

1 AN ACT

2 relating to the eligibility of certain applicants for occupational
3 licenses.

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

5 SECTION 1. Chapter 53, Occupations Code, is amended by
6 adding Subchapter D to read as follows:

7 SUBCHAPTER D. PRELIMINARY EVALUATION OF LICENSE ELIGIBILITY

8 Sec. 53.101. DEFINITIONS. In this subchapter:

9 (1) "License" means a license, certificate,
10 registration, permit, or other authorization that:

11 (A) is issued by a licensing authority; and

12 (B) a person must obtain to practice or engage in
13 a particular business, occupation, or profession.

14 (2) "Licensing authority" means a department,
15 commission, board, office, or other agency of the state that issues
16 a license.

17 Sec. 53.102. REQUEST FOR CRIMINAL HISTORY EVALUATION
18 LETTER. (a) A person may request a licensing authority to issue a
19 criminal history evaluation letter regarding the person's
20 eligibility for a license issued by that authority if the person:

21 (1) is enrolled or planning to enroll in an
22 educational program that prepares a person for an initial license
23 or is planning to take an examination for an initial license; and

24 (2) has reason to believe that the person is

1 ineligible for the license due to a conviction or deferred
2 adjudication for a felony or misdemeanor offense.

3 (b) The request must state the basis for the person's
4 potential ineligibility.

5 Sec. 53.103. AUTHORITY TO INVESTIGATE. A licensing
6 authority has the same powers to investigate a request submitted
7 under this subchapter and the requestor's eligibility that the
8 authority has to investigate a person applying for a license.

9 Sec. 53.104. DETERMINATION OF ELIGIBILITY; LETTER. (a) If
10 a licensing authority determines that a ground for ineligibility
11 does not exist, the authority shall notify the requestor in writing
12 of the authority's determination on each ground of potential
13 ineligibility.

14 (b) If a licensing authority determines that the requestor
15 is ineligible for a license, the licensing authority shall issue a
16 letter setting out each basis for potential ineligibility and the
17 authority's determination as to eligibility. In the absence of new
18 evidence known to but not disclosed by the requestor or not
19 reasonably available to the licensing authority at the time the
20 letter is issued, the authority's ruling on the request determines
21 the requestor's eligibility with respect to the grounds for
22 potential ineligibility set out in the letter.

23 (c) A licensing authority must provide notice under
24 Subsection (a) or issue a letter under Subsection (b) not later than
25 the 90th day after the date the authority receives the request.

26 Sec. 53.105. FEES. A licensing authority may charge a
27 person requesting an evaluation under this subchapter a fee adopted

1 by the authority. Fees adopted by a licensing authority under this
2 subchapter must be in an amount sufficient to cover the cost of
3 administering this subchapter.

4 SECTION 2. Not later than September 1, 2010, a department,
5 commission, board, office, or other agency of the state that issues
6 a license to practice or engage in a particular business,
7 profession, or occupation shall adopt rules necessary to administer
8 Subchapter D, Chapter 53, Occupations Code, as added by this Act.

9 SECTION 3. Section 53.021(a), Occupations Code, is amended
10 to read as follows:

11 (a) A licensing authority may suspend or revoke a license,
12 disqualify a person from receiving a license, or deny to a person
13 the opportunity to take a licensing examination on the grounds that
14 the person has been convicted of:

15 (1) an offense [a felony or misdemeanor] that directly
16 relates to the duties and responsibilities of the licensed
17 occupation;

18 (2) an offense that does not directly relate to the
19 duties and responsibilities of the licensed occupation and that was
20 committed less than five years before the date the person applies
21 for the license;

22 (3) an offense listed in Section 3g, Article 42.12,
23 Code of Criminal Procedure; or

24 (4) a sexually violent offense, as defined by Article
25 62.001, Code of Criminal Procedure.

26 SECTION 4. Subchapter B, Chapter 53, Occupations Code, is
27 amended by adding Section 53.0211 to read as follows:

1 Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR
2 CRIMINAL CONVICTIONS. (a) This section does not apply to an
3 applicant for a license that would allow the applicant to provide:

- 4 (1) law enforcement services;
5 (2) public health, education, or safety services; or
6 (3) financial services in an industry regulated by the
7 securities commissioner, the banking commissioner, the savings and
8 mortgage lending commissioner, or the credit union commissioner.

9 (b) Notwithstanding any law other than Subsection (a) and
10 unless the applicant has been convicted of an offense described by
11 Section 53.021(a), a licensing authority shall issue to an
12 otherwise qualified applicant who has been convicted of an offense:

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

15 (c) A licensing authority may issue a provisional license
16 for a term of six months to an applicant who has been convicted of an
17 offense.

18 (d) The licensing authority shall revoke a provisional
19 license if the provisional license holder:

- 20 (1) commits a new offense;
21 (2) commits an act or omission that causes the person's
22 community supervision, mandatory supervision, or parole to be
23 revoked, if applicable; or
24 (3) violates the law or rules governing the practice
25 of the occupation for which the provisional license is issued.

26 (e) The licensing authority shall issue the license for
27 which the applicant originally applied to a provisional license

1 holder on the expiration of the provisional license term if the
2 provisional license holder does not engage in conduct described by
3 Subsection (d).

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

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

18 SECTION 5. The changes in law made by this Act by the
19 amendment of Section 53.021(a), Occupations Code, and the addition
20 of Section 53.0211, Occupations Code, apply only to an application
21 for a license filed with a licensing authority, to which Chapter 53,
22 Occupations Code, applies, on or after the effective date of this
23 Act. An application filed before that date is governed by the law
24 in effect when the application is filed, and the former law is
25 continued in effect for that purpose.

26 SECTION 6. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

H.B. No. 963

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.

President of the Senate

Speaker of the House

I certify that H.B. No. 963 was passed by the House on March 31, 2009, by the following vote: Yeas 147, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 963 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 963 on May 31, 2009, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 963

I certify that H.B. No. 963 was passed by the Senate, with amendments, on May 25, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 963 on May 31, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor