

BILL ANALYSIS

Senate Research Center
82R1728 NC-D

S.B. 301
By: Wentworth
Business & Commerce
5/4/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In order to engage in certain businesses, occupations, and professions, the State of Texas requires licensure. Regulated businesses, occupations, and professions are numerous and affect almost every area of the Texas business environment. Firm and efficient regulation in this realm is necessary to protect the health, safety, financial security, and general well-being of Texans. Licensed professionals who provide their services to Texans, however, also deserve a measure of protection as their livelihood typically depends on the license. Frivolous complaints made against licensees, while easily filed, can require extensive time, effort, and money to defend.

S.B. 301 seeks to reduce the number of frivolous complaints and increase fairness for licensees in Texas by requiring the complaining party to accompany a complaint with an affidavit stating that the facts in the alleged complaint are true. Additionally, S.B. 301 provides for civil and criminal penalties against those who file a malicious complaint.

As proposed, S.B. 301 amends current law relating to filing a complaint against a person licensed to engage in a business, occupation, or profession and provides civil and criminal penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 2, Occupations Code, by adding Chapter 60, as follows:

CHAPTER 60. AFFIDAVIT REQUIRED FOR COMPLAINT; PENALTIES FOR MALICIOUS COMPLAINT

Sec. 60.001. DEFINITIONS. Defines, in this chapter, "license" and "licensing authority."

Sec. 60.002. AFFIDAVIT FOR COMPLAINT REQUIRED. Requires a person who files a complaint with a licensing authority against a license holder, notwithstanding any other law, to execute and submit with the complaint an affidavit that states that the facts alleged in the complaint are true.

Sec. 60.003. MALICIOUS COMPLAINT. Provides that, in this chapter, a complaint is malicious if:

- (1) the complaint is reasonably likely to harm, harass, abuse, or torment the person who is the subject of the complaint; and
- (2) a primary reason for the complaint is to cause that result.

Sec. 60.004. CIVIL PENALTY. Provides that a person who files a malicious complaint with a licensing authority against a license holder is liable to the state for a civil penalty of \$1,000. Authorizes the attorney general to sue to collect the civil penalty.

Sec. 60.005. CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person knowingly files a malicious complaint with a licensing authority against a license holder.

(b) Provides that an offense under this section is a Class A misdemeanor.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.