

SUBJECT: Provisional occupational licenses for applicants with criminal records

COMMITTEE: Licensing and Administrative Procedures — favorable, with amendment

VOTE: 6 ayes — Geren, Hamilton, Jones, Miles, Quintanilla, Thompson
0 nays
3 absent — Flores, Isett, Goolsby

SENATE VOTE: On final passage, April 30 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: The Occupations Code provides for the regulation and licensing of a wide range of professions and occupations. Licenses are required for doctors, nurses, podiatrists, chiropractors, acupuncturists, and various other health professionals. Also regulated are engineers, accountants, geologists, and land surveyors as well as air conditioning contractors, bail bondsmen, barbers, locksmiths, funeral directors and embalmers, professional boxers, real estate brokers, water well drillers and those who operate personnel services or bingo halls.

Occupations Code. ch. 503 defines the consequence of criminal convictions for a license holder, and sec. 53.021 allows a licensing authority to suspend or revoke an occupational license or disqualify a person from receiving a license or taking a licensing examination upon conviction of a felony or of a misdemeanor directly related to the duties and responsibilities of the licensed occupation.

Occupations Code, sec. 53.002 provides that ch. 503 does not apply to:

- the Texas Supreme Court and members of the bar;
- peace officers and applicants to become peace officers;
- those who hold licenses from Texas State Board of Medical Examiners;
- Texas State Board of Pharmacy, State Board of Dental Examiners, or the State Board of Veterinary Medical Examiners; or

- those convicted of a felony drug offense under Health and Safety Code, chs. 481 or 483 or sec. 485.033.

The listed occupations are subject to licensing and discipline through their respective boards, and those convicted of felony drug offenses are prohibited from applying for occupational licenses.

Offenses described by Code of Criminal Procedure, art. 42.12, sec. 3g include murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, sexual assault, or the use or exhibition of a deadly weapon during the commission of a felony offense.

DIGEST:

SB 1750, as amended, would amend Occupations Code, sec. 53.021 to limit a licensing authority's ability suspend or revoke a license or disqualify a person from receiving a license or deny the opportunity to take a licensing examination only for felonies and misdemeanors related to the duties and responsibilities of the licensed occupation that have occurred in the past five years.

SB 1750 would also amend Occupations Code, ch. 53 to add sec. 53.0211 to grant a state licensing authority the option of either issuing a license to a qualified person who had been convicted of a crime or issuing a provisional license.

The provisional license would be valid for six months and could be revoked if the person:

- committed a new offense;
- committed an act or omission that caused the person's community supervision, mandatory supervision, or parole to be revoked; or
- violated the law or rules governing the practice of the licensed occupation.

The licensing authority would be required to issue a full license to the applicant when the provisional license expired, provided that the provisional license had not been revoked. If the provisional license had been revoked, the applicant would be disqualified from receiving a regular license.

The applicant would be required to provide the licensing authority with the name and contact information for the applicant's probation or parole

department. The licensing authority would be required to inform the probation or parole department of the provisional license, and the probation or parole department, in turn, would have to notify the licensing authority if the applicant's parole or probation had been revoked.

SB 1750 also would amend Occupations Code, sec. 53.002 to add to the list of occupations that would not be subject to the five-year limitation on considering felony and occupation-related misdemeanors or be required to issue a license or a provisional license. These additional occupations and licensing boards would include:

- reserve law enforcement officer, county jailer, or public security officer licensed under Occupations Code ch. 1701;
- Texas State Board of Examiners of Psychologists;
- Board of Nurse Examiners;
- Texas State Board of Public Accountancy; or
- licensees subject to Finance Code, ch. 156.

SB 1750 would also exclude offenders convicted of Code of Criminal Procedure, art. 42.12, sec. 3g offenses or sexually violent offenses described Code of Criminal Procedure art. 62.001 from the five-year limitation and the provisional licensing provisions.

SB 1750 would apply to applications filed on or after the bill takes effect. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

SB 1750 would help end the arbitrary exclusion of ex-offenders from an array of occupations and offer them opportunities to become self-sufficient. Texas has 168 state laws that forbid felons from obtaining jobs, and the law designates 1,941 offenses as felonies. More restrictions and laws defining felonies have passed this session. Consequently, approximately one in 11 Texans has a felony conviction. These people must find jobs or risk returning to illegal activities to survive.

Allowing ex-offenders to obtain provisional licenses would help encourage them to demonstrate they have reformed and learned about taking responsibility for their actions. Setting a five-year limit on consideration of old offenses would keep past mistakes from haunting

those who have mended their ways and shown that they have become productive citizens.

SB 1750 provides safeguards to exclude violent offenders from the five-year limitation on considering past offenses. It also would allow licensing boards for doctors, lawyers, peace officers, nurses and psychologists to keep stricter standards.

Licensing authorities must already monitor licensee's compliance with laws, rules, and regulations, and SB 1750 would not add significantly to their workload.

**OPPONENTS
SAY:**

SB 1750 would erode licensing authorities' ability to protect the public safety and preserve the integrity of their professions by requiring them to grant licenses to ex-felons. The bill would make the licensing authorities adjuncts to probation and parole departments and require additional monitoring of licensees. Many licensing boards already have backlogs of investigations into complaints.

NOTES:

The committee amendment would delete a reference to Texas Optometry Board as one of the occupations excluded from the bill and add the Texas State Board of Public Accountancy.