

SUBJECT: Registering wall and ceiling contractors

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 5 ayes — Wilson, Goolsby, D. Jones, Torres, Yarbrough
0 nays
1 present, not voting — Pickett
3 absent — Kubiak, Haggerty, Hamric

WITNESSES: For — J. Patrick Boyd, Texas State Wall and Ceiling Association; Richard Bruns; Rigo Flores
Against — None
On — David Gunn, Texas Department of Licensing and Regulation

DIGEST: CSHB 2135 would require wall and ceiling contractors to register each year with the Texas Department of Licensing and Regulation (TDLR) in order to engage in the construction, alteration or modification of light-gage framing, drywall or acoustical products or systems. Persons who knowingly or intentionally acted as a wall and ceiling contractor without a certificate of registration would commit a Class C misdemeanor, punishable by a maximum \$500 penalty.

In order to register, contractors would have to show evidence of workers' compensation and liability insurance coverage and certify that all of their state taxes were paid. The licensing commissioner could, after a hearing, suspend or revoke a certificate of registration for failure to comply with the requirements or because a person had engaged in dishonest or unethical conduct or was convicted of a felony or a crime involving a misstatement, fraud or dishonesty. The commissioner could assess administrative penalties for violations. The commissioner could reissue a certificate of registration to a contractor whose license was revoked if the applicant submitted a written request for a hearing and showed good cause to justify reissuing the license.

CSHB 2135 would establish within TDLR a six-member Texas State Wall and Ceiling Contractors Advisory Board, appointed by the commissioner. Three of the members would be wall and ceiling contractors eligible for registration and with at least 10 years of experience in the industry. These members would represent the residential, multi-family and commercial sectors of the wall and ceiling contractor industry. The other three members would represent the general public. Members would serve two-year terms; half the terms would expire on February 1 or each year, with the initial terms expiring in 1999 and 2000.

The commissioner would designate one member as presiding officer and could remove members for inefficiency or neglect of duty. The board would meet at least twice each year at the call of and in a location designated by members of the board. Members would not be entitled to compensation but could be reimbursed for expenses in accordance with current law.

The board would advise the commissioner on rules and fees for registration and renewals. The commission would establish rules for setting application and registration fees. The commissioner also would be charged with enforcing registration requirements and investigating allegations of violations. TDLR could enter any place of business or other establishment at which alleged illegal activity was occurring during reasonable working hours and without advance notice.

The bill would take effect September 1, 1997, except for provisions defining prohibited acts, criminal offense, and administrative penalties, which would take effect March 1, 1998.

**SUPPORTERS
SAY:**

CSHB 2135 would establish minimum standards for wall and ceiling contractors and create a state registration system to protect workers and consumers. Shady contractors often fail to pay for insurance or workers' compensation coverage for their workers or make timely contributions to the state unemployment fund. The state cannot adequately address these problems as there are no laws or regulations specifically governing the activities of wall and ceiling contractors. The registration system would help the state collect taxes and other levies due from operators and would protect workers by guaranteeing workers' compensation or liability coverage and unemployment benefits.

The bill would allow the licensing commissioner to adopt rules to protect consumers from fraud, misrepresentation and other problems. The bill would provide much needed protection to Texas consumers who have been victimized by unscrupulous wall and ceiling contractors.

CSHB 2135 would not mandate the more burdensome status of licensing contractors nor require continuing education or bonding. Registration would impose a bare minimum of regulation to protect consumers, workers, and, ultimately, the industry itself.

**OPPONENTS
SAY:**

CSHB 2135 would create another unnecessary bureaucratic process that would not offer any real protection to the consumer but siphon off resources at TDLR. The registration law would have limited value as an enforcement device; the weak sanctions for noncompliance would not cause any renegade contractor to conduct its business in a substantially different manner.

Furthermore, existing statutes on consumer fraud already provide sufficient tools to address any problems that might be occurring because of a few bad apples in the wall and ceiling business. There has been no widespread outcry for wall and ceiling regulation because there has been no widespread need for it.

CSHB 2135 would have a detrimental impact on small wall and ceiling contractors. Contractors unaware of the need for registering with the state in order to practice their craft could be charged with a criminal offense. CSHB 2135 would open the door to registering all sorts of tradesmen and craftsmen.

NOTES:

The committee substitute added requirements on board representation, appointment, and meeting location; gave the licensing commissioner responsibility for issuing certificates and setting application and registration fees; removed continuing education and surety bond requirements; added a requirement that applicants verify payment of state taxes; allowed the commissioner to reissue revoked certificates; decreased the penalty for violating regulations to a Class C misdemeanor; and prohibited unregistered persons from working as wall and ceiling contractors.

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The companion bill, SB 761 by Gallegos, was reported favorably as substituted by the Senate State Affairs Committee on April 11.