board or act as general counsel to the board.

Audit

Sec. 10. The State Auditor shall audit the financial transactions of the board during each fiscal year.

Open Meetings

Sec. 11. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Report to Governor and Legislature

Sec. 12. During January of each year, the board shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding year.

Notice of Standards of Conduct

Sec. 13. The board shall provide to its members and employees as often as is necessary information regarding their qualifications under applicable laws relating to standards of conduct for state officers or employees.

Appropriations to Texas Rehabilitation Commission

Sec. 14. The commission shall receive an account for funds derived under this Act. The funds shall be deposited in the State Treasury to the credit of a special fund known as the Occupational Therapy Licensing Fund and may be used only for the administration of this Act and are hereby appropriated for this purpose.

Exemptions

Sec. 15. (a) This Act does not apply to a licensee of another state agency performing health-care services within the scope of the applicable licensing act.

(b) The licensure provisions of this Act do not apply to:

(1) aides or orderlies assisting licensees under this Act;

(2) any person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program if such activities and services constitute a part of a supervised course of study, if such a person is designated by a title which clearly indicates her or his status as a student or trainee;

(3) any person fulfilling the supervised field work experience requirements of Subsection (d) of Section 16 of this Act, if such activities and services constitute a part of the experience necessary to meet the requirement of that section;

(4) an occupational therapist doing special projects in patient care while working toward an advanced degree from an accredited college or university;

(5) an occupational therapist licensed by another state or who meets the requirements for certification as an occupational therapist registered (OTR) or a certified occupational therapist assistant (COTA) established by the American Occupational Therapy Association who does not live in the state but who comes into the state to provide or attend educational activities or to assist in a case of medical emergency or to engage in special occupational therapy projects; the duration of this exemption shall be no more than four consecutive months; or

(6) any qualified and properly trained person or persons acting under a physician's supervision pursuant to Subdivision (1) of Subsection (d) of Section 3.06 of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

Requirements for Licensure

Sec. 16. An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application provided by the board, showing to the satisfaction of the board that he or she meets the following requirements:

(a) Residence: Applicant need not be a resident of this state.

(b) Character: Applicant shall be of good moral character.

(c) Education: Applicant shall present evidence satisfactory to the board of having successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

(1) Such evidence for a license as an occupational therapist shall be one of the following:

(A) a baccalaureate degree in occupational therapy;

(B) a certificate evidencing successful completion of required undergraduate occupational therapy course work awarded to persons with a baccalaureate degree which is not in occupational therapy; or

(C) a postgraduate degree in occupational therapy.
(2) Such evidence for a license as an occupational therapy assistant shall be one of the following:
   (A) an associate degree in occupational therapy;
   (B) an occupational therapy assistant certificate.
   (d) Experience: Applicant shall submit to the board evidence of having successfully completed a period of supervised field work experience arranged by the recognized educational institution where he or she met the academic requirements.
   (1) For an occupational therapist, a minimum of six months of supervised field work experience is required.
   (2) For an occupational therapy assistant, a minimum of two months of supervised field work experience is required.
   (e) Examination: An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided for in Section 17 of this Act.

Examination for Licensure of Occupational Therapists and Occupational Therapy Assistants

Sec. 17. (a) Only a person satisfying the requirements of Section 16, except Subsection (e) of Section 16, may apply for examination in such a manner as the board shall prescribe. The application shall be accompanied by the nonrefundable fee prescribed by Subdivision (1) of Subsection (b) of Section 5 of this Act.
   (b) Each applicant for licensure shall be examined by written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and such other subjects as the board may require to determine the applicant's fitness to practice. The board shall approve an examination for occupational therapists and an examination for occupational therapy assistants and establish standards for acceptable performance.
   (c) Applicants for licensure shall be examined at a time and place and under such supervision as the board may require. Examinations shall be given at least twice each year at such places as the board may determine. The board shall give reasonable public notice of these examinations in accordance with its rules and regulations.
   (d) Applicants may obtain their examination scores and may review their papers in accordance with such rules and regulations as the board may establish.
   (e) In case of failure of any examination the applicant shall have the privilege of a second examination on payment of the prescribed fees. In case of a second failure, the applicant shall be eligible for a third examination, but shall, in addition to the requirements for previous examinations, have to wait a specific period not to exceed one year before reexamination. Further testing will be at the discretion of the board.
or represent himself or herself as being an occupational therapist unless he or she is licensed under this Act.

Display of License

Sec. 23. Each licensee under this Act shall display his or her license and renewal certificate in a conspicuous place in the principal office where he or she practices occupational therapy.

Renewal of Unexpired License

Sec. 24. (a) A license issued under this Act, unless otherwise provided in this Act, expires on the licensee's birthday, except for licenses which would thereby expire before January 1, 1985, which licenses shall not expire until the licensee's first birthday after that date.

(b) A renewal license shall be issued on submission of an application on a form prescribed by the board and payment of a renewal fee before the expiration date of the license.

Renewal of Expired License

Sec. 25. (a) A license that has expired for less than three years from the date of the application for renewal may be renewed by submission of an application on a form prescribed by the board and payment of a renewal fee established by the board.

(b) A license that has expired for more than three consecutive years may be reinstated only by complying with the requirements for issuing an original license.

Title

Sec. 26. A licensed occupational therapist may use the title “Occupational Therapist Registered” and the initials “O.T.R.” A licensed occupational therapy assistant may use the title “Certified Occupational Therapy Assistant” and the initials “C.O.T.A.” Neither title authorizes the use of the prefix “Dr.,” the word “Doctor,” or any suffix or affix indicating or implying that the licensed person is a physician.

Physician's Referral

Sec. 27. An occupational therapist may enter a case for the purposes of providing consultation and monitored services and evaluating an individual for the need of services. Implementation of direct occupational therapy to individuals for their specific medical conditions shall be based on a referral from a physician licensed to practice in the State of Texas.

Prohibited Acts

Sec. 28. (a) A person may not represent himself or herself as able to practice occupational therapy or represent himself or herself as being an occupational therapist unless he or she is licensed under this Act.

(b) A person may not represent himself or herself as being an occupational therapy assistant unless he or she is licensed under this Act.

(c) It is unlawful for any person who is not licensed under this Act as an occupational therapist or an occupational therapy assistant or whose registration has been suspended or revoked to use in connection with his or her practice or place of business the words "occupational therapy," “occupational therapist,” “licensed occupational therapist,” “occupational therapist registered,” “occupational therapy assistant,” “licensed occupational therapy assistant,” “certified occupational therapy assistant,” or the letters “O.T.,” “O.T.R.” “L.O.T.,” “O.T.R./L.” “O.T.A.” “L.O.T.A.” or “C.O.T.A.” or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant or who in any way, orally, in writing, in print, or by sign directly or by implication represents himself or herself as an occupational therapist or an occupational therapy assistant.

(d) No facility may represent that it offers occupational therapy services unless it employs the services of a licensee under this Act.

Penalties

Sec. 29. (a) A person who knowingly or intentionally violates a provision of this Act commits a Class A misdemeanor.

(b) Each day of violation constitutes a separate offense.

(c) The attorney general, a district attorney, a county attorney, or any other person or any group of persons may institute injunction proceedings or any other proceedings to enforce this Act and to enjoin or restrain any person from the practice of occupational therapy without having complied with this Act. Any person found by a court of competent jurisdiction to have violated a provision of this Act shall forfeit to the State of Texas the sum of $200 per day as a penalty for each day's violation, the sums to be recovered in a suit by the attorney general, a district attorney, a county attorney, or any other person or any group of persons. A person other than the attorney general, a district attorney, or a county attorney who brings an action for injunction or to enforce this Act may recover his or her court costs and attorney's fees.

Grounds for Denial of a License or Discipline of a Licensee

Sec. 30. After hearing, a license may be denied, suspended, or revoked or a licensee otherwise disciplined if the applicant or licensee has:

(1) used drugs or intoxicating liquors to an extent that affects his or her professional competence;

(2) been convicted of a crime, other than minor offenses defined as "minor misdemeanors," “violations,” or “offenses,” in any court if the acts for
which he or she was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to service the public in the capacity of an occupational therapist or occupational therapy assistant;

(3) obtained or attempted to obtain a license by fraud or deception;

(4) been grossly negligent in the practice of occupational therapy or in acting as an occupational therapy assistant;

(5) been adjudicated mentally incompetent by a court of competent jurisdiction;

(6) practiced occupational therapy in a manner detrimental to the public health and welfare;

(7) advertised in a manner that in any way tends to deceive or defraud the public; or

(8) had his or her license to practice occupational therapy revoked or suspended or had other disciplinary action taken against him or her or had his or her application for a license refused, revoked, or suspended by the proper licensing authority of another state, territory, or nation.

Procedures for Denial of a License or Discipline of a Licensee

Sec. 31. (a) Proceedings for the denial, suspension, or revocation of a license or for other discipline of a licensee and appeals from those proceedings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon’s Texas Civil Statutes).

(b) The board may deny or refuse to renew a license, may suspend or revoke a license, may remand a licensee, or may impose probationary conditions after a hearing in the manner provided by the rules adopted by the board.

(c) On application, the board may reissue a license to a person whose license has been denied or who has been disciplined by the board, but the application may not be made before the 180th day after the date the order of denial or discipline became final, and the application must be made in the manner and form required by the board.


CHAPTER TEN—AIR CONDITIONING CONTRACTORS

Art. 8861. Air Conditioning Contractor License Law.

Art. 8861. Air Conditioning Contractor License Law

Short Title
Sec. 1. This Act may be cited as the “Air Conditioning Contractor License Law.”

Definitions
Sec. 2. In this Act:

(1) “Environmental air conditioning” means the process of treating indoor air to continuously control its temperature, humidity, cleanliness, and circulation to meet human comfort requirements.

(2) “Air conditioning contractor” means a person licensed under this Act who designs, installs, constructs, maintains, services, repairs, alters, or modifies any heating, ventilating, or air conditioning product, system, or equipment.

(3) “Air conditioning contracting” means designing, installing, constructing, maintaining, servicing, repairing, altering, or modifying any heating, ventilating, or air conditioning product, system, or equipment. The term does not include the design, installation, construction, maintenance, service, repair, alteration, or modification of a portable or self-contained ductless air conditioning or heating product that has a cooling capacity of three tons or less or a heating capacity of 36,000 British thermal units or less.

(4) “Commissioner” means the commissioner of the Texas Department of Labor and Standards.

(5) “Person” means an individual.

Powers and Duties of Commissioner

Sec. 3. (a) The commissioner shall adopt rules for the practice of air conditioning contracting consistent with this Act not later than the 90th day after the effective date of this Act. The standards prescribed by rule must be at least as strict as the standards set forth in the Uniform Mechanical Code published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, as that code exists at the time the rules are adopted.

(b) The commissioner shall prescribe application forms for original and renewal licenses and the design of the licenses.

(c) The commissioner shall prescribe the method and content of examinations administered under this Act and shall set compliance requirements for the examinations. The examinations shall be offered only in Travis County and shall be offered on a quarterly basis.

(d) The commissioner shall set insurance requirements for persons licensed under this Act. The commissioner may waive the insurance requirements for licensees who do not contract with the general public.

(e) The commissioner may employ the personnel necessary to implement this Act. The commissioner shall employ at least two full-time air conditioning professionals to serve as air conditioning examiners.

(f) The commissioner may authorize necessary disbursements to implement this Act, including of-
Air Conditioning Contractor License

Sec. 4. (a) Air conditioning contractor licenses are of two classes. A Class A license entitles the licensee to install, repair, or alter summer or winter environmental air conditioning systems of any size or capacity. A Class B license entitles the licensee to install, repair, or alter an environmental air conditioning system that develops a total of not more than 25 tons cooling capacity and not more than 1,500,000 British thermal units per hour output heating capacity. The commissioner shall prescribe an appropriate examination for each class of license.

(b) An applicant for an air conditioning contractor license must be at least 18 years old and have at least three years of practical experience in air conditioning work. For purposes of the experience requirement, a degree or diploma in air conditioning engineering or mechanical engineering from an institution of higher education whose program is approved by the Texas State Board of Registration for Professional Engineers for the purpose of licensing professional engineers is considered the equivalent of two years of practical experience.

(c) The application must be made on a form prescribed by the commissioner and must specify the class of license the applicant seeks. The application must be verified and must be accompanied by:

(1) three recommendations from competent people in the regulated industry;

(2) evidence of the insurance coverage required under this Act;

(3) a statement of the applicant's practical experience; and

(4) the examination fee.

(d) The commissioner shall issue the air conditioning contractor license to an applicant who possesses the required qualifications, passes the appropriate licensing examination, and pays the examination fee and the original license fee required by this Act. An applicant who fails the examination is eligible for reexamination.

(e) A license issued under this Act expires three years after the date it was issued. To renew a license, the licensee must submit to the commissioner before the expiration date a renewal application, on a form prescribed by the commissioner, accompanied by the renewal fee. The commissioner shall notify the licensee of the expiration date of the license and the amount of the renewal fee. The notice shall be mailed not later than the 30th day before the expiration date.

Denial, Suspension, or Revocation of License

Sec. 5. (a) A violation of this Act or a rule adopted under this Act is a ground for the denial, suspension, or revocation of a license issued under this Act.

(b) Proceedings for the denial, suspension, or revocation of a license and appeals from those proceedings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-15a, Vernon’s Texas Civil Statutes).

Exemptions

Sec. 6. (a) This Act does not apply to a person who:

(1) performs air conditioning work in a building owned solely by him as his home;

(2) performs air conditioning maintenance work if the person is regularly employed as a maintenance man or maintenance engineer or is licensed as a professional engineer under The Texas Engineering Practice Act, as amended (Article 3271a, Vernon’s Texas Civil Statutes), the work is performed in connection with the business in which the person is employed, and the person does not engage in the occupation of air conditioning contracting for the general public;

(3) performs air conditioning contracting and is regularly employed by a regulated electric or gas utility;

(4) performs plumbing work and is licensed under The Plumbing License Law (Article 6249–101, Vernon’s Texas Civil Statutes); or

(5) assists in the performance of air conditioning work under the direct personal supervision of a licensee.

(b) The work described by Subsection (a) of this section remains subject to any permit, inspection, or approval requirements prescribed by a municipal ordinance.

(c) A person licensed under this Act may not perform or offer or attempt to perform any act, service, or function that is defined as the practice of engineering by The Texas Engineering Practice Act, as amended (Article 3271a, Vernon’s Texas Civil Statutes). This Act does not apply to a person licensed in this state as a professional engineer and engaged in business as a professional engineer.

(d) This Act does not apply to a person who is regulated under Chapter 112, Natural Resources Code.

Reporting Requirement

Sec. 7. Each person licensed under this Act shall notify the municipal authority who has control of the enforcement of regulations relative to air condi-
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... intentionally engages in air conditioning contracting in the municipality in which the person is engaged in air conditioning contracting that the person has obtained a state license. The notification must contain the name and address of the licensee.

Penalty

Sec. 8. Except as provided in Section 9, a person commits an offense if the person knowingly or intentionally engages in air conditioning contracting without a license issued under this Act. An offense under this section is a Class C misdemeanor.

Municipal Regulation

Sec. 9. A license issued under this Act is valid throughout the state, and the holder is not required to hold a municipal license to practice air conditioning contracting in a municipality. A license issued by a municipality of this state is valid under the terms of the license within that municipality.

Sunset Review: Expiration

Sec. 10. (a) The Sunset Advisory Commission shall review the operation of this Act as part of the commission's review of the office of the commissioner.

(b) Unless continued by law, this Act expires September 1, 1989.

Effective Date for License Requirement

Sec. 11. A person is not required to be licensed under this Act to engage in the business of air conditioning contracting until January 1, 1986.


[Chapters 11 to 19 reserved for future expansion]

CHAPTER TWENTY. MISCELLANEOUS

Art. 9001. Sale of Goods on Both the Two Consecutive Days of Saturday and Sunday

Prohibition of Sales; Items; Misdemeanor

Sec. 1. Any person, on both the two (2) consecutive days of Saturday and Sunday, who sells or offers for sale or shall compel, force or oblige his employees to sell any clothing; clothing accessories; wearing apparel; footware; headwear; home, business, office or outdoor furniture; kitchenware; kitchen utensils; china; home appliances; stoves; refrigerators; air conditioners; electric fans; radios; television sets; washing machines; driers; cameras; hardware; tools, excluding non-power driver hand tools; jewelry; precious or semi-precious stones; silverware; watches; clocks; luggage; motor vehicles; musical instruments; recordings; toys, excluding items customarily sold as novelties and souvenirs; mattresses; bed coverings; household linens; floor coverings; lamps; draperies; blinds; curtains; mirrors; lawn mowers or cloth piece goods shall be guilty of a misdemeanor. Each separate sale shall constitute a separate offense.

Sales for Charitable and Funeral or Burial Purposes; Real Property Sales

Sec. 2. Nothing herein shall apply to any sale or sales for charitable purposes or to items used for funeral or burial purposes or to items sold as a part of or in conjunction with the sale of real property.

First Offense; Subsequent Convictions; Penalties

Sec. 3. For the first offense under this Act, the punishment shall be by fine of not more than One Hundred Dollars ($100.00). If it is shown upon the trial of a case involving a violation of this Act that defendant has been once before convicted of the same offense, he shall on his second conviction and on all subsequent convictions be punished by imprisonment in jail not exceeding six (6) months or by a fine of not more than Five Hundred Dollars ($500.00), or both.
Purpose; Public Nuisances; Injunction; Application and Proceedings

Sec. 4. The purpose of this Act being to promote the health, recreation and welfare of the people of this state, the operation of any business whether by any individual, partnership or corporation contrary to the provisions of this Act is declared to be a public nuisance and any person may apply to any court of competent jurisdiction for and may obtain an injunction restraining such violation of this Act. Such proceedings shall be guided by the rules of other injunction proceedings.


Occasional Sales

Sec. 5. Occasional sales of any item named herein by a person not engaged in the business of selling such item shall be exempt from this Act.

Legislative Intent

Sec. 5a. It is the intent of the Legislature that Articles 286 and 287 of the Penal Code of Texas¹ are not to be considered as repealed by this Act; provided, however, that the provisions of said Articles shall not apply to sales of items listed in Section 1 of this Act which are forbidden to be sold on the day or days named in this Act.

¹Now repealed by Acts 1979, 66th Leg., p. 991, ch. 399, § 3(a), enacting the new Texas Penal Code.

Art. 9001a. Tourist Trade Centers; Exemption from Saturday-Sunday Law

Definitions

Sec. 1. As used in this Act:

(1) "Tourist trade center" shall mean a specific contiguous area of not more than one-fourth square miles. Merchants within such area shall primarily offer for sale goods that are generally of interest to tourists. Seventy-five percent of all real property within such area shall be publicly owned.

(2) "Tourist trade center merchant" shall mean a merchant who employs no more than 10 persons and who primarily offers for sale goods that are of general interest to tourists and sells more than 75 percent of those goods to tourists and whose gross sales of all products for the preceding one-week period are not more than $10,000.

(3) "Saturday-Sunday Law" is Chapter 15, Acts of the 57th Legislature, 1st Called Session, 1961 (Article 9001, Vernon's Texas Civil Statutes).

Sec. 2. The governing body of an incorporated city or town, by ordinance, may designate two tourist trade centers within such city. A tourist trade center merchant, exclusively within a tourist trade center, shall be exempt from the provisions of the Saturday-Sunday Law.

Sec. 3. Any person may apply to any court of competent jurisdiction for and may obtain an injunction restraining anyone using the provision of this Act to claim an exemption from the Saturday-Sunday Law, when such person claiming the exemption is not a tourist trade center merchant within a tourist trade center. Such person bringing the action may recover reasonable attorney's fees, costs of court, and actual damages, if any.

Sec. 4. It is the intent of the legislature that this Act would not have been enacted if it in any way affects the constitutionality of the Saturday-Sunday Law and if any portion or provision of this Act is held or found to be unconstitutional, this Act shall be void and such shall not in any manner affect the Saturday-Sunday Law.

Art. 9002. Mass Gatherings Act

Short Title

Sec. 1. This Act may be cited as the Texas Mass Gatherings Act.

Definitions

Sec. 2. In this Act:

(1) "Mass gathering" means any meeting or gathering held outside the limits of an incorporated city which attracts or can be expected to attract more than 5,000 persons who will remain at the location of the gathering for a period of more than 12 continuous hours.

(2) "Issuing officer" means the county judge in the county in which a mass gathering is to be held.

(3) "Promoter" means any person, group of persons, firm, corporation, partnership, or association that organizes, promotes, manages, finances, or holds a mass gathering.

Prohibition

Sec. 3. No person may act as a promoter of a mass gathering in this state unless he obtains a permit from the issuing officer under the provisions of this Act. If the owner of the property on which the mass gathering will be held is not the promoter as defined in Section 2, subsection (3), the owner of the property shall not be required to obtain a permit under the provisions of this Act.

Application for Permit

Sec. 4. (a) At least 45 days before a mass gathering is to be held, the promoter of the mass gathering shall file with the issuing officer an application for a permit.

(b) The application shall include the following:

(1) the name and address of the promoter;
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(2) a financial statement reflecting all funds which are being supplied to finance the mass gathering and who supplied them;

(3) the name and address of the owner of the property on which the mass gathering is to be held and a certified copy of the agreement made between the promoter and the owner of the property;

(4) the location and a description of the property on which the mass gathering is to be held;

(5) the dates and the times that the mass gathering will be held;

(6) the number of persons the promoter will allow to attend the mass gathering and the plan which the promoter intends to use to limit attendance to this number;

(7) the names and addresses of the performers who have agreed to appear and their agents and a description of any agreements reached with these performers;

(8) a description of all steps taken by the promoter to assure that minimum standards of sanitation and health will be maintained during the mass gathering;

(9) a description of all preparations being made to provide traffic control and to assure that the mass gathering will be conducted in an orderly fashion and the physical safety of the persons in attendance will be protected;

(10) a description of the preparations made to provide adequate medical and nursing care; and

(11) a description of the preparations made to supervise minor persons who may attend the mass gathering.

Investigation

Sec. 5. (a) After an application is filed with the issuing officer, he shall send copies to the county health officer and the sheriff.

(b) The county health officer shall inquire into preparations for the mass gathering and at least five days before the hearing shall submit a report to the issuing officer stating whether or not he believes that minimum standards of health and sanitation provided by state and local laws, rules, regulations, and orders will be maintained.

(c) The sheriff shall investigate preparations for the mass gathering and at least five days before the hearing shall submit a report to the issuing officer stating whether or not he believes that minimum standards provided by state and local laws, rules, regulations, and orders for assuring public safety and order will be maintained.

(d) The issuing officer may conduct any additional investigation which he considers necessary.

(e) The county health officer and the sheriff shall be available to give testimony relating to their reports at the hearing.

Hearing

Sec. 6. (a) The issuing officer shall set a date and a time for a hearing on the application which shall be held at least 10 days before the day on which the mass gathering is to begin.

(b) Notice of the time and place of the hearing shall be given to the promoter and to any persons who have an interest in the granting or denial of the permit.

(c) At the hearing, any person may appear and testify for or against the granting of the permit.

Findings of Issuing Officer

Sec. 7. (a) After the hearing is completed, the issuing officer shall enter his findings in the record and shall grant or deny the permit.

(b) The issuing officer may deny the permit if he finds that:

(1) the application contains false or misleading information or required information is omitted;

(2) the financial backing of the promoter is insufficient to assure that the mass gathering will be conducted in the manner stated in the application;

(3) the location selected for the mass gathering is inadequate for the purpose for which it is to be used;

(4) the promoter has not made adequate preparations to limit the number of persons attending the mass gathering or to provide adequate supervision for minor persons attending the mass gathering;

(5) the promoter does not have assurance that performers who are scheduled to appear will appear;

(6) the preparations for the mass gathering do not assure that minimum standards of sanitation and health will be maintained or that the mass gathering will be conducted in an orderly fashion and the physical safety of persons in attendance will be protected, or that adequate supervision of minor persons will not be provided;

(7) adequate arrangements for traffic control have not been provided; or

(8) adequate medical and nursing care shall not be available.

Revocation of Permit

Sec. 8. (a) After a permit is issued, if the issuing officer finds that preparations for the event will not be completed by the time the mass gathering is to begin or that the permit has been obtained by fraud or misrepresentation, he may revoke the permit.

(b) The issuing officer must give notice to the promoter 24 hours in advance of the revocation, and hold a hearing on the revocation if requested by the promoter.
Appeal
Sec. 9. Any promoter or person affected by the action of the issuing officer in granting, denying, or revoking a permit under this Act may appeal to a district court for the county in which the mass gathering is to be held.

Rules and Regulations
Sec. 10. (a) The State Department of Health shall promulgate rules and regulations relating to minimum standards of health and sanitation to be maintained at mass gatherings.

(b) The Texas Department of Public Safety shall promulgate rules and regulations relating to minimum standards which must be maintained to protect public safety and maintain order at a mass gathering.

(c) Before any rule or regulation is issued under this section, the department issuing the rule or regulation shall give notice and hold a public hearing.

Penalty
Sec. 11. Any person who violates the provisions of Section 3 of this Act is guilty of a misdemeanor and on conviction is punishable by confinement in the county jail for not more than 90 days or by a fine of not more than $1,000, or both.


Art. 9003. Outdoor Music Festivals; Regulation; Registration of Promoters

Definitions
Sec. 1. In this Act:
(1) “Outdoor music festival” and “event” mean any form of musical entertainment provided by live performances occurring on two or more consecutive days or on two days in any three-day period if:
(A) more than 5,000 persons are in attendance at any one performance;
(B) any of the performers or any of the audience are not within a permanent structure; and
(C) the performance occurs outside the boundaries of an incorporated city.

(2) “Promoter” means any person who attempts to organize, promote, or solicit funds for the organization or promotion of an outdoor music festival.

Prohibited Acts
Sec. 2. (a) No person may act as a promoter of an outdoor music festival in this state without first having registered with the county clerk of the county in which the event is to be held.

(b) No person may direct or control or participate in the direction or control of an outdoor music festival unless a valid permit for the event has been issued as provided in this Act.

Registration of Promoters
Sec. 3. (a) A promoter of an outdoor music festival shall register with the county clerk of the county where the event is to be held.

(b) The registration form must include:
(1) the name and address of the promoter;
(2) the names and addresses of the promoter’s associates and employees who are assisting in the promotion of the outdoor music festival; and
(3) a statement as to whether or not the promoter or any of his associates or employees have ever been convicted of any crime involving the misappropriation of funds, theft, burglary, or robbery.

(c) A registration fee of $50 must be submitted with the registration form.

(d) The application must be verified by the promoter and be based on his best information and belief.

Application for Permit
Sec. 4. (a) A promoter desiring to hold an outdoor music festival in this state shall file a permit application with the county clerk of the county in which the event is to be held.

(b) The application must be filed at least 60 days before the day the event is to be held.

(c) The application must include:
(1) the name and address of the promoter and the names and addresses of all associates and employees of the promoter assisting in the promotion of the event;
(2) a financial statement of the promoter and a statement specifying from whom capital for the event is being supplied and in what amounts;
(3) a description of the place where the event is to be held;
(4) the name and address of the owner of the place where the event is to be held and a statement describing the terms and conditions of the agreement whereby the promoter is authorized to use the land;
(5) the dates and times that the event is to be held;
(6) the maximum number of persons that the promoter will allow to attend the event and a statement showing how the promoter plans to control the number of persons in attendance at the event;
(7) a description of the promoter’s agreements with performers who are scheduled to appear at the event; and
(8) a full and complete statement describing the promoter’s preparations for the event to comply with the minimum standards of sanitation and health as prescribed by Chapter 178, Acts of the 49th Legislature, Regular Session, 1946, as amended (Article 4477-1, Vernon’s Texas Civil Statutes).
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(d) The application for the permit must be verified by the promoter and be based on his best information and belief.

(e) A filing fee of $5 must be submitted with the application for a permit.

Health Report

Sec. 5. (a) On the filing of an application for a permit, the county clerk shall forward a copy of the application to the county health officer.

(b) The county health officer shall make a written report to the commissioners court. The report shall state whether or not the county health officer believes that the preparations described in the application would, if carried out, be sufficient to protect the community and the persons attending the music festival from health dangers and to avoid violations of Chapter 178, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 4477-1, Vernon's Texas Civil Statutes).

(c) The report of the county health officer shall be filed with the county clerk no later than two days before the day of the hearing on the permit application.

(d) The county health officer shall be present at the hearing on the permit application and may be called to testify by any person having an interest in the permit.

Hearing

Sec. 6. (a) The commissioners court shall set a date and time for a hearing on the application for a permit. The hearing may be held not later than 30 days before the day set for the first performance of the event and not earlier than 15 days after the day the application is filed.

(b) The promoter is entitled to 10 days' notice prior to the day of hearing.

(c) Any person may appear at the hearing and give testimony for or against the granting of the permit.

Denial of Permit; Grounds

Sec. 7. (a) A permit for an outdoor music festival shall be granted to an applicant by the commissioners court unless the court finds from a preponderance of the evidence presented at the hearing that:

(1) false or misleading information is contained in the application or required information is omitted;

(2) the promoter does not have sufficient financial backing or stability to carry out the preparations specified in the application or to insure the faithful performance of his agreements;

(3) the preparations specified in the application are insufficient to protect the community or the persons attending the event from health dangers or to avoid violations of Chapter 178, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 4477-1, Vernon's Texas Civil Statutes);

(4) the times and place for the event create a substantial danger of congestion and disruption of other lawful activities in the immediate vicinity of the event;

(5) the preparations specified in the application are insufficient to limit the number of persons in attendance at the event to the maximum number stated in the application; or

(6) the promoter does not have adequate agreements with performers to insure with reasonable certainty that persons advertised to perform will in fact appear.

(b) A finding under Subsection (a) of this section requires a majority vote of the commissioners court.

Permit

Sec. 8. A permit, if issued, shall authorize the promoter to hold an outdoor music festival at a specified place and at specified times.

Revocation of Permit

Sec. 9. (a) At any time prior to five days before the day of the first performance of the event, the commissioners court may, after reasonable notice to the promoter and a hearing, revoke the permit on a finding by a majority of the court that the preparations for the event will not be completed in time for the first performance and that the failure to carry out the preparations will result in a serious threat to the health of the community or the persons attending the event.

(b) A permit is irrevocable during the period between five days before the day of the first performance of the event and the final day of the event.

Appeal

Sec. 10. (a) A person affected by an action of the commissioners court in granting, denying, or revoking a permit for an outdoor music festival may appeal by filing a petition in the district court of the county where the commissioners court presides.

(b) The action of the commissioners court shall be reviewed under the substantial evidence rule.

(c) An appeal under this section does not suspend any action of the commissioners court unless suspension is ordered by the district court.

Penalties

Sec. 11. Any person who violates the provisions of Section 2 of this Act is guilty of a misdemeanor and on conviction is punishable by confinement in the county jail for not more than 30 days or by a fine of not more than $1,000 or by both.

[Acts 1971, 62nd Leg., p. 1867, ch. 552, eff. June 1, 1971.]
Art. 9004. Shipping Articles Without Inspection

Whoever shall export from this State, or ship for the purpose of exportation to any one of the United States or to any foreign port, any article of commerce which by any law of this State may be required to be inspected by a public inspector without having caused said inspection to be made according to law, shall be fined not exceeding one hundred dollars.

[1925 P.C.]

Art. 9005. Restricting Work of Foreign Crew

Any officer, sailor, or member of the crew of a foreign sea-going vessel who shall engage in working on the wharves or levees of ports in this State beyond the end of the vessel's tackle shall be fined not less than ten nor more than one hundred dollars or be imprisoned in jail not less than ten nor more than thirty days, or both.

[1925 P.C.]

Art. 9006. Unlawfully Throwing Ballast

If any part of the ballast of any vessel shall be thrown from such vessel into the sea within six miles of any bar or harbor in this State, the master or officer in charge thereof at the time shall be fined not less than one hundred nor more than two hundred dollars.

[1925 P.C.]

Art. 9007. Sale of Merchandise Made by Convicts or Prisoners Prohibited; Exceptions

Sec. 1. It shall be unlawful for any person, firm, partnership, association, or corporation to sell or offer for sale within the State of Texas any goods, wares, or merchandise manufactured wholly or in part by convicts or prisoners in penal or reformatory institutions, except convicts or prisoners on parole or probation, and provided further that nothing in this Section shall be construed to forbid or prohibit the sale of such goods produced or manufactured in the prison institutions of this State to the State, or to any political subdivision thereof, or to any public institution owned or managed and controlled by the State or any subdivision thereof.

Sec. 1(a). The Texas Department of Corrections is hereby authorized to contract with other states, the federal government, foreign governments, or any agency of any of them for the manufacturing and selling of items produced by prison industries for the above mentioned governments. The Texas Department of Corrections is also authorized to contract with private schools and visually handicapped persons in the State of Texas for the purpose of manufacturing braille textbooks and other instructional aids for the education of blind or visually handicapped persons.

Sec. 2. Any person, firm, partnership, association, or corporation which shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five Dollars ($25) nor more than Two Hundred Dollars ($200) for the first offense, and not less than Fifty Dollars ($50) nor more than Five Hundred Dollars ($500) for each subsequent offense.


Art. 9008. Repealed by Acts 1975, 64th Leg., p. 2905, ch. 719, art. 1, § 1, eff. Jan. 1, 1976

Art. 9009. Secondhand Metal Dealers; Records and Reports of Purchases and Sales of Copper, Brass and Bronze Materials

Definitions

Sec. 1. As used in this Act,

(1) "copper or brass material" means either hard-drawn or soft-drawn copper wire or cable of the type used by public utilities or common carriers, or copper or brass pipe or fittings, or any combination of these;

(2) "secondhand metal dealer" means junk dealer, auto wrecker, scrap metal processor, or any other person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring scrap metal or junk, or any person operating, carrying on, conducting or maintaining a scrap metal or junk yard or place where scrap metal or junk is gathered together or kept for shipment, sale, or transfer.

Duty to Maintain Record; Exhibition; Form and Contents

Sec. 2. (a) Every secondhand metal dealer in this state shall keep a written record of all sales to and purchases from any individual of copper or brass material in excess of 50 pounds made in the course of his business. The record shall be exhibited on demand to any peace officer of this state or the United States. The record shall be in the English language in written form and shall include:

(1) the place and date of each sale to or purchase from an individual, of copper or brass material in excess of 50 pounds made in the conduct of his business;

(2) the name and address of each individual from whom copper or brass material in excess of 50 pounds is purchased or obtained, and the license number of any motor vehicle used in transporting such copper or brass material to the secondhand metal dealer's place of business;
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(3) a description of the article or articles of copper or brass material sold or purchased and the quantity thereof.

(b) Every secondhand metal dealer in this state shall keep a written record of all purchases from any individual of any bronze cemetery vase or receptacle, any bronze cemetery memorial, or any bronze statuary made in the course of his business. The record shall be exhibited on demand to any peace officer of this state or the United States. The record shall be in the English language in written form and shall include:

(1) the place and date of each purchase from an individual of any bronze cemetery vase or receptacle, any bronze cemetery memorial, or any bronze statuary made in the course of his business;

(2) the name and address of each individual from whom any bronze cemetery vase or receptacle, any bronze cemetery memorial, or any bronze statuary is purchased or obtained, and the license number of any motor vehicle used in transporting the bronze pieces to the secondhand metal dealer's place of business;

(3) a description of the bronze cemetery vase or receptacle, bronze cemetery memorial, or bronze statuary purchased and the weight of it.

Preservation of Records

Sec. 3. Every secondhand metal dealer shall preserve the records required by Section 2 of this Act for a period of at least two years.

Reports; Mailing

Sec. 4. Every secondhand metal dealer shall, within seven days after the purchase or other acquisition of any material required to be recorded under Section 2 of this Act, mail to or file with the Department of Public Safety a report containing the information required to be recorded in Section 2 of this Act.

Violations; Penalties

Sec. 5. A secondhand metal dealer who violates any provision of this Act or who fails to comply with any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000, or by confinement in the county jail for not more than 60 days, or by both.

Exempt Purchases and Sales

Sec. 6. All purchases made from any person or firm which sells or disposes of copper or brass material as an ordinary and usual part of its business, or from any person or firm which is engaged in business as a secondhand metal dealer, shall be exempt from Section 3 hereof, provided the purchaser obtains a bill of sale from the seller at the time of the purchase.


Sections 7 and 8 of the act of 1967 provided:

"Sec. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 8. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only."

Art. 9009a. Crafted Precious Metals; Dealer Purchase and Disposition

Definitions

Sec. 1. In this Act:

(1) "Crafted precious metals" includes jewelry, silverware, art objects, or any other thing or object made, in whole or in part, from gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or their alloys, excluding coins and commemorative medallions.

(2) "Dealer" means a person who engages in the business of purchasing and selling crafted precious metals.

(3) "Department" means the Department of Public Safety of the State of Texas.

(4) "Person" means an individual, association, corporation, or any other legal entity.

(5) "Temporary location" means a place where business is conducted for a period shorter than 90 days.

Purchases from Minor

Sec. 2. (a) A dealer may not purchase crafted precious metals from a person under 18 years of age unless the seller delivers to the dealer before the purchase a written statement from a parent or legal guardian of the seller consenting to the transaction. The dealer shall preserve the statement with the records required to be kept under this Act. The dealer may destroy the statement one year from the date of purchase or until the item is sold, whichever occurs later.

(b) A person who fails to obtain or keep a statement as required by this section commits a Class B misdemeanor.

Report of Purchasing

Sec. 3. (a) Not later than 48 hours after the time it is received, each dealer shall report in accordance with Section 4 of this Act all identifiable crafted precious metal that the dealer purchases, takes in trade, accepts for sale on consignment, or accepts for auction.

(b) Each dealer, before the time any crafted precious metal is offered for sale or exchange, shall
notify each person intending to sell or exchange the crafted precious metal that the person must file with the dealer, before the dealer may accept any of the person's property, a list describing all of the person's crafted precious metal to be accepted by the dealer. The list must set forth:

(1) the name and address of the proposed seller;

(2) a complete and accurate description of the crafted precious metal;

(3) a certification by the proposed seller that the information is true and complete; and

(4) the driver's license number or DPS identification card number of the seller, as recorded by the dealer upon being physically presented the driver's license or DPS identification card by the seller.

(c) On demand the dealer shall provide the list required by Subsection (b) of this section to any peace officer and shall mail or deliver a complete copy of each list to the chief of police or to the sheriff. In accordance with Section 4 of this Act not later than 48 hours after it is filed with the dealer.

(d) The dealer who fails to make or permit inspection of a report as required by this section commits a Class B misdemeanor.

Form of Report: Filing

Sec. 4. (a) Each report required by this Act must be filed in accordance with this section unless a similar report is required by other state law or by a city ordinance. If such a report is required, the report must comply with and be submitted in accordance with the applicable law or ordinance.

(b) If a transaction regulated by this Act takes place inside an incorporated municipality, any report required by this Act shall be submitted to the chief of police of the municipality. If the transaction takes place outside an incorporated city or inside an unincorporated city that does not maintain a police department, the report shall be submitted to the sheriff of the county where the transaction takes place.

(c) If the transaction is not set forth on forms prescribed by the district attorney or person performing the duties of district attorney of the county where the transaction occurs.

(d) The original report and a copy shall be submitted by the dealer in accordance with Subsection (b) of this section. The dealer shall retain a copy of the report until the third anniversary of the date on which the report is filed.

(e) A dealer who fails to make or permit inspection of a report as required by this section commits a Class B misdemeanor.

Retention of Property

Sec. 4A. (a) A dealer who conducts business from a temporary location may not engage in business of buying precious metal or used items made of precious metal unless the person has filed a registration statement with the department within a 12-month period at least 30 days preceding the date on which each purchase is made and the person has filed, within the same period, a copy of the registration statement with the local law enforcement agency of the municipality in which the temporary location is situated or, if the temporary location is not situated in a municipality, with the local law enforcement agency of the county in which the temporary location is situated. A registration statement must set forth:

(1) the name and address of the person;

(2) the location where business is to be conducted; and

(3) other relevant information required by the department.

(b) If the dealer is an association or corporation, the statement must set forth the name and address of each member of the association or each officer and director of the corporation, respectively.

(c) A dealer who fails to file a registration statement in violation of this section commits a Class B misdemeanor.
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Purchase of Melted Items

Sec. 7. (a) A dealer, in the course of business, may not purchase an object that is formed as the result of the melting of crafted precious metal unless the object is purchased from a manufacturer of or a regular dealer in crafted precious metal.

(b) A person who purchases an object in violation of this section commits a Class B misdemeanor.

Necessity of Compliance with Other Law or Ordinance

Sec. 8. Nothing in this Act excuses noncompliance with another state law or city ordinance covering the reporting, holding, or releasing of crafted precious metal.

Effect of Act upon Enactment, Amendment, or Enforcement of Local Ordinance

Sec. 9. This Act does not prohibit enactment, amendment, or enforcement by any city of any local ordinance relating to a dealer and does not supersede any city ordinance except to the extent that an ordinance does not require any reporting for transactions involving crafted precious metal.

Application of Act

Sec. 10. (a) This Act applies only to the crafted precious metals that have been sold or used primarily for personal, family, or household purposes. This Act does not apply to any person whose purchases and sales of precious metals and products made thereof are merely incidental to its business of extracting, recovering, or salvaging precious metals from industrial by-products and industrial waste products nor does this Act apply to dental, pharmaceutical, or medical applications of crafted precious metals.

(b) This Act does not apply to crafted precious metal that has been:

(1) acquired in good faith in a transaction involving the stock in trade of another dealer who previously made the reports required by this Act concerning the crafted precious metal included in the transaction if:

(A) the selling dealer delivers to the acquiring dealer a written document that states that the reports have been made;

(B) the acquiring dealer submits a copy of the statement to the chief of police of the city or the sheriff of the county where the selling dealer is located; and

(C) each dealer involved in the transaction retains a copy of the statement required by this subdivision until the third anniversary of the date of the transaction;

(2) acquired in a nonjudicial sale, transfer, assignment, assignment for the benefit of creditors, or consignment of the assets or stock in trade, in bulk, or a substantial part of those assets, of an industrial or commercial enterprise, other than a dealer, for the voluntary dissolution or liquidation of the seller's business, or for disposing of an excessive quantity of personal property, or property that has been acquired in a nonjudicial sale or transfer from an owner other than a dealer, his entire household of personal property, or a substantial part of that property, if:

(A) the dealer gives written notice to the chief of police of the city or the sheriff of the county where the dealer's business is located that exemption from reporting is being claimed under this subdivision; and

(B) the dealer retains in his place of business, until the third anniversary of the date of the transaction, a copy of the bill of sale, receipt, inventory list, or other transfer document as a record which shall be made available for inspection by any peace officer;

(3) acquired in a sale made by any public officer in his official capacity as a trustee in bankruptcy, executor, administrator, receiver, or public official acting under judicial process or authority, or acquired in a sale made on the execution of, or by virtue of, any process issued by a court;

(4) acquired in good faith as part or complete payment for other crafted precious metal by a person, partnership, firm, or corporation whose principal business is primarily that of selling directly to the consumer crafted precious metal that has not been subject to a prior sale;

(5) acquired as surplus property from the United States or a state, subdivision of a state, or municipal corporation; or

(6) reported by a dealer as an acquisition or a purchase, or reported as destroyed or otherwise disposed of to:

(A) a state agency in accordance with another law of this state; or

(B) a city or county office or agency in accordance with another law of this state or a city ordinance.

(7) acquired by a person licensed and regulated under the Texas Pawnshop Act (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes).


Sections 3 and 4 of the 1983 amendatory act provide:

"Sec. 3. This Act applies only to a transaction occurring on or after the effective date of this Act. A transaction occurring before the effective date of this Act is governed by the law in effect when the transaction occurred, and that law is continued in effect for that purpose.

"Sec. 4. The district attorney shall prescribe the form required by the amendment made by this Act to Section 4(c), Chapter 500, Acts of the 67th Legislature, Regular Session, 1981 (Article 9009a, Vernon's Texas Civil Statutes), before September 1, 1983."
Art. 9010. Peddling of Printed Matter by Deaf or Mute Persons

It shall be unlawful for any person to peddle or use a finger alphabet card or other printed matter stating in effect that the person is deaf and/or mute, in a manner calculated to play upon the sympathy of another in the solicitation of a contribution or donation. Any person violating any provision hereof shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for not more than sixty (60) days or by a fine of not less than Ten Dollars ($10) nor more than Fifty Dollars ($50), or by both imprisonment and fine.

[Acts 1969, 56th Leg., p. 1066, ch. 487, § 1.]

Art. 9011. Going Out of Business Sales

Sec. 1. That the term “going out of business sale” shall mean any offer to sell to the public or sale to the public of goods, wares and merchandise on the implied or direct representation by word of mouth or written or oral advertising that such sale is in anticipation of the termination of a business at its present location.

Sec. 2. It shall be unlawful for any person, firm, or corporation, to fraudulently represent that he is conducting a “going out of business sale.”

Sec. 3. To conduct a “going out of business sale,” any person, firm, or corporation shall file a sworn itemized inventory with the assessor and collector of taxes of the city or county, which has jurisdiction of his location, together with a filing fee of $2. Said sworn inventory shall include the following:

1. Name and address of the owner of the goods, wares or merchandise to be sold.

2. The name and address of the owner of the defunct business, the former stock in trade of which is to be offered for sale, and the full name of such defunct business.

3. A description of the place where the liquidation sale is to be held.

4. The commencement and termination date of the liquidation sale.

5. A complete and detailed inventory of the goods, wares, and merchandise to be offered at the liquidation sale if the owner is conducting said sale in his own name, or such information in the form of a copy of an itemized and descriptive bill of sale from the owner of the defunct business sold to any other person conducting the liquidation sale to be sold at such sale. Upon receipt thereof by the assessor and collector of taxes of the city or county, the applicant should be issued a permit for “going out of business sale” for 120 days. If at the expiration of the 120 days of the original permit the applicant has not terminated his business, he shall file with the assessor and collector of taxes of the city or county an inventory reflecting the remaining merchandise which shall include the information as stated in the original application and the assessor and collector of taxes of the city or county shall upon the receipt thereof and a renewal fee of $2 issue a renewal permit for 120 days; provided, however, that at the expiration of the first permit and any subsequent renewal an amended inventory stating any additional items, not included in the original inventory initially filed, which have been offered for sale shall be filed with the authority which received the initial inventory.

Sec. 4. The provisions of this Act shall not apply to any sale conducted by a public officer as part of his official duties, to any sale, an accounting of which must be made to a court of law, or to any sale conducted pursuant to an order of a court of law.

Any sale under a foreclosure pursuant to a deed of trust or other lien shall not be included in this Act.

Sec. 5. Any person violating any provisions of this Act shall, upon conviction, be fined in the sum of not less than $200, and each separate day’s violation shall constitute a separate offense.


Art. 9012. Reproduction for Sale, or Sale or Offer for Sale, of a Sound Recording Without Owner’s Consent

Sec. 1. As used in this Act, “owner” means the owner of the master recording, master disc, master tape, master film, or other device used for reproducing recorded sound on a phonograph record, disc, tape, film, or other material on which sound is recorded and from which the transferred recorded sound is directly or indirectly derived.

Sec. 2. A person commits a misdemeanor punishable by a fine not to exceed $2,000 if he:

1. Knowingly reproduces for sale any sound recording without the written consent of the owner of the original recording; or

2. Sells or offers for sale any sound recording that he knows has been reproduced without the written consent of the owner of the original recording.

Sec. 3. A second offense under this Act shall be a felony punishable by a fine of not more than $25,000, or imprisonment for not more than five years, or both.

Sec. 4. The provisions of this Act shall not apply to any fees due ASCAP.


Section 5 of the 1971 act provided:

"The provisions of this Act are hereby declared to be severable. Should any portion hereof be declared unconstitutional or ineffective for any reason, such declaration shall not affect the remaining provisions hereof, and the Legislature specifically declares that it would have passed the balance of this Act notwithstanding the omission of any part thereof declared to be unconstitutional or ineffective."
Art. 9013  **OCCUPATIONAL AND BUSINESS REGULATIONS**

**Art. 9013. Tattooing**

Sec. 1. It shall be unlawful to tattoo any person under the age of twenty-one (21) years.

Sec. 2. "Tattooing" means the practice of marking the skin with indelible patterns or pictures by making punctures and inserting pigments.

Sec. 3. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than ten dollars ($10) nor more than two hundred dollars ($200), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

(Acts 1965, 59th Leg., p. 847, ch. 521, § 10, eff. Sept. 1, 1965.)


See now, Penal Code, § 81.11.


Acts 1977, 65th Leg., ch. 871, repealing this article, enacts the Natural Resources Code.

For disposition of the subject matter of the repealed article, see Disposition Table preceding the Natural Resources Code.

**Art. 9016. Furnishing False Credit Information to or by a Credit Reporting Bureau**

Sec. 1. As used in this Act "credit reporting bureau" means a person or organization engaging in the practice of assembling or reporting credit information on individuals for the purpose of furnishing such information to third parties.

Sec. 2. Any person who knowingly furnishes false information regarding another person's credit worthiness, credit standing, or credit capacity to a credit reporting bureau is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $200.

Sec. 3. Any credit reporting bureau who knowingly furnishes false information regarding a person's credit worthiness, credit standing, or credit capacity to a third party is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $200.

(Acts 1971, 62nd Leg., p. 3051, ch. 1012, eff. Aug. 30, 1971.)

**Art. 9017. Repealed by Acts 1975, 64th Leg., p. 2305, ch. 719, art. II, § 1, eff. Jan. 1, 1976**

**Art. 9018. Artists' Consignment Act**

Sec. 1. This Act may be cited as the Artists' Consignment Act.

Sec. 2. In this Act:

(1) "Art" means a painting, sculpture, drawing, work of graphic art, pottery, weaving, batik, macramé, quilt, or other commonly recognized art form.

(2) "Artist" means the creator of a work of art or, if he is deceased, his estate.

(3) "Art dealer" means a person engaged in the business of selling works of art.

(4) "Creditor" has the meaning given that term by Section 1.201, Business & Commerce Code.

(5) "Person" means an individual, partnership, corporation, or association.

Sec. 3. A work of art delivered to an art dealer for the purpose of exhibition or sale, and the proceeds from the sale of the work by the dealer, whether to the dealer on his own account or to a third person, are not subject to the claims, liens, or security interests of the creditors of the art dealer, notwithstanding any provision of the Business & Commerce Code.

(Acts 1977, 65th Leg., p. 1530, ch. 623, §§ 1 to 3, eff. Aug. 29, 1977.)

**Art. 9019. Interception of Communications; Civil Remedies and Criminal Penalties**

Sec. 1. In this Act:

(a) "Communication" means speech uttered by any person and any information including speech transmitted in whole or in part with the aid of wire or cable.

(b) "Interception" means the aural acquisition of the contents of any communication through the use of an electronic, mechanical, or other device without the consent of a party to the communication. Interception does not include the ordinary use of:

(1) a telephone or telegraph instrument, facility, or equipment;

(2) a hearing aid designed to correct subnormal hearing to not better than normal;

(3) a radio, television, or other wireless receiver;

(4) a cable system that relays public wireless broadcasts from a common antenna to one or more receivers.

Sec. 2. (a) A party to a communication may bring a civil action in a court of competent jurisdiction against any person, including a corporation or association, who:

(1) intercepts, attempts to intercept, or employs or obtains the services of another person to intercept or attempt to intercept the communication;

(2) uses or divulges information that he knows, or reasonably should have known, was obtained by intercepting the communication; or

(3) in his capacity as a landlord, building operator, telephone company or other communication common carrier through its agents or employees aids or knowingly permits the actual or attempted interception.

(b) In a suit filed under this section, a person who establishes a cause of action is entitled to:...
(1) an injunction prohibiting further interceptions, attempted interceptions, or divulgure or use of information obtained by interception;
(2) statutory damages of $1,000;
(3) all actual damages in excess of $1,000;
(4) Any punitive damages the court or jury may award; and
(5) reasonable attorney's fees and costs.
(c) It shall not be unlawful for an operator of a switchboard or an officer, employee, or agent of any telephone company or other communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the telephone company or other communication common carrier, provided that said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks. In any civil action under this article, it shall be the burden of any defendant relying upon this defense to establish by a preponderance of the evidence that every such interception, disclosure, or use was a necessary incident to the rendition of service.
(d) It is further provided that no cause of action will arise under this section with respect to surveillance authorized under the provisions of Title 18, United States Code, Section 2516, as amended.

Sec. 3. A landlord, building operator, employee of a telephone company or other communication common carrier, or any other person who knowingly aids or permits the actual or attempted interception of communications, as defined in this Act, shall on first conviction be guilty of a Class A misdemeanor, and on second or subsequent conviction be guilty of a third-degree felony, except that no criminal liability shall arise under the provisions of this Act with respect to surveillance authorized under state or federal law.


Art. 9020. Regulation of Invention Development Services Act

Short Title
Sec. 1. This Act may be cited as the Regulation of Invention Development Services Act.

Definitions
Sec. 2. In this Act:
(1) "Invention development services" means any act done by or for an invention developer for the procurement or attempted procurement by the invention developer of a licensee or buyer of an intellectual property right in an invention. The term includes the evaluation, perfecting, marketing, brokering, or promoting of an invention, a patent search, and preparation or prosecution of a patent application by a person not registered to practice before the U. S. Patent and Trademark Office.
(2) "Invention" means a discovery, process, machine, design, formulation, product, concept, or idea, or any combination of these, whether patentable or not.

Customer
Sec. 3. For the purposes of this Act, a customer is:
(1) an individual who enters into a contract with an invention developer for invention development services; or
(2) a firm, partnership, corporation, or other entity that enters into a contract with an invention developer for invention development services and that is not purchasing those services as an adjunct to the traditional commercial enterprises in which it engages as a business.

Invention Developer
Sec. 4. For the purposes of this Act, an invention developer is an individual, firm, partnership, corporation, or an agent, employee, officer, partner, or independent contractor of one of those entities, that offers to perform or performs invention development services for a customer and that is not:
(1) a department or agency of federal, state, or local government;
(2) a nonprofit, charitable, scientific, or educational organization, qualified under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) or described by Section 170(b)(1)(a) of the Internal Revenue Code of 1954, as amended;¹
(3) an attorney acting within the scope of the attorney's professional license;
(4) a person acting within the scope of the attorney's professional license;
(5) a person registered before the U. S. Patent and Trademark Office acting within the scope of that person's professional license; or
(6) a person, firm, corporation, association, or other entity that does not charge a fee, including reimbursement for expenditures made or costs incurred by the entity, for invention development services other than payment made from a portion of the income received by a customer by virtue of acts performed by the entity.


Contracting Requirements
Sec. 5. (a) Each contract for invention development services by which an invention developer undertakes invention development services for a customer is subject to this Act. The contract must be in writing and the invention developer shall give a copy of the contract to the customer at the time the customer signs the contract.
Art. 9020  OCCUPATIONAL AND BUSINESS REGULATION

(b) If it is the invention developer's normal practice to seek more than one contract in connection with an invention or if the invention developer normally seeks to perform services in connection with an invention in more than one phase with the performance of each phase covered in one or more subsequent contracts, the invention developer shall give to the customer at the time the customer signs the first contract:

(1) a written statement describing that practice; and

(2) a written summary of the developer's normal terms, if any, of subsequent contracts, including the approximate amount of the developer's normal fees or other consideration, if any, that may be required from the customer.

(c) For the purposes of this section, delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention developer or to a third party for the benefit of the invention developer irrespective of the date or dates appearing in that instrument is payment.

(d) Notwithstanding any contractual provision to the contrary, payment for invention development services may not be required, made, or received before the fourth working day after the day on which the customer receives a copy of the contract for invention development services signed by the invention developer and the customer.

(e) Until the payment for invention development services is made, the parties to a contract for invention development services have the option to terminate the contract. The customer may exercise the option by refraining from making payment to the invention developer. The invention developer may exercise the option to terminate by giving to the customer a written notice of its exercise of the option. The written notice becomes effective on its receipt by the customer.

Standard Provisions for Cover Notice

Sec. 6. (a) A contract for invention development services must have a conspicuous and legible cover sheet attached. The cover sheet must set forth:

(1) the name, home address, office address, and local office address of the invention developer; and

(2) the following notice printed in bold-faced type of not less than 10-point size:

THIS CONTRACT BETWEEN YOU AND AN INVENTION DEVELOPER IS REGULATED BY THE STATE OF TEXAS' REGULATION OF INVENTION DEVELOPMENT SERVICES ACT. YOU ARE NOT PERMITTED OR REQUIRED TO MAKE ANY PAYMENTS UNDER THIS CONTRACT UNTIL FOUR (4) WORKING DAYS AFTER YOU SIGN THIS CONTRACT AND RECEIVE A COMPLETED COPY OF IT.

IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION DEVELOPER, THE INVENTION DEVELOPER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER SINCE (year) IS (number). THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION DEVELOPER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION DEVELOPER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION DEVELOPER IS (number).

YOU ARE ENCOURAGED TO CONSULT WITH A QUALIFIED ATTORNEY BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF A QUALIFIED ATTORNEY, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.

(b) The invention developer shall complete the cover sheet with the proper information to be provided in the blanks. In the first blank the invention developer shall enter the year that the invention developer began business or the effective date of this Act. The numbers entered in the last two blanks of the cover notice may be rounded to the nearest 100 and need not include those who have contracted with the invention developer during the three calendar months immediately preceding the date of the contract. If the number to be inserted in the third blank is zero, it must be so stated.

(c) The cover notice may not contain anything in addition to the information required by Subsection (a) of this section.

Reports to Customer Required

Sec. 7. For each contract for invention development services, the invention developer, at least once each calendar quarter during the term of the contract, shall deliver to the customer at the address specified in the contract a written report that identifies the contract and that sets forth:

(1) a full, clear, and concise description of the services performed to the date of the report and of the services to be performed;

(2) the name and address of each person, firm, or corporation to whom the subject matter of the contract has been disclosed, the reason for each disclosure, the nature of the disclosure, and copies of all responses received as a result of those disclosures.

Mandatory Contract Terms

Sec. 8. (a) A contract for invention development services shall set forth in bold-faced type of not less than 10-point size:
(1) the terms and conditions of payment and contract termination rights required by Section 5 of this Act;

(2) a full, clear, and concise description of the specific acts or services that the invention developer undertakes to perform for the customer;

(3) a statement as to whether the invention developer undertakes to construct, sell, or distribute one or more prototypes, models, or devices embodying the customer's invention;

(4) the name and principal place of business of the invention developer;

(5) the name and principal place of business of any parent, subsidiary, or affiliated company that may engage in performing any of the invention development services;

(6) a statement of estimated or projected customer earnings and a description of the data on which the estimation or projection is based if the invention developer makes an oral or written representation of estimated or projected customer earnings;

(7) the name and address of the custodian of all records and correspondence pertaining to the invention development services for which the contract is made;

(8) a statement that the invention developer is required to maintain all records and correspondence relating to performance of the invention development services for that customer until the second anniversary of the date of the expiration of the contract for invention development services and that on seven days' written notice the invention developer will make the invention development services records and correspondence available to the customer or the customer's representative for review and copying at the customer's reasonable expense on the invention developer's premises during normal business hours; and

(9) a statement setting forth a time schedule for performance of the invention development services, including an estimated date by which performance of the invention development services is expected to be completed.

(b) To the extent that the description of specific acts or services required by Subsection (a)(2) of this section gives the invention developer discretion in determining which acts or services will be performed, the invention developer is a fiduciary.

Remedies

Sec. 9. (a) A contract for invention development services that does not substantially comply with this Act is voidable at the option of the customer. A contract for invention development services entered into in reliance on any false, fraudulent, or misleading information, representation, notice, or advertisement of the invention developer is voidable at the option of the customer. Any waiver by the customer of any provision of this Act is contrary to public policy and is void.

(b) A customer who has been injured by a violation of this Act by an invention developer, by a false or fraudulent statement, representation, or omission of material fact by an invention developer, or by failure of an invention developer to make all disclosures required by this Act may recover in a civil action against the invention developer:

(1) court costs;
(2) attorney's fees; and
(3) the amount of actual damages, if any, sustained by the customer or $1,000, whichever is greater.

(c) Alternatively, any violation of this Act by an invention developer, or omission of material fact by an invention developer, or failure of an invention developer to make all disclosures required by this Act constitutes a deceptive trade practice under Chapter 17 of the Business & Commerce Code. Remedies available under Subsection (b) of this section are mutually exclusive to those provided under this Subsection (c) in conformance with Section 17.43 of the Business & Commerce Code, as amended.

(d) For the purpose of this section, substantial violation of any provision of this Act by an invention developer or execution by the customer of a contract for invention development services in reliance on a false or fraudulent statement, representation, or material omission establishes a rebuttable presumption of injury.

Enforcement; Civil Penalty; Restraint of Violations

Sec. 10. The attorney general shall enforce this Act. The attorney general may recover a civil penalty not to exceed $2,000 for each violation of this Act and may seek equitable relief to restrain a violation of this Act.

Financial Requirements

Sec. 11. (a) Except as provided by Subsection (c) of this section, each invention developer rendering or offering to render invention development services in this state shall maintain a bond issued by a surety company authorized to do business in this state. The principal sum of the bond must be at least five percent of the invention developer's gross income from the invention development business in this state during the invention developer's last fiscal year or $25,000, whichever is greater. The invention developer shall file a copy of the bond with the secretary of state before the day on which the invention developer begins business in this state. Before the 91st day after the last day of the invention developer's fiscal year, the invention developer shall change the amount of the bond if necessary to conform with the requirements of this section.

(b) The bond required by Subsection (a) of this section must be in favor of the State of Texas for the benefit of any person who, after entering into a
contract for invention development services with an invention developer, is damaged by fraud, dishonesty, or failure to provide the services of the invention developer in performance of the contract. Any person claiming against the bond may maintain an action at law against the invention developer and the surety. The aggregate liability of the surety to all persons for all breaches of conditions of the bond required by this subsection is limited to the amount of the bond.

(c) Instead of furnishing the bond required by Subsection (a) of this section, the invention developer may deposit with the secretary of state a cash deposit equal to the amount of the bond required by this section. The cash deposit may be satisfied by:

(1) certificates of deposit payable to the secretary of state issued by banks doing business in this state and insured by the Federal Deposit Insurance Corporation;

(2) investment certificates of share accounts assigned to the secretary of state and insured by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation;

(3) bearer bonds issued by the United States government or by this state; or

(4) cash deposited with the secretary of state.

Effect on Other Laws

Sec. 12. This Act does not annul or limit any obligation, right, or remedy that is applicable or available under the law of this state.


Art. 9021. Installation and Maintenance of Community Antenna or Cable Television Equipment

Definitions

Sec. 1. In this Act:

(1) "Equipment" means a line, wire, cable, pipe, conduit, conductor, pole, or other facility for transmission of community antenna or cable television service.

(2) "Person" means an individual, firm, or corporation.

Installation and Maintenance

Sec. 2. In any unincorporated area in the state, a person in the business of providing community antenna or cable television service to the public may install and maintain equipment through, under, along, across, and over a utility easement, a public road, an alley, or a body of public water in the state, in accordance with this Act.

Public Convenience

Sec. 3. The person shall install and maintain the equipment in a manner that does not unduly inconvenience members of the public using the affected property.

Notice and Location

Sec. 4. (a) Before a person installs equipment within the right-of-way of a state highway or county road in an unincorporated area, the person must notify the State Department of Highways and Public Transportation, if a state highway is involved, or the county commissioners court, if a county road is involved.

(b) On notification under Subsection (a) of this section, the department or commissioners court may designate the place within the right-of-way where the equipment is to be installed, if it is not to be installed on an existing facility.

(c) If necessary to permit widening or changing of traffic lanes, the department or commissioners court may require a person to relocate its equipment installed within the right-of-way of a state highway or county road. The department or commissioners court shall give the person written notice not later than 45 days before the relocation is to be made. The notice must specify the equipment to be moved and the place within the right-of-way where the equipment may be reinstalled. The person shall bear the expense of repairing a state highway or county road damaged by a relocation under this subsection.


Art. 9022. Processing Fee by Holder of Dishonored Check

Sec. (a) The holder of a check or its assignee, agent, representative, or any other person retained by the holder to seek collection of the face value of the dishonored check on return of the check to the holder following its dishonor by a payor may charge the drawer or endorser a reasonable processing fee, which shall not exceed $15.

(b) Nothing herein shall be construed as affecting any right or remedy to which the holder of a check may be entitled under any rule, regulation, written contract, judicial decision, or other statute.

[Acts 1983, 68th Leg., p. 3873, ch. 617, § 1, eff. Aug. 29, 1983.]

Art. 9023. Telephone Solicitations for Organizations Benefiting or Composed of Police or Fire Fighters

(a) A person commits an offense if he solicits a charitable donation by telephone and intentionally or knowingly:

(1) makes a materially false or misleading statement of fact during the course of the solicitation that would lead a reasonable person to believe that proceeds of the solicitation would go to an organization benefiting or composed of police or fire fighters; and
Art. 9024. Business Machines; Secondhand Dealer Purchases and Repairs

Definitions

Sec. 1. In this Act:

(1) "Business machine" includes a typewriter, adding machine, check-writing device, cash register, calculator, or addressing machine, or letter-sorting or folding device, or an item of recording, copying, or accounting equipment. The term does not include office furniture or fixtures.

(2) "Person" means an individual, association, or corporation.

(3) "Secondhand dealer" means a person who engages in the business of buying, selling, trading, accepting for sale on consignment, accepting for auction, or auctioning business machines or a person who owns or operates an auction or any other event at which two or more persons offer business machines for sale or exchange and at which a fee is charged for the privilege of offering or displaying property for sale or exchange or for admission of prospective buyers to the area where property is offered or displayed for sale or exchange. The term does not include any person acting as a dealer for the exclusive benefit of any community chest, fund, foundation, or nonprofit corporation organized and operated for religious, hospital, or charitable purposes, if none of the gross receipts or net earnings of the sale or exchange, whether in the form of a percentage of receipts or earnings, a salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or the conduct of the sale or exchange. The term also does not include a person who owns the land on which the auction or event occurs if that person has no control over the auction or event and has no personal knowledge of any facts arising from the auction or event that constitute a violation of this Act.

Report of Purchasing

Sec. 2. (a) Within 48 hours after the time a business machine is received, each secondhand dealer shall report in accordance with Section 5 of this Act each business machine that the dealer purchases, takes in trade, accepts for sale on consignment, or accepts for auction.

(b) Each secondhand dealer, before the time any business machine is offered for sale or exchange, shall notify each person intending to sell or exchange a business machine that the person must file with the secondhand dealer, before the dealer may accept any of the person's business machines, a list describing each of the person's business machines to be accepted by the dealer. The list must set forth:

(1) the seller's driver's license number or Department of Public Safety identification card number, as recorded by the dealer on physical presentation of the license or identification card by the seller;

(2) a complete and accurate description of each business machine, including its serial number or other identifying marks or symbols;

(3) a certification by the proposed seller that the information is true and complete; and

(4) the make, year, model, color, and registration number of the vehicle in which the business machine is transported to the auction or event.

(c) On demand the secondhand dealer shall provide the list required by Subsection (b) of this section to any peace officer, and shall mail or deliver each list to the chief of police or to the sheriff in accordance with Section 5 of this Act within 48 hours after it is filed with the secondhand dealer.

(d) A secondhand dealer who fails to make a report as required by this section commits a Class B misdemeanor.

Report of Repairs

Sec. 3. (a) Within 48 hours after the time the servicing or repair of a used business machine is completed, each person who engages in the business of servicing or repairing business machines shall file, in accordance with Section 5 of this Act, a report on that business machine.

(b) A report of repair is not required from a person who services or repairs a machine in the possession of the owner to whom that person sold that machine when it was new.

(c) A person who fails to make a report as required by this section commits a Class B misdemeanor.

Application of Act

Sec. 4. This Act does not apply to any business machine that has been:

(1) acquired in good faith in a transaction involving the stock in trade of another secondhand dealer who previously made the reports required by this Act concerning the business machine included in the transaction if:

(A) the selling dealer delivers to the acquiring dealer a written document that states that the reports have been made;
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(B) the acquiring dealer submits a copy of the statement to the chief of police of the city or the sheriff of the county where the selling dealer is located; and

(C) each secondhand dealer involved in the transaction retains a copy of the statement required by this subdivision until the third anniversary of the date of the transaction;

(2) acquired in a nonjudicial sale, transfer, assignment, assignment for the benefit of creditors, or consignment of the assets or stock in trade, in bulk, or a substantial part of those assets, of an industrial or commercial enterprise, other than a secondhand dealer, for the voluntary dissolution or liquidation of the seller's business, or for disposing of an excessive quantity of personal property, or property that has been acquired in a nonjudicial sale or transfer from an owner other than a secondhand dealer, his entire household of personal property, or a substantial part of that property, if:

(A) the secondhand dealer gives written notice to the chief of police of the city or the sheriff of the county where the dealer's business is located that exemption from reporting is being claimed under this subdivision; and

(B) the secondhand dealer retains in his place of business, until the third anniversary of the date of the transaction, a copy of the bill of sale, receipt, inventory list, or other transfer document as a record which shall be made available for inspection by any peace officer;

(3) acquired in a sale made by any public officer in his official capacity as a trustee in bankruptcy, executor, administrator, receiver, or public official acting under judicial process or authority, or acquired in a sale made on the execution of, or by virtue of, any process issued by a court;

(4) acquired as surplus property from the United States or a state, subdivision of a state, or municipal corporation;

(5) reported by a secondhand dealer as an acquisition or a purchase, or reported as destroyed or otherwise disposed of, to:

(A) a state agency in accordance with another law of this state; or

(B) a city or county officer or agency in accordance with another law of this state or a city ordinance or

(6) acquired by a person licensed under the Texas Pawnshop Act (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes).

Form of Report: Filing

Sec. 5. (a) Each report required by this Act must be filed in accordance with this section unless a similar report is required by other state law or by a city ordinance. If such a report is required, the report must comply with and be submitted in accordance with the applicable law or ordinance.

(b) A report required by Section 3 of this Act following the repair or servicing of a business machine must set forth a complete and accurate description of the business machine, including serial number and other identifying marks or symbols, and the name and address of the person for whom the repairs were made or the service was rendered. All other reports required by this Act, unless otherwise provided by this Act, must set forth:

(1) the name and address of the seller of the business machine;

(2) a complete and accurate description of the business machine for which the report is being made, including serial number or other identifying marks or symbols;

(3) a certification by the seller that the information is true and complete; and

(4) the make, year, model, color, and registration number of the vehicle in which the business machine is transported to the dealer.

(c) if a transaction regulated by this Act takes place inside an incorporated municipality, any report required by this Act shall be submitted to the chief of police of the municipality. If the transaction takes place outside an incorporated city or inside an incorporated city that does not maintain a police department, the report shall be submitted to the sheriff of the county where the transaction takes place.

(d) In the absence of other state law, or a city ordinance, that requires reporting of property acquired by a secondhand dealer in a transaction enumerated by Section 2(a) of this Act, the report shall be submitted on forms prescribed by the district attorney of the county where the transaction occurs.

(e) The original report and a copy shall be submitted by the secondhand dealer in accordance with Subsection (c) of this section. The secondhand dealer shall retain a copy of the report in his place of business until the third anniversary of the date on which the report is filed. The secondhand dealer shall make the report available for inspection by any peace officer.

Retention of Property

Sec. 6. (a) Before the 11th day after the day on which a report required by this Act is filed, a secondhand dealer may not dispose of the business machine for which the report is made unless:

(1) the peace officer to whom the report is submitted, for some good cause, authorizes disposition of any property described in a specific report; or

(2) the secondhand dealer obtains the name, address, and description of the buyer of the property and retains this information record, which shall be made available for inspection by any peace officer.
(b) A person who disposes of property in violation of this section commits a Class B misdemeanor.

(c) This section does not apply to a business machine for which the report is required as the result of the repair or servicing of the machine.

Serial Number

Sec. 7. (a) A secondhand dealer may not knowingly purchase a business machine if a person has tampered with a serial number on the machine.

(b) A person who purchases a business machine in violation of this section commits a Class B misdemeanor.

Purchases From Minor

Sec. 8. (a) A secondhand dealer may not purchase a business machine from a person under 18 years of age unless the seller delivers to the dealer before the purchase a written statement from a parent or legal guardian of the seller consenting to the transaction. The dealer shall preserve the statement with the records required to be kept under this Act. The dealer may destroy the statement one year from date of purchase or until the item is sold, whichever occurs later.

(b) A person who fails to obtain or keep a statement as required by this section commits a Class B misdemeanor.

Purchases at Temporary Locations

Sec. 9. (a) A secondhand dealer who conducts business from a temporary location may not engage in the business of buying business machines unless the person has filed a registration statement with the Department of Public Safety within a 12-month period at least 30 days preceding the date on which each purchase is made and the person has filed, within the same period, a copy of the registration statement with the local law enforcement agency of the municipality in which the temporary location is situated or, if the temporary location is not situated in a municipality, with the local law enforcement agency of the county in which the temporary location is situated. A registration statement must set forth:

(1) the name and address of the person;
(2) the location where business is to be conducted; and
(3) other relevant information required by the department.

(b) If the secondhand dealer is an association or corporation, the statement must set forth the name and address of each member of the association or each officer and director of the corporation, respectively.

(c) A secondhand dealer who fails to file a registration statement in violation of this section commits a Class B misdemeanor.

Inspection of Records

Sec. 10. A person who fails to make a report or record available for inspection by a peace officer as required by this Act commits a Class B misdemeanor.

Necessity of Compliance With Other Law or Ordinance

Sec. 11. Nothing in this Act excuses noncompliance with another state law or city ordinance covering the reporting, holding, or releasing of business machines.

Effect of Article Upon Enactment, Amendment, or Enforcement of Local Ordinance

Sec. 12. This Act does not prohibit enactment, amendment, or enforcement by any city of any local ordinance relating to a secondhand dealer and does not supersede any city ordinance except to the extent that an ordinance does not require any reporting for transactions involving business machines.

Prescribing Form

Sec. 13. A person required to prescribe a form by Section 5(d) of this Act shall prescribe the form before September 1, 1983. [Acts 1983, 68th Leg., p. 5071, ch. 919, §§ 1 to 12, eff. Sept. 1, 1983; 913, eff. Aug. 29, 1983.]
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Art. 9201. Flammable Liquids; Storage, etc., at Service Stations

Definitions
Sec. 1. As used in this Act and in the rules and regulations promulgated pursuant to this Act:
(1) "Person" means individual, firm, association, corporation, or other private entity.
(2) "Board" means the State Board of Insurance.
(3) "Flammable liquid" means any liquid having a flash point below 140° Fahrenheit and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100° Fahrenheit, but does not include liquefied petroleum gases.
(4) "Retail service station" means that portion of property where flammable liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles and where such dispensing is an act of retail sale.
(5) "Bulk plant" means that portion of a property operated in conjunction with a retail service station where flammable liquids are received by tank vessel, tank car, or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank car, tank vehicle, or container.

Rules and Regulations
Sec. 2. (a) The State Board of Insurance shall formulate, adopt, and promulgate rules and regulations for the safe storage, handling and use of flammable liquids at retail service stations within the scope provided by Sections 4, 5 and 6 of this Act.
(b) The rules and regulations shall be in substantial conformity with applicable provisions of the published standards of the National Fire Protection Association, in effect as of the effective date of this Act, covering the storage, handling, and use of flammable liquids at retail service stations.
(c) Nothing in this Act or the rules and regulations promulgated pursuant to this Act shall in any manner be interpreted as prohibiting, or permitting the prohibition of, self-service gasoline station operations, so long as such stations require an attendant to be on the premises.
(d) In addition to other authority granted by this Act, the State Board of Insurance shall formulate, adopt, and promulgate rules and regulations for the safe movement and operation of mobile service units and for the safe dispensing of flammable liquids by mobile service units. As used in this Act, and in the rules promulgated hereunder, "mobile service units" are vehicles, tank trucks, or other mobile devices from which flammable liquids used as motor fuels may, as an act of retail sale, be dispensed into the fuel tanks of motor vehicles parked on off-street parking facilities; provided that any city may, by ordinance, within one hundred eighty (180) days after promulgation by the State Board of Insurance of Statewide regulations hereunder, adopt rules and regulations covering such units which are more restrictive but not less restrictive than those adopted by the State Board of Insurance hereunder and in addition thereto any city may license and charge a reasonable license fee for the operation of each such mobile service unit operating in such city. The rules and regulations promulgated under this Act shall have uniform force and effect throughout the State and no municipality or county shall hereinafter enact or enforce any ordinance, rules or regulations inconsistent with the rules and regulations promulgated hereunder except as provided herein. Provided, however, that any municipal or county ordinances, rules or regulations in force and effect on the effective date of this Act, including the prohibition of mobile service units, shall not be invalidated because of any provision of this Act.

Enforcement
Sec. 3. The state fire marshal, county fire marshals, and city fire marshals shall enforce the provisions of this Act and the rules and regulations adopted by the State Board of Insurance under the supervision of the board.

Storage Tanks
Sec. 4. (a) Flammable liquids shall not be stored at retail service stations in tanks of more than 60 gallons gross capacity above the surface of the ground. Underground flammable liquid tanks at retail service stations shall not be limited in individual or combined capacities or sizes.
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(b) Retail service stations may be operated in conjunction with bulk plants having aboveground storage tanks provided there are separate underground tanks of not less than 550 gallons capacity each for final storage and dispensing of flammable liquids into fuel tanks of motor vehicles, and provided further that any piping connecting bulk plant storage tanks with underground tanks at the retail service station is equipped with a valve kept closed and locked other than when filling the underground tanks and within control of the operator of the retail service station. Aboveground tanks at bulk plants operated in conjunction with retail service stations on the same or contiguous properties shall be equipped with emergency vents of types and capacities provided by standards of the National Fire Protection Association.

Transitional Rules

Sec. 5. The rules and regulations shall be made allowing reasonable provision under which facilities in service prior to the effective date of the rules and regulations and not in strict conformity therewith may be continued in service provided they do not constitute a distinct hazard to life or property. For guidance in enforcement, the rules and regulations may delineate those types of nonconformities that should be considered distinctly hazardous and those nonconformities which should be evaluated in the light of local conditions. The rules and regulations shall provide that reasonable notice be given to the person owning the facility affected of intention to evaluate the need for compliance and the time and place at which he may appear and offer evidence thereon.

Hearings on Rule Changes

Sec. 6. (a) No rule or regulation shall be promulgated, amended, or repealed until after a public hearing.

(b) Written notice shall be given at least 20 days in advance of the hearing by certified mail to any interested person having registered his name and mailing address with the state fire marshal. The notice shall include the text or a summary of the substance of each rule or regulation to be considered.

(c) No rule or regulation may be made effective until a certified copy of the rule or regulation has been filed with the secretary of state.

(d) The board shall make copies of the rules and regulations available to interested persons on payment of a reasonable fee to cover the cost of publication.

Vehicle Regulations

Sec. 7. The size and weight of and load carried by vehicles used in the transportation or delivery of flammable liquids from any point of origin to any point of destination shall not be limited other than in accordance with applicable provisions of the motor vehicle and highway laws of the state and any municipal or county ordinance, rule or regulation in force and effect on the effective date of this Act.

Inconsistent Local Regulations

Sec. 8. The provisions of this Act and the rules and regulations promulgated under this Act shall have uniform force and effect throughout the state and no municipality or county shall hereinafter enact or enforce any ordinances, rules or regulations inconsistent with the provisions of this Act or rules and regulations promulgated pursuant to this Act. Provided, however, that any municipal or county ordinances, rules or regulations in force and effect on the effective date of this Act shall not be invalidated because of any provision of this Act.

Declaratory Relief to Test Validity of Rules

Sec. 9. A person affected or aggrieved by any rule or regulation promulgated under this Act may use in a district court of Travis County for a declaratory judgment as to the validity of the rule or regulation or the validity of its application to him. Process shall be served on the attorney general and the commissioner of insurance. The provisions of the Uniform Declaratory Judgments Act (Article 2524-1, Vernon's Texas Civil Statutes) apply to the extent they may be made applicable.

Provided that no provision of this Act shall prevent any person affected or aggrieved by any municipal or county ordinance, rule or regulation referred to hereinabove in force and effect on the effective date of this Act from seeking a judicial determination as to the validity or constitutionality of such ordinance, rule or regulation or the validity of this application to such person under the rules of this State.

Violations

Sec. 10. A person engaged in the business of storing, selling, or other handling of flammable liquids, who violates any rule or regulation promulgated under this Act is guilty of a misdemeanor and upon conviction is punishable by confinement in the county jail for not more than 60 days or by a fine of not more than $1,000, or by both. A separate offense is committed each day a violation continues.

Civil Penalties

Sec. 11. (a) In addition to or in lieu of the criminal penalties provided by Section 10 of this Act, a person who violates any rule or regulation promulgated under this Act is liable to a civil penalty not to exceed $100 for each day of the violation.

(b) The civil penalty is recoverable in a district court of:

(1) Travis County;

(2) the county where the defendant resides; or

(3) the county where the violation occurs.
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(c) At the request of the board, the attorney general shall institute and conduct a suit in the name of the State of Texas to recover the penalty.

Injunction

Sec. 12. (a) Whenever it appears that a person is violating or threatening to violate any rule or regulation promulgated under this Act, the board may bring suit against the person in a district court of the county in which the violation or threat of violation occurs, to restrain the person from continuing the violation or carrying out the threat of violation. The attorney general shall represent the board when requested to do so.

(b) In any suit under this section, the court may grant the board, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders, temporary injunctions, and permanent injunctions.

(c) Either party may appeal as in other civil cases.

Effective Dates

Sec. 13. Regulations of the board may not be made effective before January 1, 1970. Otherwise, this Act takes effect September 1, 1969.


Art. 9202. Covering and Plugging Well or Cistern

Sec. 1. It shall be unlawful for the owner or operator of any well or cistern, as much as ten (10) feet deep, and not less than ten (10) inches nor more than six (6) feet in diameter to fail to keep it entirely covered at all times with a covering capable of sustaining weight of not less than two hundred (200) pounds, except when said well or cistern is in actual use by the owner or operator thereof.

Sec. 1a. It shall be unlawful for any person who shall drill, dig or otherwise create, or cause to be drilled, dug or otherwise created, any well or hole of as much as ten (10) feet in depth and less than ten (10) inches in diameter to abandon said well or hole without first completely filling said well or hole from its entire depth to the surface or plugging the same with a permanent type plug at a depth of not less than ten (10) feet from the surface and completely filling the same from said plug to the surface.

This Act does not modify or repeal any existing laws.

Sec. 2. Any person violating the provisions of this Act shall upon conviction be guilty of a misdemeanor and be fined not less than One Hundred Dollars ($100) nor more than Five Hundred Dollars ($500).

[Acts 1949, 51st Leg., p. 569, ch. 281.]

Art. 9203. Refrigerators or Air-tight Containers

Sec. 1. It shall be unlawful for any person to place or permit to remain outside of any dwelling, building, or other structure, or within any warehouse or storage room or any unoccupied or abandoned dwelling, building, or other structure, under such circumstances as to be accessible to children, any ice box, refrigerator, or other airtight or semi-airtight container which has a capacity of one and one-half (1½) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with a latch or other fastening device capable of securing such door or lid shut.

Sec. 2. Any person violating this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Five Dollars ($5) nor more than Two Hundred Dollars ($200), and for each act done in violation hereof and each day that such violation continues shall constitute a separate offense and be punishable as such.


Art. 9204. Life Preservers

Rented Boats to Have Life Preservers; Exception as to Portion of River Near Bay, Inlet or Gulf Waters

Sec. 1. It shall be unlawful for any person, firm, corporation or group of persons to rent or let for hire any boat upon any of the lakes or rivers of this State without having such boat equipped with at least one (1) life preserver for each person aboard. Provided however, the provisions of this Act shall not apply to that portion of a river within ten (10) miles of any bay, inlet, or gulf waters into which said river flows.

Life Preserver Defined

Sec. 2. For the purpose of this Act, the term "life preserver" shall mean any apparatus, device or object designed for and capable of floating, supporting or buoying up the body of an adult in the water.

Enforcement

Sec. 3. Game Wardens and all Peace Officers with the exception of Constables shall enforce the provisions of this Act.

Punishment for Violations

Sec. 4. Any person, firm, corporation or group of persons violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon the first conviction shall be punished by a fine of not less than Five Dollars ($5) nor more than Twenty-five Dollars ($25). Any person who is subsequently convicted under the provisions of this Act, shall for the second offense, be punished by a fine of not less than Twenty-five Dollars ($25) nor more than One Hundred Dollars ($100); and for all subsequent convictions thereafter such persons shall be punished by a fine of not less than One Hundred Dollars ($100).
Dollars ($100) nor more than Two Hundred Dollars ($200).

Effective Date
Sec. 5. This Act shall be effective from and after June 15, 1951.

Gulf of Mexico
Sec. 6. Provisions of this Act shall not apply to the Gulf of Mexico.

Caddo Lake
Sec. 7. Nothing herein shall apply to the part of Caddo Lake situated in Marion County.

Partial Unconstitutionality
Sec. 8. If any portion of this Act shall be held unconstitutional by any court of competent jurisdiction, the remaining provisions hereof shall, nevertheless, be valid the same as if the portion held unconstitutional had not been adopted by the Legislature as a part of this Act.

[Acts 1951, 52nd Leg., p. 297, ch. 176.]

Section 9 of the Act of 1951 repealed conflicting laws or parts of laws to the extent of the conflict.

Art. 9205. Regulation and Offenses as to Fireworks

Definitions
Sec. 1. As used in this Act the following terms, unless otherwise clearly indicated by the context, shall have the meanings specified below:

"ICC-Class C Common Fireworks"—Those fireworks specifically defined in Section 2 of this Act and not otherwise;

"Manufacturer"—Persons, firms, corporations or associations who manufacture fireworks;

"Distributor"—Those who sell fireworks to retailers or to jobbers for resale to others;

"Jobbers"—Those who purchase fireworks for resale to retailers only;

"Retailers"—Those who purchase fireworks for resale to consumers only;

"Chief Fire Prevention Officer"—The chief of the fire department, if in a city that has a fire chief, or if in the county, the chief fire enforcement officer primarily responsible in the county for the enforcement of fire prevention acts whether same be the sheriff, the constable or any other local enforcement officer;

"Public Display"—The igniting and shooting of fireworks for public amusement for a fee;

"State Fire Marshal"—The chief law enforcement officer of the State of Texas charged with the responsibility of fire prevention;

"Importer"—Those who import fireworks from a foreign country for sale to distributors, jobbers or retailers within the State of Texas;

"Salesmen"—An individual employed by a factory, distributor or jobber who takes orders for fireworks from distributors, jobbers or retailers;

"Class A Fireworks"—Those fireworks defined in Section 10 of this Act and not otherwise;

"Class B Fireworks"—Shall include all types of dangerous fireworks excepting fireworks designated as ICC Class C Common Fireworks and Class A Fireworks.

Possession for Sale or Sale; Permissible Fireworks
Sec. 2. (a) It shall be unlawful for any individual, firm, partnership, corporation or association to possess for sale within the state, sell or offer for sale, at retail, or use, within the State of Texas, any fireworks other than the permissible fireworks herein enumerated.

Permissible fireworks, as that term is used in this Act, shall be understood to mean ICC Class C Common Fireworks only and shall include only those fireworks enumerated as ICC Class C Common Fireworks in the regulations of the Interstate Commerce Commission, as said regulations are presently constructed, for the transportation of explosives and other dangerous articles and, except as provided by Subsection (b) of this section, shall include and be limited to the following:

1. Roman Candles, total pyrotechnic composition not to exceed twenty grams each in weight. (10 ball);

2. Helicopter Type Rockets, total pyrotechnic composition not to exceed twenty grams each in weight;

3. Cylindrical Fountains, total pyrotechnic composition not to exceed seventy-five grams each in weight; the inside tube diameter shall not exceed 1/4 inch;

4. Cone Fountains, total pyrotechnic composition not to exceed fifty grams each in weight;

5. Wheels, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of driver tubes shall not be over 1/3 inch;

6. Illuminating Torches and Colored Fire in any Form, total pyrotechnic composition not to exceed one hundred grams each in weight;

7. Sparklers and Dipped Sticks, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate shall not exceed five grams;

8. Mines and Shells, of which the mortar is an integral part, except those designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight;
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(9) Firecrackers and Salutes, with casings, the external dimensions of which do not exceed one and one-half inches in length or one quarter inch in diameter, total pyrotechnic composition not to exceed two grains each in weight;

(10) Whistles without Report, total pyrotechnic composition not to exceed forty grams each in weight;

(11) Railway fuses, other fireworks used by railroads or other transportation agencies for signal purposes or illumination, truck flares, hand ship distress signals and illuminating torches. Total pyrotechnic composition of illuminating torches not to exceed one hundred grams each in weight;

(12) Items composed of combination of two or more articles or devices of the above enumerated approved items.

(b) Sky rockets with sticks that meet the following specifications are permissible fireworks:

(1) total propellant charge alone may not be less than four grams nor more than twenty grams each in weight;

(2) casing size may not be less than ½ inch for the outside diameter and may not be less than 2½ inches in length;

(3) overall sky rocket length, including the stick, may not be less than 15 inches; and

(4) rocket stick must be securely fastened to the casing.

(c) Bottle rockets with sticks or sky rockets with sticks that do not meet the specifications of Subsection (b) of this section are not permissible fireworks.

Retail Sales Prohibited: Exceptions

Sec. 3. Be it further enacted that no permissible articles of ICC Class C Common Fireworks enumerated in Section 2 shall be sold at retail, offered for sale at retail, or possessed for retail sale within the state, or used, in the State of Texas, unless same shall be properly identified to conform to the nomenclature of Section 2 hereof and unless it is certified as "ICC Class C Common Fireworks" on all shipping cases and by imprinting on the article or retail container, "ICC Class C Common Fireworks," with the exception of whistles without report, such imprint to be of sufficient size and placement as to be readily recognized by law enforcement authorities and the general public. Each manufacturer shall submit samples of all items to the State Fire Marshal for approval.


Exceptions From Act

Sec. 4. Be it further enacted, that there shall not be affected by this Act the following:

Toys pistols, toy cases, toy guns or similar devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, the sale and use of which shall be permitted at all times.

License Fees

Sec. 5. A. A license fee in an amount not to exceed $1,000 a year as determined by the State Board of Insurance, due and payable on or before February 1st of each and every year, to the State Fire Marshal subject to the provisions of Section 12 of this Article, will be charged for the purchase of manufacture, possess and sell fireworks. The manufacturer may manufacture, possess and sell items other than those enumerated in Section 2, but for sale and delivery only to states where other types of fireworks are legal but may not be sold or used in the State of Texas.

The same license fee will apply to and shall be paid by any and all out-of-state manufacturers offering goods for sale in the State of Texas, as a condition to their sale in Texas.

B. A similar license fee in an amount not to exceed $1,500 a year as determined by the State Board of Insurance, due and payable on February 1st of each and every year, as provided in Section 5A above, will be charged all distributors who possess and sell the fireworks enumerated in Section 2.

The license fee provided herein shall be due and payable by all out-of-state distributors offering goods for sale within the State of Texas.

C. A license fee, due and payable as provided in Section 5A above, in an amount not to exceed $1,000 a year as determined by the State Board of Insurance, will be charged all jobbers who possess and sell the fireworks enumerated in Section 2.

The license fee provided herein shall apply to and be payable by out-of-state jobbers as a condition for selling within the State of Texas.

D. An annual license fee in an amount not to exceed $20 as determined by the State Board of Insurance will be charged all retailers who possess and sell fireworks enumerated in Section 2, for which an annual retailer's license shall be issued effective until midnight of the following 31st day of January. No person, firm or corporation shall offer fireworks for sale to individuals at retail before the 24th day of June and after the 4th day of July, or the 20th day of December of each year and after midnight of the 1st day of January of the following year.

E. An annual license fee, due and payable as provided in Section 5A above, in an amount not to exceed $200 as determined by the State Board of Insurance, shall be due and payable by each importer who possesses and sells the fireworks enumerated-
ed in Section 2 above to any persons, firms, corporation or association within the State of Texas.

F. An annual license fee in an amount not to exceed $20 as determined by the State Board of Insurance, due and payable as provided in Section 5D above, shall be due and payable by all salesmen who take orders for the sale of fireworks enumerated in Section 2 above and all salesmen are prohibited from taking orders from any firm, individual, corporation, association or partnership not licensed and each order for the sale of fireworks taken must reflect the license number of the purchaser. Furthermore, salesmen are prohibited from possessing any fireworks described in Section 2.

G. The license fees provided above shall be due and payable by each retailer annually and for each separate place of business maintained.

H. A license fee in an amount not to exceed $35 as determined by the State Board of Insurance for each public display shall be paid at the time of obtaining the permit, as hereafter provided, being payable to and in the manner provided in Section 5A.

I. No person, firm, corporation or association shall deliver fireworks for resale to any individual, firm, corporation or association unless consignee produces a license or evidence that consignee holds such a license.

J. No distributor, jobber or retailer shall purchase fireworks from a factory, distributor, jobber, manufacturer or salesman without first requiring proof that the license required of each herein has been obtained. No license provided for hereinabove shall be transferable nor shall a jobber or salesman be permitted to operate under a license granted to a distributor.

K. For the violation of any of the provisions of this Act, the license granted shall be revoked by order of the State Fire Marshal evidenced by a written notice of revocation furnished directly to the licensee and a copy thereof filed in the county or counties in which the licensee does business. Said notice of revocation shall set out the grounds for revocation and any licensee aggrieved thereby may, within ten (10) days from receipt of said notice, appeal from the decision of revocation to the District Court of Travis County, Texas, in which case the trial to determine the justification for said revocation shall be a trial de novo.

L. An annual license fee in an amount not to exceed $400 as determined by the State Board of Insurance will be charged all persons securing a general license under Section 10, for which a general license shall be issued effective until midnight of the following 31st day of January. Provided that a person holding a general license shall not be required to obtain a permit for each public display of fireworks which is conducted at a single location for which an original permit has been obtained. Nothing herein shall limit the authority of the State Fire Marshal or his authorized representatives to inspect the single location or to require such fire protection measures as may be appropriate.

Renewal

Sec. 5A. (a) An unexpired license may be renewed by paying the required renewal fee to the State Fire Marshal before the expiration date of the license. If a license has been expired for not longer than 90 days, the license may be renewed by paying to the State Fire Marshal the required renewal fee and a fee that is one-half of the original license fee. If a license has been expired for longer than 90 days but less than two years, the license may be renewed by paying to the State Fire Marshal all unpaid renewal fees and a fee that is equal to the original license fee. If a license has been expired for two years or longer, the license may not be renewed. A new license may be obtained by complying with the requirements and procedures for obtaining an original license. At least 30 days before the expiration of a license, the State Fire Marshal shall send written notice of the impending license expiration to the licensee at his or its last known address. This section may not be construed to prevent the State Fire Marshal from denying or refusing to renew a license under applicable law or rules of the State Board of Insurance.

(b) The State Board of Insurance by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is less than one year from its issuance or anniversary date, the license fee shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On each subsequent renewal of the license, the total license renewal fee is payable. On adoption of a staggered renewal system under this subsection, the renewal dates provided by Section 5 of this Act no longer apply.

Licenses not Issued, When

Sec. 6. No license, as provided in Section 5, shall be issued for either, a manufacturer, a distributor, a jobber or a retailer unless the place of manufacture, or in case of a distributor, a jobber or a retailer, the place of storage of said fireworks, shall meet the requirements and specifications recommended from time to time by the State Fire Marshal.

Storing, Locating, or Display of Fireworks; Safety Measures

Sec. 7. Be it further enacted, the placing, storing, locating, or displaying of fireworks in any window where the sun may shine through glass on the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten (10) feet of where the fireworks are offered for sale, is hereby declared unlawful and prohibited. Fireworks offered for retail sale must be protected from
Art. 9205  SAFETY  4656

direct contact with the public at all times. Fireworks shall not be sold at retail or displayed to the public within any building or portion thereof or any vehicle which allows for entry any persons other than employees within such building or vehicle unless such fireworks are kept where they cannot be reached or handled by such persons. At all places where fireworks are stored or sold, there must be posted signs with the words “Fireworks—No Smoking” in letters not less than four (4) inches high. No fireworks are to be sold at retail at any location where paints, oils, or varnishes are kept for use or sale, unless such paints, oils and varnishes are kept in the original unbroken containers, nor where resin, turpentine, gasoline, or other inflammable substance which may generate inflammable vapor is used, stored, or sold, or where the licensing authority or any police, fire or regulatory body having direct supervision over the establishment shall determine that any condition exists which makes the sale of fireworks at such location unusually hazardous.

Sale to Children Under Ten Years of Age, Intoxicated or Irresponsible Persons: Throwing From or Into Motor Vehicle

Sec. 8. Be it further enacted, that it shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of ten (10) years of age or to any intoxicated or irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred (600) feet of any church, hospital, asylum, public school, or within one hundred (100) feet of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle.

Manufacturing, Possessing or Selling; Permit

Sec. 9. Be it further enacted, that no person, firm, corporation or association, without securing a permit from the State Fire Marshal, shall manufacture, possess or sell any dangerous fireworks for any use or purpose, including agricultural purposes or wild life control. Before any dangerous fireworks may be manufactured, possessed, sold or used, a permit therefor specifying the uses to be made thereof must be secured from the State Fire Marshal. Any permittee, whether governmental agency or commercial manufacturer, which distributes or sells at wholesale or retail agricultural or wild life fireworks shall require good and sufficient proof of the lawful intended use of such fireworks by the purchaser. The purchaser shall be required to exhibit the permit obtained from the State Fire Marshal as a condition to such purchase; a true copy of such permit and records specifying the uses to be made shall be given to the purchaser and only thereafter shall the purchaser be permitted to use the fireworks in the manner designated in the permit. Each such permit shall be good only for the specific purposes stated therein and for the time designated therein and at the end thereof shall be surrendered to the State Fire Marshal. The State Fire Marshal shall be paid $1.00 for each such permit.

Class A Fireworks; Display, Etc.: Application for Permit; Surety Bond

Sec. 10. Be it further enacted, that “Class A Fireworks,” as used in this part, shall include the following:

Colored bomb shells over 15 inches in circumference or consisting of more than one break;
Detonating shells, also known as aerial bombs, over nine inches in circumference or consisting of more than one break;
Ground bombardments, also known as detonating reports, of all sizes which explode on the ground;
Such other fireworks which may be designated for such classification by the State Fire Marshal.

Any adult person or any firm, copartnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the chief of the fire department or the chief fire prevention officer of the city or county in which the display is to be held, or to the State Fire Marshal, or to such authorized deputy as he may designate for such purpose if there be no chief of the fire department or chief fire prevention officer in the area, at least 24 hours in advance of the date of the proposed display.

It shall be the duty of the officer to whom the application for a permit is made to make an investigation as to whether such a display as proposed shall be of such a character and so located that it may be hazardous to property or dangerous to any person, and he shall in the exercise of reasonable discretion grant or deny the application, subject to such reasonable conditions, if any, as he may prescribe.

The applicant for such display permit shall at the time of application furnish proof that he carries compensation insurance for his employees as provided by the laws of this state, and he shall file with the officer to whom the application is made, a bond issued by an authorized surety company to be approved by such officer, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant, or his or its agents, servants, employees, or subcontractors in the presentation thereof, or a certificate evidencing the carrying of appropriate public liability insurance issued by an insurance carrier authorized to transact business in this state for the benefit of the person named therein as assured, as evidence of ability to respond in damages in at least such amount, said policies to be similarly approved. If
the permit is granted, the sale, possession, and use of fireworks for public display is lawful for that purpose only. No permit granted is transferable.

In the case of an applicant for a permit to display Class A fireworks, or a combination of Class A and Class B fireworks, the amount of such a surety bond shall be not less than Ten Thousand Dollars ($10,000.00), and the amount of such insurance shall be not less than Twenty Thousand Dollars ($20,000.00).

In the case of an application for a permit to display Class B fireworks exclusively, the amount of the surety bond shall be not less than One Thousand Dollars ($1,000.00), and the amount of the insurance shall be not less than Five Thousand Dollars ($5,000.00). Provided, that in lieu of filing a surety bond, an applicant for such a Class B permit may file a bond in the sum of at least One Thousand Dollars ($1,000.00) with at least two good and sufficient sureties, subject to like conditions and to the approval of the officer issuing the permit.

Every public display of fireworks which includes in whole or in part "Class A Fireworks" shall be handled or supervised by a competent and experienced pyrotechnic operator approved by the chief of the fire department or the chief fire prevention officer of the city or county in which the display is to be held, or by the State Fire Marshal or his authorized deputy therefor, if there be no chief of the fire department or chief fire prevention officer in the area.

Public display of "Class B Fireworks" may be supervised or handled by any competent adult person approved by the officer issuing the permit.

The State Fire Marshal shall adopt reasonable rules and regulations not inconsistent with the provisions of this part, for the granting of permits for, and the presentation of, public displays of fireworks.

All public displays of fireworks shall be of such a character and so located, discharged, or fired as not to be hazardous or dangerous to persons or property.

Notwithstanding the provisions of this part, any adult person, or any firm, corporation, or copartnership may secure a general license for the public display of fireworks within the State of Texas, subject to the provisions of this part relative to the securing of local permits for displaying of fireworks in any city or county, excepting that in lieu of filing such bonds or certificate of public liability insurance as hereinabove provided in this part, a surety bond similarly conditioned in the amount of Twenty-five Thousand Dollars ($25,000.00) or a certificate evidencing public liability insurance in a like amount shall be filed with the State Fire Marshal, who shall have the authority to issue such licenses, subject to such reasonable rules and regulations, not inconsistent herewith, which he may adopt. A certificate evidencing such general license, when so obtained, shall be filed with the legislative body or officer granting a permit for the display of fireworks prior to the issuance thereof.

No permit shall be granted for the discharge of dangerous fireworks except in connection with public display of fireworks.

No person shall transport, convey or deliver any dangerous fireworks except for permittees making delivery to any other permittees, or to locations of public displays of fireworks authorized hereunder or to distributors outside of this state.

For purposes of license the sale and/or possession of "Class A" and "Class B" fireworks only, as described herein, shall require a Distributor’s permit.

Violations as Misdemeanors; Punishment

Sec. 11. Be it further enacted, that any individual, firm, partnership, or corporation that violates any provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or imprisoned for not more than one (1) year, or both, in the discretion of the court or jury.

License Fees; Disposition of Proceeds

Sec. 12. Be it further enacted, that all moneys derived from the license fees provided in Section 5 of this Act must be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be made available in such amounts as may be appropriated by the Legislature for the use of the State Fire Marshal in the administration of this Act and upon requisition by the State Fire Marshal. All such moneys deposited in the State Treasury and thus appropriated may be used by the State Fire Marshal for salaries and expenses of all persons employed for the administration and enforcement of this Act including all necessary travel expenses of the State Fire Marshal, or any assistant or appointee, and the Attorney General or persons authorized to act for either, when performing duties hereunder.

The unused portion of said funds in the State Board of Insurance operating fund for the past fiscal year shall remain in the fund for use as provided by this section.

Partial Invalidity

Sec. 13. Be it further enacted, if any portion of this Act be held unconstitutional, such holding shall not invalidate the remainder thereof.

Repealer

Sec. 14. Be it further enacted, that any Acts, laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict. However, this Act shall not repeal or affect any town, city or municipal ordinance which prohibits the sale and use of fireworks within the town, city or municipal boundaries which is in effect before the effective
date of this Act, or that may be enacted after the
effective date of this Act. Provided, however, that
nothing herein shall be construed to limit or restrict
the powers of cities, towns or villages as defined
and delegated by Title 28, Revised Civil Statutes of
Texas, to enact ordinances prohibiting or imposing
further regulations on fireworks; and provided,
however, that any ordinance or ordinances hereto­
fore enacted by any city under the authority of the
above mentioned Title shall remain in full force and
effect until thereafter amended by such city.

Effective Date
Sec. 15. Be it further enacted, that this Act
shall be and become effective on February 1st next
from and after the passage of this Act, and any and
all fireworks other than those defined in Section 2
above in the possession of any manufacturer, dis­
tributor, jobber or retailer for use in the State of
Texas from and after the effective date of this Act
shall be considered as a violation hereof and such
persons, firms, corporations or associations shall be
subject to the penalties herein provided.


Section 94 of the 1983 amendatory act provides:

"The fees prescribed by law before the effective date of this Act shall remain in effect and shall apply until the State Board of Insurance adopts fees as prescribed by this Act."

Art. 9206. Repealed by Acts 1975, 64th Leg., p. 1894, ch. 545, § 2(a)(4)

Art. 9206a. Operating Motor Boat While Intoxicated

Any person who operates a motor boat on any
bay, lake, river, or other body of water in this State,
while such person is intoxicated or under the influ­
ence of intoxicating liquor, shall be guilty of a
misdemeanor, and upon conviction shall be punished
by a fine of not less than Five ($5.00) Dollars nor
more than One Hundred ($100.00) Dollars.

[Acts 1949, 51st Leg., p. 822, ch. 442, § 1.]

Art. 9207. Incidents Relating to Hazardous Mat­
erials; Liability of Persons Giving Assistance

Definitions

Sec. 1. In this Act:

(1) "Hazardous material" means:
(A) a substance classified as a hazardous material
under state or federal law or under a rule adopted
pursuant to state or federal law; or
(B) a chemical, petroleum product, gas, or other
substance that, if discharged or released, will or is
likely to create an imminent danger to individuals,
property, or the environment.

(2) "Gross negligence" means reckless, wilful,
or wanton misconduct.

(3) "Person" means an individual, association,
corporation, or other private legal entity.

Liability of Person Giving Assistance

Sec. 2. (a) A person is immune from civil liabili­
ity for any act or omission that occurs in giving care,
assistance, or advice with respect to the prevention
or management of an incident related to the storage
or transportation by any means of a hazardous material,
which incident creates or might create a
danger to individuals, property, or the environment
as a result of the spillage, seepage, or other release
of a hazardous material or as a result of fire or
explosion involving a hazardous material.

(b) This section does not apply to a person giving
care, assistance, or advice for or in expectation of
compensation from or on behalf of the recipient of
the care, assistance, or advice in excess of reim­
bursement for expenses incurred. This section
shall not preclude liability for damages as a result
of gross negligence or intentional misconduct on the
part of a person.

(c) This section only applies when an incident or
accident has already occurred and there is a danger
or a threat of danger to individuals, property, or the
environment.

Sec. 1. Be it enacted by the Legislature of the State of Texas:

That the following titles, chapters, subdivisions and articles shall hereafter constitute the Revised Civil Statutes of the State of Texas.

[See Civil Statutes, art. 1 et seq.]

Be it further enacted:

Sec. 2. Repealing Clause.—That all civil statutes of a general nature, in force when the Revised Statutes take effect, and which are not included herein, or which are not hereby expressly continued in force, are hereby repealed.

Sec. 3. Not Ex Post Facto.—That the repeal of any statute, or any portion thereof, by the preceding section, shall not affect or impair any act done, or right vested or accrued, or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution had or commenced shall remain in full force and effect to all intents or purposes as if such statute, or part thereof, so repealed, had remained in force, except that where the course of practice or procedure for the enforcement of such right, or the conducting of such proceeding, suit or prosecution shall be changed, the same shall be conducted as near as may be in accordance with the Revised Statutes. No offense committed and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time when any statute, or part thereof, shall be repealed or altered by the Revised Statutes, shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior statute, or part thereof, had not been repealed or altered, except that where the mode of procedure or matters of practice have been changed by the Revised Statutes, the procedure had after the Revised Statutes shall have taken effect in such prosecution or suit shall be, as far as practicable, in accordance with the Revised Statutes.

Sec. 4. Validating Acts.—That no general or special law herefore enacted validating or legalizing the acts or omissions of any officer, or validating any law, act or proceeding whatever, shall be affected by the repealing clause of this title; but all validating or legalizing statutes whatsoever now in force in this State are hereby continued in force.

Sec. 5. Public Debt.—That no law relating to the public debt or the public credit shall be affected by the repealing clause of this title.

Sec. 6. School Funds.—That no law relating to the University or public school fund, or to the Agricultural and Mechanical College fund, or the investment of any such funds, or making any reservation in favor of the same, and no law affecting Federal aid for vocational education in this State, shall be affected by the repealing clause of this title, except where altered or amended by the Revised Statutes.

Sec. 7. Counties.—That no statute creating, adding to or organizing any county, or establishing any county seat, and no law affecting unorganized or new counties, shall be affected by the repealing clause of this title, or by any law relating to the establishment of county boundaries contained in this Act.
§ 8

Sec. 8. Courts.—That the laws now in force organizing the several district and other courts, or increasing, diminishing, restor­ ing or defining the jurisdiction of said courts, and prescribing the times of holding said courts, except as herein otherwise provided, are continued in force.

Sec. 9. Public and Other Lands.—That all laws affecting the issuance of patents under valid land certificates; or fixing a time limit in which to redeem lands sold for taxes; or authorizing suits to contest forfeiture of sale for non-payment of interest on public lands, or affecting the reinstatement of rights after such forfeiture; or conferring a prior right to purchase land surveyed by virtue of a private right, for which a patent cannot issue; or extending oil and gas permits on public lands; or extending the time for payment of principal due on public lands sold in accordance with law; or affecting the title to public and other lands; or authorizing the Land Commissioner, the Governor, or any authorized board, to sell or lease certain lands or water rights; or granting land to cities; or affecting land reservations, or setting apart portions of such reservations for the benefit of actual settlers, are continued in force.

Sec. 10. Public Buildings, Etc.—That no law providing for the construction or repairing of the public buildings of this State, or providing for the establishment of a central prison system, nor any law establishing or providing for the maintenance of any public institution, shall be affected or impaired by the repealing clause of this title, unless expressly altered or repealed in some of the preceding articles of the Revised Statutes.

Sec. 11. Public Libraries.—That no law giving authority to cities or towns to establish public libraries, or for like purposes, shall be affected or impaired by the repealing clause of this title, unless expressly altered or repealed in some of the preceding articles of the Revised Statutes.

Sec. 12. Taxes.—That all laws now in force which donate taxes to, or release the inhabitants from payment of taxes in any city or county, or part of a county in this State on account of any calamity; and all laws now in force authorizing the levy of taxes by levee or drainage districts to redeem certificates of indebtedness issued on account of damage from flood are continued in force.

Sec. 13. Railroads.—That all laws now in force authorizing railroad companies to sell or buy or lease other railroad companies, or to buy, sell or abandon tracks or right of way, or extending the time for constructing main or branch lines; and all laws now in force affecting the State Railroad, are continued in force.

Sec. 14. Public Roads.—That all laws providing for the maintenance of public roads in certain counties by a patrol system, are continued in force.

Sec. 15. Pensions.—That all laws granting pensions to soldiers and other persons entitled thereto by reason of service performed in connection with the Mexican War are continued in force.

Sec. 16. World War Veterans.—That all laws exempting persons who served in the late world war from payment of fees in public educational institutions in Texas are continued in force.

Sec. 17. Monuments.—That all laws authorizing the erection of monuments are continued in force.

Sec. 18. Appropriations.—That all laws making specific appropriations of public funds are continued in force.

Sec. 19. Special Laws.—That all laws, civil or criminal, of a local nature, operating in particular counties, cities or towns, or of a temporary nature operative when these Statutes go into effect, and all laws of a private nature operating on particular persons or corporations, are not affected by the repealing clause of this title.

Sec. 20. Effect of Repeal.—That nothing in the repealing clause of this title shall be construed as releasing any person or corporation from any duty enjoined in the limitation or condition imposed by any law that may be repealed by said repealing clause.

Sec. 21. New Laws.—That nothing in this Act shall be construed to repeal or in anywise affect the validity of any law passed by this legislature in its regular session.

Sec. 22. Validity of Statutes.—That these Revised Statutes when adopted shall be construed to be an Act of the Legislature. No law herein shall be held to be void because its caption, when enacted, was in any way defective.

Sec. 23. Publication of Statutes.—That the Revised Statutes shall be printed in the pamphlet laws of the thirty-ninth Legislature, but shall be printed, published and distributed at such time and in such manner as may be provided by law.

Sec. 23a. Printing and Publication.—That the Revised Civil Statutes, the Penal Code and Code of Criminal Procedure of the State of Texas adopted and established by the Thirty-ninth Legislature at its Regular Session, shall, as soon as practicable, be printed and published under the supervision of the Secretary of State and the Board of Control with the assistance of a supervisor as hereinafter provided, in the manner provided for in this Act.

Sec. 23b. Title.—That said Revised Civil Statutes shall be published in two volumes to be entitled “The Revised Civil Statutes of Texas, 1925”; and that said Penal Code and said Code of Criminal Procedure shall be published in one volume to be entitled “Texas Criminal Statutes, 1925”. In the publication thereof the head indices and references, titles, chapters, and articles contained and numbered in the acts by which the same were adopted and established shall be retained and published therein, together with a full and accurate index to each of said Codes and said Revised Statutes.

Sec. 23c. Omission of Repealed Articles.—Where any article in said Revised Statutes or Codes has been expressly repealed by the Thirty-ninth Legislature said article shall be omitted from said volume, and in lieu thereof, there shall be inserted a statement to the effect that said article has been repealed, and the page of the session acts containing said repealing statute.
Sec. 23d. Omission of Amended Articles.—Where any article in said Revised Statutes or Codes shall have been amended and re-enacted by the Thirty-ninth Legislature, said article shall be omitted and the article as amended and re-enacted shall be inserted in lieu thereof, with notes or references showing the date of the Statute by which said article was amended, and the page of the session acts in which said Statute appears.

Sec. 23e. Retention of Modified Articles.—When any article, chapter, or title of said Revised Statutes or Codes has been modified by an act of said Legislature, but the same is not amended and re-enacted, then said article, chapter, or title shall be retained in said volume, and the act modifying the same shall be inserted immediately after such article, chapter, or title, together with like notes or references, as hereinbefore provided.

Sec. 23f. Indices.—Full and accurate indices to said Codes and the Revised Statutes shall be attached to each of said Codes and to the Revised Statutes respectively. The supervisor to be appointed shall have authority to correct evident typographical errors and inaccuracies found in said Revised Statutes and Codes.

Sec. 23g. Reviser.—The Governor shall appoint a lawyer of experience and ability who shall prepare said volumes for publication as directed in this Act, under the direction of the Secretary of State, and who shall read and revise the proof of the said Statutes, Codes and indices, and other matters included in said volumes, and shall receive for his services the same compensation as was allowed the commissioners who revised the Codes and Statutes, to wit, five hundred dollars per month, for the time he is actually engaged in the duties required of him, the same to be paid upon the certificate of the Comptroller out of the amount appropriated for printing the Revised Statutes and Codes, and said Codefier is authorized to employ one assistant such Codefier and plates aforesaid to the Secretary of State, executed a bond to the State of Texas in the sum of such amount as may be fixed by the Board of Control, with two or more sufficient sureties, to be approved by the board, conditioned for the faithful performance of the work in the manner and style therein prescribed and according to the provisions of this Act, and for the delivery of said volumes and plates to the Secretary of State on or before the first day of January, 1925, said volumes may be received, for an earlier distribution, in numbers of a thousand at a time, as the work progresses; and the right shall be reserved by the board to reject any and all bids and proposals if in their judgment the terms proposed are not favorable to the State. Upon the delivery by the contractor of the volumes and plates aforesaid to the Secretary of State, executed according to the terms of the contract and accepted by the board, the amount due therefor shall be audited, allowed, and paid as provided by law; in cases of other public printing, and the statute in force in relation to public printing shall be applicable to the contract under this Act in all matters not herein otherwise provided.

Sec. 23h. Printing.—The Statutes and Codes shall be printed on the good quality of book paper, in size of page and style and type corresponding with the printed bill adopting the Revised Statutes of Texas of 1925, by the best style and workmanship and in law buckram of the best quality, and the title page of each volume shall be retained and show that it is published by authority of the State of Texas, and each shall be authenticated by the certificate of the Secretary of State annexed thereto, as other laws when published are required to be certified; and said State Board of Control shall require said edition to be electrotyped and shall secure and preserve the plates as the property of the State, same to be delivered to the Secretary of State.

Sec. 23i. Printing Contract.—The Board of Control shall immediately after the passage of this Act advertise for thirty days in three daily newspapers in this State for sealed proposals for printing, binding and electrotyping in the laws as aforesaid, and shall on the day fixed in the advertisement, in the presence of such persons as desire to be present proceed to open the proposals and award the contract to the best and lowest bidder, which proposal shall state the price per volume at which the bidder proposes to electrotype, print, bind and furnish under the supervision and direction of the said board the laws and electrotype plates, as herein provided, and no bid or proposal shall be considered that is not accompanied by a guarantee of two or more sufficient sureties that if the contract should be awarded to the bidder he will execute the necessary bond for the performance of the work in the manner and style provided in this Act; and the person or persons to whom such contract is awarded shall within ten days after receiving notice thereof, execute a bond to the State of Texas in the sum of such amount as may be fixed by the Board of Control, with two or more sufficient sureties, to be approved by the board, conditioned for the faithful performance of the work in the manner and style therein prescribed and according to the provisions of this Act, and for the delivery of said volumes and plates to the Secretary of State on or before the first day of September, 1925; said volumes may be received, for an earlier distribution, in numbers of a thousand at a time, as the work progresses; and the right shall be reserved by the board to reject any and all bids and proposals if in their judgment the terms proposed are not favorable to the State. Upon the delivery by the contractor of the volumes and plates aforesaid to the Secretary of State, executed according to the terms of the contract and accepted by the board, the amount due therefor shall be audited, allowed, and paid as provided by law; in cases of other public printing, and the statute in force in relation to public printing shall be applicable to the contract under this Act in all matters not herein otherwise provided.

Sec. 23j. Copies for Officials.—The Secretary of State shall furnish one copy of each volume to each member of the Legislature including the Lieutenant Governor and to each county judge in the State and shall in addition thereto furnish each county judge of the State a sufficient number of each of said volumes to supply each elective county and precinct officer, with one copy of each of said volumes and the Secretary of State shall furnish one copy of each volume to each of the judges of the Supreme Court, the Courts of Civil and Criminal Appeals, to each district judge, to each district attorney, and each executive at the seat of government and four copies to the librarian of the State Library. In forwarding said copies the Secretary of State shall regard only those officers who have secured their certificate of election as officers, where certificates are required, entitled to receive said copies. After the officials hereinafter enumerated have been supplied, single copies may be sold by the Secretary of State for the same price which the State pays the contracting printer, plus expense of handling and postage, such sales to be
made to persons who desire them for their own use and the proceeds of such sales shall be paid the State Treasurer and the Secretary of State shall report such sales in his biennial report.

Sec. 23k. Reprint.—The Board of Control shall contract for the printing of eight thousand copies each of the Civil and Criminal Statutes and may from time to time, if the demand shall make it necessary, at the request of the Secretary of State, cause such additional volumes to be printed as may be required to supply such demand.

Sec. 23l. Appropriation.—Sixty thousand dollars, or so much of that sum as may be necessary, is hereby appropriated for the purpose of carrying into effect the provisions of this Act.

Sec. 23m. Emergency Clause.—The necessity for the publication of the Revised Statutes and the Penal Code and Code of Criminal Procedure of the State of Texas in as complete a form as possible, and their early distribution among the people, creates an imperative public necessity and emergency that the rule requiring bills to be read on three several days be suspended, and this Act take effect and be in force from and after its passage, and it is so enacted.

Sec. 24. Date Effective.—That these Revised Statutes shall take effect and be in force at twelve o'clock, meridian, on the first day of September, Anno Domini, one thousand nine hundred and twenty-five.

Sec. 25. Reading Act.—The importance and great length of this Act, the fact that it is impossible to read the same on any one day or on any three consecutive days, the length of time required for its publication, and the near approach of the end of the present session of the Legislature, create an imperative public necessity requiring that the constitutional rule which requires that bills be read on three several days in each house be and the same is hereby suspended.

RECORD OF ENACTMENT

The enrolled bill (Revised Civil Statutes 1925) on file in the office of the Secretary of State shows that the foregoing act passed the Senate finally January 27, 1925 (no vote given).

Passed the House March 18th, 1925 (no vote given).

Approved by the Governor April 1, 1925.
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