

By: Schaefer

H.B. No. 3170

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of occupations by this state.

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

SECTION 1. Title 2, Occupations Code, is amended by adding Chapter 60 to read as follows:

CHAPTER 60. ENFORCEMENT OF OCCUPATIONAL REGULATIONS

Sec. 60.001. DEFINITIONS. In this chapter:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular occupation.

(2) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

Sec. 60.002. POLICY REGARDING REGULATION OF OCCUPATIONS; CONSTRUCTION. (a) It is the policy of this state that:

(1) an individual in this state has the right to engage in any lawful occupation without excessive governmental regulation; and

(2) a lawful occupation may be regulated by the state only if the regulation is:

(A) necessary to further an important interest of the state in protecting against a recognizable harm to the health or safety of the public; and

1 (B) the least restrictive means necessary to
2 further the interest described by Paragraph (A).

3 (b) In any action under this chapter, a court or
4 administrative law judge shall liberally construe this chapter in
5 order to give effect to the policy under Subsection (a).

6 Sec. 60.003. APPLICATION OF CHAPTER. This chapter applies
7 to any regulation of a lawful occupation unless the statute
8 providing for the regulation expressly states that the regulation
9 is not subject to this chapter.

10 Sec. 60.004. DEFENSE AVAILABLE. In any enforcement action
11 by a state agency against an individual for failure to comply with
12 an occupational regulation, including a requirement to obtain a
13 license to engage in a lawful occupation, the individual may
14 present evidence that the regulation substantially burdens the
15 individual's right to engage in a lawful occupation. The state
16 agency has the burden of establishing by clear and convincing
17 evidence that the occupational regulation that the agency seeks to
18 enforce is:

19 (1) necessary to further an important interest of the
20 state in protecting against a recognizable harm to the health or
21 safety of the public; and

22 (2) the least restrictive means necessary to further
23 the interest described by Subdivision (1).

24 Sec. 60.005. DECLARATORY JUDGMENT. (a) An individual may
25 file suit against the state for declaratory judgment that a
26 regulatory requirement imposed on an occupation violates Section
27 60.002(a).

1 (b) An action under this section may be brought only in a
2 district court in Travis County.

3 SECTION 2. This Act takes effect September 1, 2015.