

1-1 By: Whitmire S.B. No. 809
1-2 (In the Senate - Filed February 11, 2009; March 4, 2009,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 26, 2009, reported favorably by the following vote: Yeas 5,
1-5 Nays 0; March 26, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the issuance of an occupational license to certain
1-9 applicants with criminal convictions.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 53.002, Occupations Code, is amended to
1-12 read as follows:

1-13 Sec. 53.002. APPLICABILITY OF CHAPTER. This chapter does
1-14 not apply to:

1-15 (1) the Supreme Court of Texas, a person licensed
1-16 under the court's authority on behalf of the judicial department of
1-17 government, or an applicant for a license issued under the court's
1-18 authority on behalf of the judicial department of government;

1-19 (2) a peace officer or an applicant for a license as a
1-20 peace officer described by Article 2.12, Code of Criminal
1-21 Procedure, or to a reserve law enforcement officer, a county
1-22 jailer, or a public security officer licensed or applying for a
1-23 license under Chapter 1701; ~~or~~

1-24 (3) a person licensed or applying for a license issued
1-25 by the Texas State Board of Public Accountancy;

1-26 (4) a person licensed or applying for a license under
1-27 Chapter 156, Finance Code; or

1-28 (5) a person who:

1-29 (A) is licensed or is applying for a license
1-30 issued by the Texas Medical ~~[State]~~ Board ~~[of Medical Examiners]~~,
1-31 the Texas State Board of Pharmacy, the State Board of Dental
1-32 Examiners, the Texas State Board of Examiners of Psychologists, the
1-33 Texas Board of Nursing, the Texas Optometry Board, or the State
1-34 Board of Veterinary Medical Examiners; and

1-35 (B) has been convicted of:

1-36 (i) a felony under Chapter 481 or 483 or
1-37 Section 485.033, Health and Safety Code;

1-38 (ii) an offense listed in Section 3g,
1-39 Article 42.12, Code of Criminal Procedure; or

1-40 (iii) a sexually violent offense, as
1-41 defined by Article 62.001, Code of Criminal Procedure.

1-42 SECTION 2. Subsection (a), Section 53.021, Occupations
1-43 Code, is amended to read as follows:

1-44 (a) A licensing authority may suspend or revoke a license,
1-45 disqualify a person from receiving a license, or deny to a person
1-46 the opportunity to take a licensing examination on the grounds that
1-47 the person has been convicted of a felony or misdemeanor that
1-48 directly relates to the duties and responsibilities of the licensed
1-49 occupation and that was committed less than five years before the
1-50 date the person applies for the license.

1-51 SECTION 3. Subchapter B, Chapter 53, Occupations Code, is
1-52 amended by adding Section 53.0211 to read as follows:

1-53 Sec. 53.0211. LICENSING OF CERTAIN APPLICANTS WITH PRIOR
1-54 CRIMINAL CONVICTIONS. (a) Notwithstanding any other law and
1-55 unless the applicant has been convicted of an offense described by
1-56 Section 53.021(a), a licensing authority shall issue to an
1-57 otherwise qualified applicant who has been convicted of an offense:

1-58 (1) the license for which the applicant applied; or

1-59 (2) a provisional license described by Subsection (b).

1-60 (b) A licensing authority may issue a provisional license
1-61 for a term of six months to an applicant who has been convicted of an
1-62 offense.

1-63 (c) The licensing authority shall revoke a provisional
1-64 license if the provisional license holder:

2-1 (1) commits a new offense;
2-2 (2) commits an act or omission that causes the person's
2-3 community supervision, mandatory supervision, or parole to be
2-4 revoked, if applicable; or

2-5 (3) violates the law or rules governing the practice
2-6 of the occupation for which the provisional license is issued.

2-7 (d) The licensing authority shall issue the license for
2-8 which the applicant originally applied to a provisional license
2-9 holder on the expiration of the provisional license term if the
2-10 provisional license holder does not engage in conduct described by
2-11 Subsection (c).

2-12 (e) If the licensing authority revokes a provisional
2-13 license under Subsection (c), the provisional license holder is
2-14 disqualified from receiving the license for which the applicant
2-15 originally applied.

2-16 (f) An applicant who is on community supervision, mandatory
2-17 supervision, or parole and who is issued a provisional license
2-18 under this section shall provide to the licensing authority the
2-19 name and contact information of the probation or parole department
2-20 to which the person reports. The licensing authority shall notify
2-21 the probation or parole department that a provisional license has
2-22 been issued. The probation or parole department shall notify the
2-23 licensing authority if the person's community supervision,
2-24 mandatory supervision, or parole supervision is revoked during the
2-25 term of the provisional license.

2-26 SECTION 4. The changes in law made by this Act apply only to
2-27 an application for a license filed with a licensing authority, to
2-28 which Chapter 53, Occupations Code, applies, on or after the
2-29 effective date of this Act. An application filed before that date
2-30 is governed by the law in effect when the application is filed, and
2-31 the former law is continued in effect for that purpose.

2-32 SECTION 5. This Act takes effect immediately if it receives
2-33 a vote of two-thirds of all the members elected to each house, as
2-34 provided by Section 39, Article III, Texas Constitution. If this
2-35 Act does not receive the vote necessary for immediate effect, this
2-36 Act takes effect September 1, 2009.

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