

By: Woolley

H.B. No. 3327

A BILL TO BE ENTITLED

AN ACT

relating to limiting the liability of persons who employ license holders with criminal convictions.

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

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

SUBCHAPTER E. LIMITATION ON LIABILITY FOR HIRING

CERTAIN LICENSE HOLDERS

Sec. 53.151. DEFINITIONS. In this subchapter:

(1) "Employee" means a person other than an independent contractor who, for compensation, performs services for an employer under a written or oral contract for hire, whether express or implied.

(2) "Independent contractor" has the meaning assigned by Section 91.001, Labor Code.

(3) "License holder" means an employee or independent contractor who holds a license, including a provisional license.

Sec. 53.152. LIMITATION ON LIABILITY FOR HIRING LICENSE HOLDER CONVICTED OF OFFENSE. (a) A cause of action may not be brought against an employer, general contractor, premises owner, or other third party solely for hiring a person who holds a license issued by a licensing authority to which this chapter applies who has been convicted of an offense.

(b) In a negligent hiring action against an employer,

1 general contractor, premises owner, or other third party for the
2 acts of a license holder that is based on a theory of liability
3 other than that described by Subsection (a), the fact that the
4 license holder was convicted of an offense before the license
5 holder's employment or contractual obligation with the employer,
6 general contractor, premises owner, or other third party, as
7 applicable, may not be introduced into evidence.

8 (c) This section does not preclude any existing cause of
9 action for failure of an employer or other person to provide
10 adequate supervision of a license holder, except that the fact that
11 the license holder has been convicted of a criminal offense may be
12 introduced into evidence in the suit only if:

13 (1) the employer knew or should have known of the
14 conviction; and

15 (2) the conviction was directly related to the nature
16 of the license holder's work and the conduct that gave rise to the
17 alleged injury that is the basis of the suit.

18 (d) The protections provided to an employer, general
19 contractor, premises owner, or third party under this section do
20 not apply in a suit concerning the misuse of funds or property of a
21 person other than the employer, general contractor, premises owner,
22 or third party by a license holder if, on the date the license
23 holder was hired, the license holder had been convicted of a crime
24 that includes fraud or the misuse of funds or property as an element
25 of the offense, and it was foreseeable that the position for which
26 the license holder was hired would involve discharging a fiduciary
27 responsibility in the management of funds or property.

1 (e) This section does not create a cause of action or expand
2 any existing cause of action.

3 SECTION 2. Subchapter E, Occupations Code, as added by this
4 Act, applies only to a cause of action that accrues on or after the
5 effective date of this Act. A cause of action that accrues before
6 the effective date of this Act is governed by the law in effect
7 immediately before that date, and the former law is continued in
8 effect for that purpose.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2011.