

HOUSE SUMMARY OF SENATE AMENDMENTS

HB 639

2022 Regular Session

Pressly

LICENSING: Provides relative to occupational licensing for workers with criminal histories

Synopsis of Senate Amendments

1. Exempts the following entities from the provisions of proposed law:
 - a. The State Boxing and Wrestling Commission.
 - b. The Louisiana Gaming Control Board.
 - c. The Louisiana Lottery Corporation.
 - d. The Louisiana State Racing Commission.
 - e. The office of charitable gaming, Department of Revenue.
 - f. The gaming enforcement division, office of state police, Department of Public Safety and Corrections.
2. Makes technical changes.

Digest of Bill as Finally Passed by Senate

Present law provides that an ex-offender may apply to any entity issuing licenses to engage in certain fields of work pursuant to state law for a license to engage in the particular field of work for which the entity issues licenses.

Proposed law repeals present law.

Proposed law provides that an individual convicted of a crime may request at any time, including before obtaining any required education or training, that an entity issuing licenses to engage in certain fields of work pursuant to state law determine whether the individual's criminal conviction disqualifies the individual from obtaining a license issued or conferred by the licensing entity.

Proposed law provides that an individual making such a request shall include any identifying information required by the licensing entity and details of the individual's criminal conviction, including any information relevant to the factors provided in proposed law.

Present law requires the licensing entity to issue the license for which the applicant applied and is otherwise qualified to receive.

Proposed law repeals present law.

Proposed law provides that not later than 45 days after receiving a request, the licensing entity shall inform the individual whether, based on the criminal record information submitted, the individual is disqualified from receiving or holding the license for which the individual inquired.

Proposed law allows an individual to request a criminal background check at the time of a pre-application eligibility determination and requires the licensing entity to inform the individual of a disqualifying determination within 45 days.

Proposed law provides that a determination made pursuant to proposed law is binding upon a licensing authority unless, at the time a full application for a license is submitted, the applicant has been subsequently convicted of a crime, has pending criminal charges, or has previously undisclosed criminal convictions.

Present law authorizes a licensing entity to revoke the license issued if the license holder commits a new felony for which he is convicted or violates laws or rules governing the practice of the field of work for which the licensed was issued.

Proposed law repeals present law and instead provides that before an entity issuing licenses to engage in certain fields of work pursuant to state law makes a final determination that an individual's criminal conviction will result in the denial of a license, the licensing entity shall provide to the individual with written notice of:

- (1) The specific conviction that is the basis for the intended denial.
- (2) The reasons the conviction was determined to be directly related to the licensed activity, including findings for each of the factors provided in proposed law that the licensing authority deemed relevant to the determination.
- (3) The right to submit additional evidence relevant to each of the factors listed in proposed law within 60 days, which the licensing authority shall consider before issuing a final determination.

Present law, upon license revocation, prohibits a license holder from receiving another license from any entity.

Proposed law repeals present law.

Present law provides that nothing in present law shall be implicitly interpreted to preclude an entity from exercising its existing discretion to issue a license to individuals not covered pursuant to present law.

Proposed law repeals present law.

Proposed law requires each entity issuing licenses to engage in certain fields of work pursuant to state law licensing to include in its application for a license, and publish on its public website, all of the following information:

- (1) Whether the criminal convictions of applicants may be used as a basis for denial.
- (2) If criminal history may be used as a basis for denial, the factors listed in proposed law that the licensing entity shall consider.
- (3) Notice of the right to petition for a determination pursuant to proposed law prior to meeting the general qualification for a license.

Present law provides that a licensing entity is not required to issue a license to any person convicted of any of the following:

- (1) Any grade of homicide as provided for in present law.
- (2) A "crime of violence" as provided for in present law.
- (3) A "sex offense" as provided for in present law.

Present law provides a licensing entity is not required to issue a license to any person convicted of an offense involving fraud if the licensed field of work is one in which the licensee owes a fiduciary duty to a client.

Present law provides that a licensing entity is not required to issue a license to an applicant whose conviction directly relates to the position of employment sought, or to the specific field for which the license is required, or profession for which the license is sought.

Present law requires a license holder who supervises children or individuals who lack mental capacity to have another licensee present in the room.

Proposed law repeals present law.

Present law exempts 27 entities from the provisions of present law.

Proposed law repeals present law.

Present law provides that notwithstanding the exemption of licensing entities as provided in present law, any licensing entity issuing licenses in accordance with present law to people with criminal convictions shall keep record and compile a report of the number of licenses issued and denied by the entity, including all reasons for any such issuance or denial.

Proposed law repeals present law.

Proposed law exempts all of the following entities:

- (1) The State Boxing and Wrestling Commission.
- (2) The La. Gaming Control Board.
- (3) The La. Lottery Corporation.
- (4) The La. State Racing Commission.
- (5) The office of charitable gaming within the Department of Revenue.
- (6) The gaming enforcement division with the office of state police, Department of Public Safety and Corrections.

Present law provides that a person shall not be disqualified, or held ineligible to practice or engage in any trade, occupation, or profession for which a license, permit, or certificate is required to be issued by the state of La. or any of its agencies or political subdivisions, solely because of a prior criminal record, except in cases in which a conviction directly relates to the position of employment sought, or to the specific occupation, trade, or profession for which the license, permit, or certificate is sought.

Proposed law retains present law.

Proposed law provides that in determining whether a conviction directly relates to the position of employment sought, or to the specific occupation, trade, or profession for which the license, permit, or certificate is sought, a licensing entity shall consider all of the following:

- (1) The nature and seriousness of the offense.
- (2) The nature of the specific duties and responsibilities for which the license, permit, or certificate is required.
- (3) The amount of time that has passed since the conviction.
- (4) Facts relevant to the circumstances of the offense, including any aggravating or mitigating circumstances or social conditions surrounding the commission of the offense.

(5) Evidence of rehabilitation or treatment undertaken by the person since the conviction.

Present law requires that any complaints concerning violations of present law be adjudicated in accordance with administrative and judicial review as provided for in present law.

Proposed law retains present law.

Present law makes present law inapplicable to 18 entities.

Proposed law repeals present law.

Present law (R.S. 37:32) provides that notwithstanding any provision of law or rule adopted and promulgated by any state department, agency, board, commission, or authority to the contrary, an entity issuing licenses, except for those provided in present law, for persons to engage in certain fields of work pursuant to state law shall issue to an otherwise qualified applicant who has been convicted of an offense or offenses, except those described in present law, the license for which the applicant applied if the applicant meets all other requirements of the licensing qualifications, except those pertaining to former offenses.

Proposed law repeals present law.

(Amends R.S. 37:33, 34-36, and 2950; Repeals R.S. 37:32)