

BILL ANALYSIS

Senate Research Center
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S.B. 1531
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Business & Commerce
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, ambiguous language in the Texas Occupations Code, such as “good character” or “moral turpitude” requirements, gives licensing boards added discretion to deny people work. H.B. 91, in the 85th Legislature, directed each licensing authority to review requirements related to an applicant’s criminal history and make a recommendation regarding whether the requirement should be retained, modified, or repealed. S.B. 1531 is based on the "Texas Department of Licensing and Regulation Report Regarding Criminal Conviction Guidelines Review."

Bill Analysis

Repeals Provisions and Updates Statutes for the Following Occupations:

- Repeals provisions allowing the refusal of a podiatrist’s license for the reason of a felony conviction or a crime of moral turpitude.
 - Retains the provision allowing refusal of licensure to a podiatrist who amputates a foot.
- Repeals provisions allowing the refusal of a midwife’s license to a person convicted of a felony or a misdemeanor involving moral turpitude.
- Removes a provision requiring an applicant for a license to perform electrical work to demonstrate the applicant’s honesty, trustworthiness, and integrity.
- Removes provisions requiring the refusal of an auctioneer’s license for a felony conviction within five years preceding the date of application.
- Directs the Texas Department of Licensing and Regulation (TDLR) to deny or revoke a breeder’s license for past convictions of animal abuse or neglect.
- Adds language directing TDLR to deny or revoke a dog or cat breeder’s license for past convictions, deferred adjudication, or pleas of no contest to charges of animal cruelty or neglect in the last five years.
- Requires notice of revocation to the licensed breeder of TDLR's grounds for disqualification and the breeder’s right to contest revocation.
- Allows the breeder 20 days to request a hearing at the State Office of Administrative Hearings (SOAH) to contest the revocation. If the breeder does not request a hearing, the license is automatically revoked.
- Allows SOAH to determine whether the breeder is disqualified from holding a license, and if so, enter an order revoking the license and notify the breeder. This determination is not subject to judicial review.
- Allows the formerly licensed breeder to apply for issuance of a new license if the basis for revocation is vacated, set aside, or overturned.

As proposed, S.B. 1531 amends current law relating to the eligibility for certain occupational licenses and the use of a person's criminal history as grounds for certain actions related to the license.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 202.253(a-1), Occupations Code, as follows:

(a-1) Deletes existing text authorizing the Texas Commission of Licensing and Regulation (TCLR) or the Texas Department of Licensing and Regulation (TDLR) to refuse to admit a person to an examination, and to refuse to issue a license to practice podiatry to a person, for being convicted of a felony or a crime that involves moral turpitude.

SECTION 2. Amends Section 203.404(a), Occupations Code, as follows:

(a) Deletes existing text authorizing TCLR or the executive director of TDLR to discipline a licensed midwife, refuse to renew a midwife's license, or refuse to issue a license to an applicant if the person is convicted of a misdemeanor involving moral turpitude or a felony. Redesignates existing Subdivisions (4)–(10) as Subdivisions (3)–(9) accordingly and makes nonsubstantive changes.

SECTION 3. Amends Sections 802.107(a) and (b), Occupations Code, as follows;

(a) Requires TDLR to deny issuance of a license to, or refuse to renew the license of, a person if the person or a controlling person of the dog or cat breeder has pled guilty or nolo contendere, been convicted of, or received deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction in the five years preceding the person's initial or renewal application for a license.

(b) Provides that a license issued under this chapter (Dog or Cat Breeders) is revoked in the manner provided by Section 802.108 if, after the license is issued, the licensed breeder or a controlling person of the licensed breeder pleads guilty or nolo contendere to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction, rather than requiring TDLR to revoke a license if, after the license is issued, the person or a controlling person of the dog or cat breeder pleads guilty to, is convicted of, or receives deferred adjudication for animal cruelty or neglect in this state or any other jurisdiction.

SECTION 4. Amends Subchapter C, Chapter 802, Occupations Code, by adding Section 802.108, as follows:

Sec. 802.108. **REQUIRED REVOCATION FOR CERTAIN OFFENSES; PROCEDURE.** (a) Requires TDLR, on discovery by TDLR that a licensed breeder or a controlling person of the licensed breeder has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication for an offense described by Section 802.107(b), to notify the licensed breeder that the breeder is disqualified from holding a license under this chapter (Dog or Cat Breeders) and that the license will be revoked.

(b) Requires the notice to include certain information.

(c) Authorizes the breeder, not later than the 20th day after the date the licensed breeder receives the notice of revocation under this section, to submit a written request for a hearing to contest the revocation.

(d) Requires TDLR, if the licensed breeder does not request a hearing within the period prescribed by Subsection (c), to enter an order revoking the license and notify the breeder of the order.

(e) Requires the State Office of Administrative Hearings, if the licensed breeder requests a hearing within the period prescribed by Subsection (c), to conduct the hearing.

(f) Requires TDLR, based on the findings from the hearing, to:

(1) determine whether the licensed breeder is disqualified from holding a license under this chapter based on the grounds described by Subsection (a); and

(2) if TDLR determines that the licensed breeder is disqualified:

(A) enter an order revoking the license; and

(B) notify the breeder of the order.

(g) Provides that, notwithstanding Chapter 2001 (Administrative Procedure), Government Code, a determination under Subsection (f) is not subject to judicial review.

(h) Authorizes the former licensed breeder, if the conviction, plea, or grant of deferred adjudication that is the basis for a revocation under this section is vacated, set aside, or otherwise overturned on appeal, to apply to TDLR for issuance of a new license.

SECTION 5. Amends Section 1305.152(a), Occupations Code, as follows:

(a) Deletes existing text requiring an applicant for a license under this chapter (Electricians) to demonstrate the applicant's honesty, trustworthiness, and integrity. Redesignates Subdivision (5) as Subdivision (4) and makes nonsubstantive changes.

SECTION 6. Amends Section 1802.052(a), Occupations Code, as follows;

(a) Deletes existing providing that an individual is eligible for an auctioneer's license if the individual has not been convicted of a felony during the five years preceding the date of application. Redesignates Subdivision (6) as Subdivision (5) and makes nonsubstantive changes.

SECTION 7. Makes application of Section 203.404(a), Occupations Code, as amended by this Act, prospective.

SECTION 8. Makes application of Section 802.107(b), Occupations Code, as amended by this Act, and Section 802.108, Occupations Code, as added by this Act, prospective.

SECTION 9. Makes application of Sections 1305.152 and 1802.052, Occupations Code, as amended by this Act, prospective.

SECTION 10. Effective date: September 1, 2019.