

By: Williams

S.B. No. 1428

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the power of the Texas Department of Licensing and
3 Regulation to issue emergency orders and temporary and emergency
4 licenses.

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

6 SECTION 1. Subchapter G, Chapter 51, Occupations Code, is
7 amended by adding Section 51.3511 to read as follows:

8 Sec. 51.3511. ISSUANCE OF EMERGENCY ORDERS. (a) If the
9 executive director determines that an emergency exists requiring
10 immediate action to protect the public health and safety, the
11 executive director may issue an emergency order to:

12 (1) suspend or revoke a license or other authorization
13 issued under a program regulated by the department; or

14 (2) halt operation of an unsafe facility or unsafe
15 equipment that is subject to regulation by the department.

16 (b) The executive director may issue an emergency order with
17 or without notice and hearing as the executive director considers
18 practicable under the circumstances.

19 (c) If an emergency order is issued under this section
20 without a hearing, the executive director shall set the time and
21 place for a hearing conducted by the State Office of Administrative
22 Hearings to affirm, modify, or set aside the emergency order not
23 later than the 10th day after the date the order was issued. The
24 order shall be affirmed to the extent that reasonable cause existed

1 to issue the order.

2 (d) The commission by rule may prescribe procedures for the
3 determination and appeal of an emergency order issued under this
4 section, including a rule allowing the commission to affirm,
5 modify, or set aside a decision made by the State Office of
6 Administrative Hearings under Subsection (c).

7 (e) A proceeding under this section is a contested case
8 under Chapter 2001, Government Code.

9 SECTION 2. Subchapter H, Chapter 51, Occupations Code, is
10 amended by adding Sections 51.407 and 51.408 to read as follows:

11 Sec. 51.407. TEMPORARY LICENSE. (a) The commission by rule
12 may provide for the issuance of a temporary license to an applicant
13 who:

14 (1) submits to the executive director an application
15 on a form prescribed by the executive director;

16 (2) meets preliminary qualifications established by
17 commission rule; and

18 (3) pays any required fees.

19 (b) A temporary license issued under this section expires on
20 the 21st day after the date of issuance and may not be renewed.

21 (c) A temporary license holder is subject to:

22 (1) this chapter;

23 (2) any law applicable to the activity for which the
24 license is required; and

25 (3) any rule of the commission or the executive
26 director applicable to the license.

27 Sec. 51.408. EMERGENCY LICENSE. (a) The executive

1 director may issue an emergency license to a person who meets
2 eligibility requirements provided by:

3 (1) a law establishing a regulatory program
4 administered by the department; or

5 (2) a rule adopted to implement this section.

6 (b) An emergency license issued under this section expires
7 on the date indicated by the executive director, but not later than
8 the 90th day after the date the license is issued.

9 (c) The emergency license holder may engage in the
10 activities authorized by the type of license only:

11 (1) during a period in which a state of disaster has
12 been declared and the following recovery period; and

13 (2) in an area designated as a disaster area under
14 Chapter 418, Government Code.

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2009.