

By: Geren

H.B. No. 1569

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the powers and duties of the Texas Department of  
3 Licensing and Regulation.

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

5 SECTION 1. Section 51.202(a), Occupations Code, is amended  
6 to read as follows:

7 (a) The commission shall set fees, in amounts reasonable and  
8 necessary to cover the costs of administering the programs or  
9 activities, for:

- 10 (1) licenses issued by the department;
- 11 (2) license renewals and late renewals;
- 12 (3) examinations;
- 13 (4) continuing education; and
- 14 (5) [~~4~~] any other program or activity administered by  
15 the department for which a fee is authorized.

16 SECTION 2. Subchapter D, Chapter 51, Occupations Code, is  
17 amended by adding Section 51.209 to read as follows:

18 Sec. 51.209. SUBPOENA. (a) The commission or executive  
19 director may request and, if necessary, compel by subpoena:

- 20 (1) the production for inspection and copying of  
21 records, documents, and other evidence relevant to the  
22 investigation of an alleged violation of this chapter, a law  
23 establishing a regulatory program administered by the department,  
24 or a rule adopted or order issued by the commission or executive

1 director; and

2 (2) the attendance of a witness for examination under  
3 oath.

4 (b) A subpoena may be issued throughout the state and may be  
5 served by any person designated by the commission or executive  
6 director.

7 (c) The department, acting through the attorney general,  
8 may bring an action to enforce a subpoena issued under this section  
9 against a person who fails to comply with the subpoena.

10 (d) Venue for an action brought under this section is in a  
11 district court in:

12 (1) Travis County; or

13 (2) any county in which the department may hold a  
14 hearing.

15 (e) The court shall order compliance with the subpoena if  
16 the court finds that good cause exists to issue the subpoena.

17 (f) The authority of the commission or executive director to  
18 issue a subpoena under this section may not be delegated to another  
19 person.

20 SECTION 3. Section 51.353, Occupations Code, is amended to  
21 read as follows:

22 Sec. 51.353. LICENSE REFUSAL; ADMINISTRATIVE SANCTIONS.

23 (a) The commission shall revoke, suspend, or refuse to issue or  
24 renew a license or shall reprimand a license holder for a violation  
25 of this chapter, a law establishing a regulatory program  
26 administered by the department, or a rule or order of the commission  
27 or executive director.

1 (b) The commission may probate the suspension of a [~~place on~~  
2 ~~probation a person whose~~] license [~~is suspended~~]. If a license  
3 suspension is probated, the commission may require the person to:

4 (1) report regularly to the department on matters that  
5 are the basis of the probation;

6 (2) limit practice to the areas prescribed by the  
7 commission; or

8 (3) continue or renew professional education until the  
9 person attains a degree of skill satisfactory to the commission in  
10 those areas that are the basis for the probation.

11 SECTION 4. Subchapter G, Chapter 51, Occupations Code, is  
12 amended by adding Sections 51.355 and 51.356 to read as follows:

13 Sec. 51.355. CEASE AND DESIST ORDERS. The executive  
14 director may issue a cease and desist order if the executive  
15 director determines that the action is necessary to prevent a  
16 violation of:

17 (1) this chapter;

18 (2) a law establishing a regulatory program  
19 administered by the department; or

20 (3) a rule adopted or order issued by the commission or  
21 executive director.

22 Sec. 51.356. EMERGENCY ORDERS. (a) The executive director  
23 may issue an emergency order, including an order to suspend or  
24 revoke a license or to cease operation of unsafe equipment,  
25 including an unsafe elevator or unsafe boiler, if the executive  
26 director determines that an emergency exists requiring immediate  
27 action to protect the public health and safety.

1       (b) The executive director may issue the emergency order  
2 with or without notice and hearing as the executive director  
3 considers practicable under the circumstances.

4       (c) If an emergency order is issued under this section  
5 without a hearing, the executive director shall set the time and  
6 place for a hearing conducted by the State Office of Administrative  
7 Hearings to affirm, modify, or set aside the emergency order not  
8 later than the 10th day after the date the order was issued. The  
9 order shall be affirmed to the extent that reasonable cause existed  
10 to issue the order.

11       (d) The commission by rule may prescribe procedures for the  
12 determination and appeal of an emergency order under this section,  
13 including a rule allowing the commission to affirm, modify, or set  
14 aside a decision made by the State Office of Administrative  
15 Hearings under Subsection (c).

16       (e) A proceeding under this section is a contested case  
17 under Chapter 2001, Government Code.

18       SECTION 5. Subchapter H, Chapter 51, Occupations Code, is  
19 amended by adding Sections 51.407, 51.408, and 51.409 to read as  
20 follows:

21       Sec. 51.407. DEFERRED ADJUDICATION; REFUSAL TO ISSUE OR  
22 RENEW LICENSE. The commission may refuse to issue or renew a  
23 license if the commission determines that a deferred adjudication  
24 makes the person seeking the license unfit for a license.

25       Sec. 51.408. TEMPORARY LICENSE. (a) The commission by rule  
26 may provide for the issuance of a temporary license to an applicant  
27 who:

1           (1) submits to the executive director an application  
2 on a form prescribed by the executive director;

3           (2) meets preliminary qualifications established by  
4 commission rule; and

5           (3) pays the required fees.

6           (b) A temporary license expires on the 21st day after the  
7 date of issuance and may not be renewed.

8           (c) A temporary license holder is subject to:

9           (1) this chapter;

10           (2) any law applicable to the activity for which the  
11 license is required; and

12           (3) any rule or order of the commission or the  
13 executive director applicable to the license.

14           Sec. 51.409. EMERGENCY LICENSE. (a) The executive  
15 director may issue an emergency license to a person who meets  
16 eligibility requirements provided by:

17           (1) a law establishing a regulatory program  
18 administered by the department; or

19           (2) a rule adopted to implement this section.

20           (b) The license expires on the date indicated by the  
21 executive director, but may not exceed the 90th day after the date  
22 of issuance.

23           (c) The emergency license holder may engage in the  
24 activities indicated by the type of license only:

25           (1) during a time declared as a state of disaster and  
26 the following recovery period; and

27           (2) in an area designated as a disaster area by:

1                   (A) the governor; or  
2                   (B) the presiding officer of a governing body of  
3 a political subdivision.

4                   SECTION 6. This Act takes effect September 1, 2005.