

Regular Session, 2014

HOUSE BILL NO. 1273 (Substitute for House Bill No. 911 by Representative Leger)

BY REPRESENTATIVE LEGER AND SENATORS MORRELL AND MURRAY

AN ACT

To enact Chapter 1-B of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:31 through 36, relative to licenses to engage in certain fields of work for persons convicted of certain offenses; to permit persons convicted of certain offenses to apply for and hold provisional and regular licenses to engage in certain fields of work; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 1-B of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:31 through 36, is hereby enacted to read as follows:

CHAPTER 1-B. PROVISIONAL LICENSES FOR EX-OFFENDERS

§31. Short title

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

§32. Issuance of licenses to ex-offenders

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 listed in R.S. 37:36(E), for persons to engage in certain fields of work pursuant to state law shall issue either of the following to an otherwise qualified applicant who has been convicted of an offense or offenses, except those described in R.S. 37:36(A) through (C):

(1) The license for which the applicant applied if the applicant meets all other requirements of the licensing qualifications except those pertaining to former offenses.

1           (2) A provisional license for which the applicant applied if the applicant  
2           meets all other requirements of the licensing qualifications except those pertaining  
3           to former offenses (referred to in this Chapter as "applicant" or "holder").

4           §33. Provisional license; issuance; term; probation or parole

5           A.(1) An ex-offender may apply to any entity issuing licenses to engage in  
6           certain fields of work pursuant to state law for a provisional license to engage in the  
7           particular field of work for which the entity issues licenses.

8           (2) The licensing entity shall issue the provisional license for which the  
9           applicant applied and is otherwise qualified to receive.

10          B. The licensing entity issuing the provisional license shall determine the  
11          term for which the provisional license shall be valid; however, in no event shall a  
12          provisional license issued pursuant to this Chapter be valid for fewer than ninety  
13          days nor more than three hundred sixty days.

14          C. The licensing entity may require up to two years to have passed since an  
15          applicant's last conviction or release from incarceration in order for the applicant to  
16          qualify for the provisional license.

17          D.(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 person at the Department of Public Safety and  
20          Corrections, division of probation and parole, to whom he reports. If the applicant  
21          reports to the probation or parole department of another state, he shall provide the  
22          licensing entity the name and contact information of the person at that particular  
23          department to whom he reports.

24          (2) The licensing entity shall notify the probation or parole division or  
25          department and court in which the holder's offense was adjudicated that a provisional  
26          license has been issued to the applicant.

27          §34. Provisional license; revocation

28          A. The licensing entity may revoke the provisional license issued pursuant  
29          to this Chapter if the holder commits any of the following:

30               (1) A new offense.

1                   (2) An act or omission that causes the holder of a provisional license  
2                   community supervision, mandatory supervision, or parole to be revoked.

3                   (3) A violation of law or rules governing the practice of the field of work for  
4                   which the provisional license was issued.

5                   B. A probation or parole department or division shall notify the licensing  
6                   entity if the community supervision of the holder of a provisional license is revoked.

7                   C. A court shall notify the licensing entity if the holder of the provisional  
8                   license is charged with a new offense.

9                   D. If a licensing entity revokes a provisional license pursuant to this Section:

10                  (1) The holder shall not be entitled to receive another provisional license or  
11                  regular license for which the applicant originally applied, even if otherwise qualified.

12                  (2) The ability of the holder to subsequently obtain another provisional  
13                  license from another licensing entity in the future is within the sole discretion of the  
14                  issuing entity.

15                  §35. Regular license; issuance

16                  A. A licensing entity shall issue the regular license for which the provisional  
17                  license was issued on the expiration of the provisional license term if the holder of  
18                  the provisional license does not commit acts described in R.S. 37:34(A).

19                  B. Nothing in this Chapter shall be implicitly interpreted to preclude an  
20                  entity from exercising its existing discretion to issue a license to individuals not  
21                  covered under this Chapter, except where precluded by another law.

22                  §36. Exemptions; prohibitions

23                  A. A licensing entity shall not be required to issue a provisional license to  
24                  any person convicted of any of the following:

25                   (1) Any grade of homicide enumerated in R.S. 14:29, Homicide.

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

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

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

1           C. A licensing entity shall not be required to issue a provisional license to  
2           an applicant whose conviction directly relates to the position of employment sought,  
3           or to the specific field for which the license is required, or profession for which the  
4           provisional license is sought.

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

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

8           (a) Any law enforcement agency.

9           (b) The Louisiana State Board of Medical Examiners.

10          (c) The Louisiana State Board of Dentistry.

11          (d) The Louisiana State Board of Nursing.

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

13          (f) The Louisiana State Racing Commission.

14          (g) The State Boxing and Wrestling Commission.

15          (h) The Louisiana Board of Pharmacy.

16          (i) The Louisiana Supreme Court.

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

18          (k) The Louisiana State Board of Architectural Examiners.

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

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

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

22          (o) The Office of Financial Institutions.

23          (p) The Louisiana Physical Therapy Board.

24          (q) The Louisiana Board of Massage Therapy.

25          (r) The office of alcohol and tobacco control of the Department of Revenue.

26          (s) The health standards section of the Department of Health and Hospitals.

27          (t) The Department of Insurance.

28          (u) The Louisiana State Board of Social Work Examiners.

29          (v) The Louisiana State Board of Examiners of Psychologists.

30          (w) The Louisiana Behavior Analyst Board.

1                    (x) All offices, boards, or commissions under the supervision of the deputy  
 2                    secretary of the Department of Public Safety and Corrections, public safety services,  
 3                    or the superintendent of the Louisiana State Police, which are not delineated in this  
 4                    Section.

5                    (2) Nothing in this Subsection shall be construed to preclude the licensing  
 6                    entity, in its discretion, from adopting the provisions of this Chapter as policies or  
 7                    administrative rules.

8                    F. If a licensing entity believes that another exemption not provided in this  
 9                    Section is necessary in a specific case to protect the public from a clear and  
 10                    imminent danger, the entity may seek declaratory relief in district court through a  
 11                    judicial order finding that the applicant shall not be issued a provisional or regular  
 12                    license because it would pose such a danger.

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

---

SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

PRESIDENT OF THE SENATE

---

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_