

By: West

S.B. No. 1738

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the power of a licensing authority to revoke, suspend,  
3 or deny a license on the basis of certain criminal proceedings.

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

5 SECTION 1. Section 53.021, Occupations Code, is amended by  
6 adding Subsections (c), (d), and (e) to read as follows:

7 (c) Except as provided by Subsections (d) and (e),  
8 notwithstanding any other law, a licensing authority may not  
9 consider a person to have been convicted of an offense for purposes  
10 of this section if, regardless of the statutory authorization:

11 (1) the person entered a plea of guilty or nolo  
12 contendere;

13 (2) the judge deferred further proceedings without  
14 entering an adjudication of guilt and placed the person under the  
15 supervision of the court or an officer under the supervision of the  
16 court; and

17 (3) at the end of the period of supervision, the judge  
18 dismissed the proceedings and discharged the person.

19 (d) A licensing authority may consider a person to have been  
20 convicted of an offense for purposes of this section regardless of  
21 whether the proceedings were dismissed and the person was  
22 discharged as described by Subsection (c) if, after consideration  
23 of the factors described by Sections 53.022 and 53.023(a), the  
24 licensing authority determines that:

1           (1) the person may pose a continued threat to public  
2 safety; or

3           (2) employment of the person in the licensed  
4 occupation would create a situation in which the person has an  
5 opportunity to repeat the prohibited conduct.

6           (e) Subsection (c) does not apply if the person is an  
7 applicant for or the holder of a license that authorizes the person  
8 to provide law enforcement or public health, education, or safety  
9 services.

10           SECTION 2. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2007.