

2022 Regular Session

HOUSE BILL NO. 639

BY REPRESENTATIVE PRESSLY

1 AN ACT

2 To amend and reenact R.S. 37:33 through 36 and 2950 and to repeal R.S. 37:32, relative to
3 occupational licensing; to provide for the issuance of occupational licensing in
4 conjunction with criminal history records; to provide for application requirements;
5 to provide for recordkeeping; to provide for reporting; to provide for exemptions;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:33 through 36 and 2950 are hereby amended and reenacted to
9 read as follows:

10 §33. License; ~~application by ex-offender~~ pre-application eligibility determination

11 A.(1) ~~An ex-offender may apply to any entity issuing licenses to engage in~~
12 ~~certain fields of work pursuant to state law for a license to engage in the particular~~
13 ~~field of work for which the entity issues licenses.~~ An individual convicted of a crime
14 may request at any time including before obtaining any required education or
15 training, that an entity issuing licenses to engage in certain fields of work pursuant
16 to state law determine whether the individual's criminal conviction disqualifies the
17 individual from obtaining a license issued or conferred by the licensing entity.

18 (2) An individual making such a request shall include any identifying
19 information required by the licensing entity and details of the individual's criminal
20 conviction, including any information relevant to the factors provided in R.S.
21 37:2950.

1 ~~B.(1) The licensing entity shall issue the license for which the applicant~~
 2 ~~applied and is otherwise qualified to receive.~~ Not later than forty-five days after
 3 receiving a request in accordance with this Section, the licensing entity shall inform
 4 the individual whether, based on the criminal record information submitted, the
 5 individual is disqualified from receiving or holding the license about which the
 6 individual inquired. Any suspension of legal deadlines by executive order shall
 7 apply to this Subsection.

8 (2) An individual making such a request may seek a criminal background
 9 check at the time of a pre-application eligibility determination. In such cases, the
 10 licensing entity shall inform the individual of a disqualifying determination within
 11 forty-five days of receipt of the criminal background check report.

12 (3) A determination made pursuant to this Section is binding upon a
 13 licensing authority unless, at the time a full application for a license is submitted, the
 14 applicant has been subsequently convicted of a crime, has pending criminal charges,
 15 or has previously undisclosed criminal convictions.

16 C. Any decision made pursuant to this Section shall be made in accordance
 17 with R.S. 37:2950.

18 §34. License; ~~revocation~~ notice; final denial

19 ~~A. The licensing entity may revoke the license issued pursuant to this~~
 20 ~~Chapter if the holder commits any of the following~~ Before an entity issuing licenses
 21 to engage in certain fields of work pursuant to state law makes a final determination
 22 that a criminal conviction will result in the denial of a license, the licensing entity
 23 shall provide the individual who made the request with written notice of all of the
 24 following:

25 ~~(1) A new felony for which he is convicted.~~ The specific conviction that is
 26 the basis for the intended denial.

27 ~~(2) A violation of law or rules governing the practice of the field of work for~~
 28 ~~which the license was issued.~~ The reasons the conviction was determined to be
 29 directly related to the licensed activity, including findings for each of the factors

1 provided in R.S. 37:2950 that the licensing authority deemed relevant to the
 2 determination.

3 (3) The right to submit additional evidence relevant to each of the factors
 4 listed in R.S. 37:2950 within sixty days, which the licensing authority shall consider
 5 before issuing a final determination.

6 B. ~~A court shall notify the licensing entity if the holder of the license is~~
 7 ~~charged with a new offense~~ A final determination that a criminal conviction will
 8 prevent a person from receiving a license shall be in writing and include notice of the
 9 right to appeal the determination and notice of the earliest date the application may
 10 reapply for a license.

11 C. ~~If a licensing entity revokes a license pursuant to this Section, each of the~~
 12 ~~following apply:~~

13 ~~(1) The holder shall not be entitled to receive another license for which the~~
 14 ~~applicant originally applied, even if otherwise qualified.~~

15 ~~(2) The ability of the holder to subsequently obtain another license from~~
 16 ~~another licensing entity in the future is within the sole discretion of the issuing entity.~~

17 §35. License; issuance; ~~discretion of issuer~~ information for applicants

18 ~~Nothing in this Chapter shall be implicitly interpreted to preclude an entity~~
 19 ~~from exercising its existing discretion to issue a license to individuals not covered~~
 20 ~~pursuant to the provisions of this Chapter, except where precluded by another law.~~

21 Each entity issuing licenses to engage in certain fields of work pursuant to state law
 22 shall include in its application for a license, and publish on its public website, all of
 23 the following information:

24 (1) Whether the criminal convictions of applicants may be used as a basis for
 25 denial.

26 (2) If criminal history may be used as a basis for denial, the factors listed in
 27 R.S. 37:2950 that the licensing entity shall consider.

28 (3) Notice of the right to petition for a determination pursuant to R.S. 37:33
 29 prior to meeting the general qualifications for a license.

1 §36. ~~Exemptions, prohibitions, records;~~ Records; reports; exemptions

2 A. ~~A licensing entity shall not be required to issue a license to any person~~
3 ~~convicted of any of the following:~~

4 (1) ~~Any grade of homicide enumerated in R.S. 14:29.~~

5 (2) ~~A "crime of violence" as enumerated in R.S. 14:2(B).~~

6 (3) ~~A "sex offense" as defined by R.S. 15:541.~~

7 B. ~~A licensing entity shall not be required to issue a license to any person~~
8 ~~convicted of an offense involving fraud if the licensed field of work is one in which~~
9 ~~the licensee owes a fiduciary duty to a client.~~

10 C. ~~A licensing entity shall not be required to issue a license to an applicant~~
11 ~~whose conviction directly relates to the position of employment sought, or to the~~
12 ~~specific field for which the license is required, or profession for which the license is~~
13 ~~sought.~~

14 D. ~~A license holder who supervises children or individuals who lack mental~~
15 ~~capacity shall not do so without another licensee in the room at all times.~~

16 E.(1) ~~This Chapter shall not apply to the following licensing entities:~~

17 (a) ~~Any law enforcement agency.~~

18 (b) ~~The Louisiana State Board of Medical Examiners.~~

19 (c) ~~The Louisiana State Board of Dentistry.~~

20 (d) ~~The Louisiana State Board of Nursing.~~

21 (e) ~~The Louisiana State Board of Practical Nurse Examiners.~~

22 (f) ~~The Louisiana State Racing Commission.~~

23 (g) ~~The State Boxing and Wrestling Commission.~~

24 (h) ~~The Louisiana Board of Pharmacy.~~

25 (i) ~~The Louisiana Supreme Court.~~

26 (j) ~~The Louisiana Professional Engineering and Land Surveying Board.~~

27 (k) ~~The Louisiana State Board of Architectural Examiners.~~

28 (l) ~~The Louisiana State Board of Private Investigator Examiners.~~

29 (m) ~~The Louisiana State Board of Embalmers and Funeral Directors.~~

30 (n) ~~The Louisiana State Board of Elementary and Secondary Education.~~

- 1 ~~(o) The Office of Financial Institutions.~~
- 2 ~~(p) The Louisiana Physical Therapy Board.~~
- 3 ~~(q) The Louisiana Board of Massage Therapy.~~
- 4 ~~(r) The office of alcohol and tobacco control of the Department of Revenue.~~
- 5 ~~(s) The health standards section of the Louisiana Department of Health.~~
- 6 ~~(t) The Department of Insurance.~~
- 7 ~~(u) The Louisiana State Board of Social Work Examiners.~~
- 8 ~~(v) The Louisiana State Board of Examiners of Psychologists.~~
- 9 ~~(w) The Louisiana Behavior Analyst Board.~~
- 10 ~~(x) All offices, boards, or commissions under the supervision of the deputy~~
11 ~~secretary of the Department of Public Safety and Corrections, public safety services,~~
12 ~~or the superintendent of the Louisiana State Police, which are not delineated in this~~
13 ~~Section.~~
- 14 ~~(y) The Louisiana Real Estate Commission.~~
- 15 ~~(z) The Louisiana Real Estate Appraisers Board.~~
- 16 ~~(aa) The Louisiana Licensed Professional Counselors Board of Examiners.~~
- 17 ~~(2) Nothing in this Subsection shall be construed to preclude the licensing~~
18 ~~entity, in its discretion, from adopting the provisions of this Chapter as policies or~~
19 ~~administrative rules.~~
- 20 ~~(3)(a) A. A licensing entity exempt from the provisions of this Chapter An~~
21 ~~entity issuing licenses to engage in certain fields of work pursuant to state law shall~~
22 ~~keep record and compile a report of the number of licenses denied by the entity,~~
23 ~~including all reasons for such denial, when the denial is of an otherwise qualified~~
24 ~~applicant who has been convicted of an offense or offenses.~~
- 25 ~~(b) Notwithstanding the exemption of licensing entities as provided in this~~
26 ~~Section, any licensing entity issuing licenses in accordance with this Chapter to~~
27 ~~people with criminal convictions shall keep record and compile a report of the~~
28 ~~number of licenses issued and denied by the entity, including all reasons for any such~~
29 ~~issuance or denial.~~

1 (b) The nature of the specific duties and responsibilities for which the
 2 license, permit, or certificate is required.

3 (3) The amount of time that has passed since the conviction.

4 (4) Facts relevant to the circumstances of the offense, including any
 5 aggravating or mitigating circumstances or social conditions surrounding the
 6 commission of the offense.

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

9 ~~B. Any decision which prohibits an applicant from engaging in the~~
 10 ~~occupation, trade, or profession for which the license, permit, or certificate is sought,~~
 11 ~~which is based in whole or in part on conviction of any crime, as described in~~
 12 ~~Subsection A of this Section, shall explicitly state in writing the reasons for the~~
 13 ~~decision.~~

14 ~~€. B.~~ Any complaints concerning violations of this Section shall be
 15 adjudicated in accordance with procedures set forth for administrative and judicial
 16 review, contained in Title 49 of the Louisiana Revised Statutes of 1950.

17 ~~D.(1)(a) This Section shall not be applicable to:~~

- 18 ~~(i) Any law enforcement agency.~~
- 19 ~~(ii) The Louisiana State Board of Medical Examiners.~~
- 20 ~~(iii) The Louisiana State Board of Dentistry.~~
- 21 ~~(iv) The Louisiana State Board of Nursing.~~
- 22 ~~(v) The Louisiana State Board of Practical Nurse Examiners.~~
- 23 ~~(vi) The State Racing Commission.~~
- 24 ~~(vii) The State Athletic Commission.~~
- 25 ~~(viii) The Louisiana Board of Pharmacy.~~
- 26 ~~(ix) The Louisiana State Bar Association.~~
- 27 ~~(x) The Louisiana Professional Engineering and Land Surveying Board.~~
- 28 ~~(xi) Louisiana State Board of Architectural Examiners.~~
- 29 ~~(xii) The Louisiana State Board of Private Investigator Examiners.~~
- 30 ~~(xiii) The Louisiana State Board of Embalmers and Funeral Directors.~~

- 1 ~~(xiv) The Louisiana State Board of Elementary and Secondary Education.~~
- 2 ~~(xv) The Office of Financial Institutions.~~
- 3 ~~(xvi) The Louisiana Physical Therapy Board.~~
- 4 ~~(xvii) The Louisiana Board of Massage Therapy.~~
- 5 ~~(xviii) The Louisiana Department of Insurance.~~
- 6 ~~(b) Nothing herein shall be construed to preclude the agency, in its~~
- 7 ~~discretion, from adopting the policy set forth in this Section.~~
- 8 ~~(2) This Section shall not be applicable to the office of alcohol and tobacco~~
- 9 ~~control of the Department of Revenue.~~
- 10 Section 2. R.S. 37:32 is hereby repealed in its entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____