

BILL ANALYSIS

C.S.H.B. 1659
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding certain licenses being denied to individuals who have completed deferred adjudication and contend that these individuals deserve an opportunity to practice certain occupations, trades, and professions for which a license is required. C.S.H.B. 1659 seeks to prevent the denial of licenses to certain individuals who have completed deferred adjudication.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1659 amends the Occupations Code, in a provision authorizing the Texas Commission of Licensing and Regulation to deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the Texas Department of Licensing and Regulation if the commission determines that a deferred adjudication makes the person holding or seeking the license unfit for the license, to add the condition that the deferred adjudication received is either for an offense for which the person would be required to register as a sex offender or for another offense if, in the case of deferred adjudication for the latter offense, the person completed the period of deferred adjudication less than five years before the date the person applied for the license, unless an order of nondisclosure regarding that offense has been issued, or if a conviction for that offense would make the person ineligible for the license.

C.S.H.B. 1659, in a provision authorizing a licensing authority to consider a person to have been convicted of an offense, regardless of whether the proceedings were dismissed and the person was discharged, for purposes of revoking, suspending, or denying a license under certain conditions, adds the condition that the person was charged either with an offense that would require the person to register as a sex offender or with another offense if, in the case of the latter offense, the person completed the period of supervision less than five years before the date the person applied for the license, unless an order of nondisclosure regarding that offense has been issued, or if a conviction for that offense would make the person ineligible for the license.

C.S.H.B. 1659 applies its provisions to an application for, or a disciplinary proceeding regarding, a license or other authorization that is pending with a licensing authority on the bill's effective date or an application filed or a disciplinary proceeding commenced on or after that date.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1659 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. The heading to Section 51.356, Occupations Code, is amended.

SECTION 2. Section 51.356(a), Occupations Code, is amended to read as follows:

(a) The commission may deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the department if:

(1) [the commission determines that a deferred adjudication makes] the person holding or seeking the license received deferred adjudication for an offense for which the person would be required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) the commission determines that the deferred adjudication makes the person unfit for the license.

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

(d) A licensing authority may consider a

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Section 51.356, Occupations Code, is amended to read as follows:

Sec. 51.356. DEFERRED ADJUDICATION; LICENSE

SUSPENSION, LICENSE REVOCATION, OR DENIAL OR REFUSAL TO RENEW LICENSE. (a) The commission may deny, suspend, revoke, or refuse to renew a license or other authorization issued by a program regulated by the department if:

(1) [the commission determines that a deferred adjudication makes] the person holding or seeking the license received deferred adjudication for:

(A) an offense for which the person would be required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(B) an offense other than an offense described by Paragraph (A) if:

(i) the person completed the period of deferred adjudication less than five years before the date the person applied for the license, unless an order of nondisclosure regarding the offense has been issued under Section 411.081, Government Code; or

(ii) a conviction for the offense would make the person ineligible for the license; and

(2) the commission determines that the deferred adjudication makes the person unfit for the license.

(b) In making a determination under Subsection (a)(2) [(a)], the commission shall consider the factors set forth in Sections 53.022 and 53.023 and the guidelines issued by the department under Section 53.025.

SECTION 2. Section 53.021(d), Occupations Code, is amended to read as follows:

(d) A licensing authority may consider a

person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if:

(1) the person was charged with an offense that would require the person to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) [7] after consideration of the factors described by Sections 53.022 and 53.023(a), the licensing authority determines that:

(A) [~~1~~] the person may pose a continued threat to public safety; or

(B) [~~2~~] employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

SECTION 4. The change in law made by this Act applies to an application for, or a disciplinary proceeding regarding, a license or other authorization that is pending with a licensing authority on the effective date of this Act or an application filed or a disciplinary proceeding commenced on or after that date.

SECTION 5. This Act takes effect September 1, 2013.

person to have been convicted of an offense for purposes of this section regardless of whether the proceedings were dismissed and the person was discharged as described by Subsection (c) if:

(1) the person was charged with:

(A) an offense that would require the person to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(B) an offense other than an offense described by Paragraph (A) if:

(i) the person completed the period of supervision less than five years before the date the person applied for the license, unless an order of nondisclosure regarding the offense has been issued under Section 411.081, Government Code; or

(ii) a conviction for the offense would make the person ineligible for the license; and

(2) [7] after consideration of the factors described by Sections 53.022 and 53.023(a), the licensing authority determines that:

(A) [~~1~~] the person may pose a continued threat to public safety; or

(B) [~~2~~] employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.