

By: Harrison

H.B. No. 2690

A BILL TO BE ENTITLED

AN ACT

relating to governmental restrictions on the right to earn a living.

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

SECTION 1. Subtitle H, Title 10, Government Code, is amended by adding Chapter 2402 to read as follows:

CHAPTER 2402. PROTECTION OF RIGHT TO EARN LIVING

Sec. 2402.001. DEFINITIONS. In this chapter:

(1) "Governmental agency" means:

(A) this state or a political subdivision of this state; and

(B) an agency of this state or of a political subdivision of this state, including a department, bureau, board, commission, office, council, or public institution of higher education.

(2) "Public official" means an elected or appointed officer, employee, or agent of this state or of a political subdivision, board, commission, bureau, or other public body established by law.

(3) "Welfare" means protection of the public against fraud or physical or psychological harm. The term does not include the protection of a business from competition.

Sec. 2402.002. APPLICABILITY OF CHAPTER. (a) This chapter applies to any law adopted by a governmental agency and the

1 implementation of that law, regardless of the date the law was  
2 adopted.

3 (b) This chapter applies to each law of this state unless  
4 the law is expressly made exempt from the application of this  
5 chapter by reference to this chapter.

6 Sec. 2402.003. RIGHT TO EARN LIVING PROTECTED. A  
7 governmental agency or public official may not adopt or enforce a  
8 law or other measure that imposes a burden on an individual's right  
9 to earn a living unless the agency or official demonstrates that:

10 (1) the law or measure is necessary to protect public  
11 health, safety, or welfare;

12 (2) the law or measure is the least restrictive means  
13 of furthering that interest; and

14 (3) alternative means, including voluntary  
15 certification or less restrictive regulatory measures, are not able  
16 to achieve that interest without unnecessarily restricting entry  
17 into the regulated business, profession, occupation, or trade.

18 Sec. 2402.004. CLAIM FOR RELIEF. (a) If a governmental  
19 agency or public official has violated or there are reasonable  
20 grounds to believe the agency or official is about to violate  
21 Section 2402.003, the person aggrieved by the violation or  
22 threatened violation may bring an action against the agency or  
23 official in accordance with this section.

24 (b) A person has standing to bring an action under this  
25 section regardless of whether the person applied for, obtained, or  
26 was denied the occupational license or certification that is the  
27 subject of the violation that is the basis for the action if the

1 person:

2 (1) intends to engage in the business, profession,  
3 occupation, or trade that is the subject of the violation that is  
4 the basis for the action; and

5 (2) is hindered from engaging in the business,  
6 profession, occupation, or trade by the violation that is the basis  
7 for the action.

8 (c) A person whose right to earn a living has been burdened  
9 in violation of this Section, other than a governmental agency or  
10 public official, in an action brought under this section is  
11 entitled to recover:

12 (1) appropriate equitable relief;

13 (2) nominal damages of \$1; and

14 (3) reasonable attorney's fees, court costs, and other  
15 reasonable expenses incurred in bringing the action.

16 Sec. 2402.005. DEFENSE. A person whose free exercise of the  
17 right to earn a living has been burdened in violation of Section  
18 2402.003 may assert that violation as a defense in a judicial or  
19 administrative proceeding enforcing the law or measure that is the  
20 basis of the violation regardless of whether the proceeding is  
21 brought in the name of the state or by any other person.

22 Sec. 2402.006. IMMUNITY WAIVED. A governmental agency's  
23 sovereign and governmental immunity to suit and from liability is  
24 waived to the extent of liability created by Section 2402.004.  
25 Official immunity of a public official is waived to the extent of  
26 liability created by Section 2402.004.

27 Sec. 2402.007. ACTION AND DEFENSE CUMULATIVE. An action or

1 defense provided by this chapter is cumulative with any other  
2 action or defense provided by law.

3 Sec. 2402.008. CONSTRUCTION OF CHAPTER. This chapter may  
4 not be construed to authorize a governmental agency or public  
5 official to burden a person's free exercise of the right to earn a  
6 living.

7 SECTION 2. (a) Section 2402.004, Government Code, as added  
8 by this Act, applies only to a cause of action that accrues on or  
9 after the effective date of this Act.

10 (b) Section 2402.005, Government Code, as added by this Act,  
11 applies only to a proceeding that commences on or after the  
12 effective date of this Act.

13 SECTION 3. This Act takes effect immediately if it receives  
14 a vote of two-thirds of all the members elected to each house, as  
15 provided by Section 39, Article III, Texas Constitution. If this  
16 Act does not receive the vote necessary for immediate effect, this  
17 Act takes effect September 1, 2025.