

Regular Session, 2014

HOUSE BILL NO. 911

BY REPRESENTATIVE LEGER

LICENSING: Provides relative to provisional occupational licenses for ex-offenders

1 AN ACT

2 To enact Chapter 1-B of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 37:24 through 28, relative to occupational licenses for persons convicted of
4 certain offenses; to permit persons convicted of certain offenses to apply for and hold
5 provisional or regular licenses; to provide for severability; to provide certain persons
6 convicted of certain crimes to apply and qualify for certain occupational licenses; to
7 provide for exceptions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 1-B of Title 37 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 37:24 through 28, is hereby enacted to read as follows:

11 CHAPTER 1-B. PROVISIONAL LICENSES FOR EX-OFFENDERS

12 §24. Short title

13 This Chapter shall be known and may be cited as the "Provisional Licenses
14 for Ex-Offenders Act".

15 §25. Provisional license; qualifications

16 Notwithstanding any provision of law or rule adopted and promulgated by
17 any state department, agency, board, commission, or authority to the contrary, unless
18 an applicant has been convicted of an offense described in R.S. 37:27, an entity
19 issuing occupational licenses pursuant to state law shall issue either of the following
20 to an otherwise qualified applicant who has been convicted of an offense:

1 (1) The license for which the applicant applied should the applicant meet all
2 other requirements of the licensing qualifications except those pertaining to former
3 offenses.

4 (2) A provisional license for which the applicant applied should the applicant
5 meet all other requirements of the licensing qualifications.

6 §26. Provisional license; issuance; revocation

7 A. A provisional license issued pursuant to R.S. 37:25(2) shall be valid for
8 a term between ninety and three hundred and sixty days.

9 B. The licensing entity may revoke the provisional license if the holder does
10 any of the following:

11 (1) Commits a new offense.

12 (2) Commits an act or omission that causes the provisional license holder's
13 community supervision, mandatory supervision, or parole to be revoked, if
14 applicable.

15 (3) Violates the law or rules governing the practice of the occupation for
16 which the provisional license was issued.

17 C.(1) An applicant who is on community supervision and who is issued a
18 provisional license pursuant to this Chapter shall provide the licensing entity the
19 name and contact information of the probation or parole department to which the
20 person reports.

21 (2) The licensing entity shall notify the probation or parole department and
22 court in which the holder's offense was adjudicated that a provisional license has
23 been issued.

24 (3) A probation or parole department shall notify a licensing entity of a
25 person who holds a provisional license issued pursuant to this Chapter if the holder's
26 community supervision is revoked during the term of the provisional license.

27 (4) A court shall notify the licensing entity if the person is charged with a
28 new offense.

1 D.(1) If a person was convicted of an offense that involved robbery,
2 residential burglary, or a home invasion of any kind within the ten years prior to the
3 offender's application for a license pursuant to this Chapter for an occupation in
4 which a licensee regularly enters private residences, any provisional license issued
5 shall include a condition that the person only work under the accompanying
6 supervision of another licensed individual who has no criminal record. The
7 supervising individual shall accompany the holder in all home visits and shall sign
8 a verifying affidavit.

9 (2) If the person was convicted of an offense that involved robbery,
10 residential burglary, or a home invasion of any kind more than the ten years before
11 the application is made, then the conditions of Paragraph (1) of this Subsection shall
12 be at the discretion of the licensing entity.

13 (3) A nonprovisional license issued pursuant to this Chapter may include the
14 provisions of Paragraphs (1) and (2) of this Subsection as long as the licensing entity
15 determines it is warranted.

16 E. The licensing entity may set a time limitation of not more than two years
17 having passed since an applicant's last conviction provided that, if the person is
18 incarcerated, they may be denied a provisional license even if the waiting period has
19 elapsed.

20 F. The licensing entity shall issue the license for which the applicant
21 originally applied to the provisional license holder on the expiration of the
22 provisional license term if the holder does not engage in conduct described in
23 Subsection C of this Section.

24 G. If the licensing entity revokes a provisional license pursuant to Subsection
25 C of this Section, the provisional license holder shall not be entitled to receive
26 another provisional license or regular license for which the applicant originally
27 applied, even if otherwise qualified. The ability of such a person to subsequently
28 obtain another such license in the future is within the sole discretion of the issuing
29 agency.

1 H. Nothing in this Chapter shall be implicitly interpreted to preclude an
2 agency from exercising its existing discretion to issue a license to individuals not
3 covered under this Section, except where precluded by another law.

4 §27. Exemptions

5 A. A person convicted of homicide, aggravated violent felony offense,
6 felony sex offense, or kidnaping shall not be eligible for licenses pursuant to this
7 Chapter.

8 B. This Chapter shall not apply to a person convicted of an offense involving
9 fraud if the licensed occupation is one in which the licensee owes a fiduciary duty
10 to a client.

11 C. This Chapter shall not apply to any occupation where the licensee would
12 be supervising children or individuals who lack mental capacity without another
13 licensee in the room at all times.

14 D. This Chapter shall not apply to any initial or renewal license application
15 where the applicant was convicted or committing an offense in the course of
16 performing the duties of the occupation or substantially similar occupation.

17 E. If a licensing entity believe that another exemption not provided herein
18 is necessary in a specific case to protect the public from a clear and imminent
19 danger, the entity may seek declaratory relief in district court through a judicial order
20 finding that the applicant should not be issued a regular or provisional license
21 because it would pose such a danger.

22 §28. Severability

23 If any provision of this Chapter or the application thereof is held invalid, such
24 invalidity shall not affect other provisions or applications of this Chapter which can
25 be given effect without the invalid provisions or applications.

26 Section 2. If any provision of this Act or the application thereof is held invalid, such
27 invalidity shall not affect other provisions or applications of this Act which can be given
28 effect without the invalid provisions or applications, and to this end the provisions of this
29 Act are hereby declared severable.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Leger

HB No. 911

Abstract: Provides for the issuance of occupational licenses for offenders.

Proposed law provides for occupational licenses and provisional occupational licenses to be issued to certain ex-offenders.

Proposed law provides for the method by which occupational licenses and provisional occupational licenses are to be issued to certain ex-offenders.

Proposed law provides for general terms of occupational licenses and provisional occupational licenses issued to certain ex-offenders.

Proposed law provides for grounds for which occupational licenses and provisional occupational licenses issued to certain ex-offenders can be revoked.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 37:24-28)