

1-1 By: West S.B. No. 1738
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 26, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 26, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1738 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the power of a licensing authority to revoke, suspend,
1-11 or deny a license on the basis of certain criminal proceedings.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 53.021, Occupations Code, is amended by
1-14 adding Subsections (c), (d), and (e) to read as follows:

1-15 (c) Except as provided by Subsections (d) and (e),
1-16 notwithstanding any other law, a licensing authority may not
1-17 consider a person to have been convicted of an offense for purposes
1-18 of this section if, regardless of the statutory authorization:

1-19 (1) the person entered a plea of guilty or nolo
1-20 contendere;

1-21 (2) the judge deferred further proceedings without
1-22 entering an adjudication of guilt and placed the person under the
1-23 supervision of the court or an officer under the supervision of the
1-24 court; and

1-25 (3) at the end of the period of supervision, the judge
1-26 dismissed the proceedings and discharged the person.

1-27 (d) A licensing authority may consider a person to have been
1-28 convicted of an offense for purposes of this section regardless of
1-29 whether the proceedings were dismissed and the person was
1-30 discharged as described by Subsection (c) if, after consideration
1-31 of the factors described by Sections 53.022 and 53.023(a), the
1-32 licensing authority determines that:

1-33 (1) the person may pose a continued threat to public
1-34 safety; or

1-35 (2) employment of the person in the licensed
1-36 occupation would create a situation in which the person has an
1-37 opportunity to repeat the prohibited conduct.

1-38 (e) Subsection (c) does not apply if the person is an
1-39 applicant for or the holder of a license that authorizes the person
1-40 to provide law enforcement or public health, education, or safety
1-41 services.

1-42 SECTION 2. This Act takes effect immediately if it receives
1-43 a vote of two-thirds of all the members elected to each house, as
1-44 provided by Section 39, Article III, Texas Constitution. If this
1-45 Act does not receive the vote necessary for immediate effect, this
1-46 Act takes effect September 1, 2007.

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