

By: Guillen, Thompson

H.B. No. 70

Substitute the following for H.B. No. 70:

By: Hamilton

C.S.H.B. No. 70

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the issuance of an occupational license to certain
3 applicants with criminal convictions.

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

5 SECTION 1. Section 53.002, Occupations Code, is amended to
6 read as follows:

7 Sec. 53.002. APPLICABILITY OF CHAPTER. This chapter does
8 not apply to:

9 (1) the Supreme Court of Texas, a person licensed
10 under the court's authority on behalf of the judicial department of
11 government, or an applicant for a license issued under the court's
12 authority on behalf of the judicial department of government;

13 (2) a peace officer or an applicant for a license as a
14 peace officer described by Article 2.12, Code of Criminal
15 Procedure, or to a reserve law enforcement officer, a county
16 jailer, or a public security officer licensed or applying for a
17 license under Chapter 1701; [or]

18 (3) a person licensed or applying for a license issued
19 by the Texas State Board of Public Accountancy;

20 (4) a person licensed or applying for a license under
21 Chapter 156, Finance Code; or

22 (5) a person who:

23 (A) is licensed or is applying for a license
24 issued by the Texas Medical [State] Board [of Medical Examiners],

1 the Texas State Board of Pharmacy, the State Board of Dental
2 Examiners, the Texas State Board of Examiners of Psychologists, the
3 Texas Board of Nursing, the Texas Optometry Board, the Texas State
4 Board of Podiatric Medical Examiners, the Texas Board of
5 Chiropractic Examiners, or the State Board of Veterinary Medical
6 Examiners; and

7 (B) has been convicted of:

8 (i) a felony under Chapter 481 or 483 or
9 Section 485.033, Health and Safety Code, or the Comprehensive Drug
10 Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et
11 seq.);

12 (ii) an offense listed in Section 3g,
13 Article 42.12, Code of Criminal Procedure;

14 (iii) an offense involving theft from or
15 fraud against a state or federal health care program; or

16 (iv) a sexually violent offense, as defined
17 by Article 62.001, Code of Criminal Procedure.

18 SECTION 2. Section 53.021(a), Occupations Code, is amended
19 to read as follows:

20 (a) A licensing authority may suspend or revoke a license,
21 disqualify a person from receiving a license, or deny to a person
22 the opportunity to take a licensing examination on the grounds that
23 the person has been convicted within the five years preceding the
24 date the person applies for the license of a felony or misdemeanor
25 that directly relates to the duties and responsibilities of the
26 licensed occupation.

27 SECTION 3. Subchapter B, Chapter 53, Occupations Code, is

1 amended by adding Section 53.0211 to read as follows:

2 Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR
3 CRIMINAL CONVICTIONS. (a) Notwithstanding any other law and
4 unless the applicant has been convicted of an offense described by
5 Section 53.021(a), a licensing authority, other than a licensing
6 authority listed in Section 53.002(5)(A), shall issue to an
7 otherwise qualified applicant who has been convicted of an offense:

- 8 (1) the license for which the applicant applied; or
9 (2) a provisional license described by Subsection (c).

10 (b) A licensing authority listed in Section 53.002(5)(A)
11 may issue to an otherwise qualified applicant who has been
12 convicted of an offense a provisional license described by
13 Subsection (c).

14 (c) A licensing authority, other than a licensing authority
15 listed in Section 53.002(5)(A), may issue a provisional license for
16 a term of six months to an applicant who has been convicted of an
17 offense. A licensing authority listed in Section 53.002(5)(A) may
18 issue a provisional license for a term determined by the authority
19 to an applicant who has been convicted of an offense.

20 (d) The licensing authority shall revoke a provisional
21 license if the provisional license holder:

- 22 (1) commits a new offense;
23 (2) commits an act or omission that causes the person's
24 community supervision, mandatory supervision, or parole to be
25 revoked, if applicable; or

26 (3) violates the law or rules governing the practice
27 of the occupation for which the provisional license is issued.

1 (e) The licensing authority shall issue the license for
2 which the applicant originally applied to a provisional license
3 holder on the expiration of the provisional license term if the
4 provisional license holder does not engage in conduct described by
5 Subsection (d).

6 (f) If the licensing authority revokes a provisional
7 license under Subsection (d), the provisional license holder is
8 disqualified from receiving the license for which the applicant
9 originally applied.

10 (g) An applicant who is on community supervision, mandatory
11 supervision, or parole and who is issued a provisional license
12 under this section shall provide to the licensing authority the
13 name and contact information of the probation or parole department
14 to which the person reports. The licensing authority shall notify
15 the probation or parole department that a provisional license has
16 been issued. The probation or parole department shall notify the
17 licensing authority if the person's community supervision,
18 mandatory supervision, or parole supervision is revoked during the
19 term of the provisional license.

20 SECTION 4. The changes in law made by this Act apply only to
21 an application for a license filed with a licensing authority to
22 which Chapter 53, Occupations Code, applies, on or after the
23 effective date of this Act. An application filed before that date
24 is governed by the law in effect when the application is filed, and
25 the former law is continued in effect for that purpose.

26 SECTION 5. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.