

ASSEMBLY BILL

No. 1025

Introduced by Assembly Member Bass

February 22, 2007

An act to amend Sections 480, 485, 490, and 491 of the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1025, as introduced, Bass. Professions and vocations: denial of licensure.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny licensure on certain bases, including an applicant's conviction of a crime regardless of whether the conviction has been dismissed on specified grounds, an applicant's performance of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another or to substantially injure another, or an applicant's performance of any act that would be grounds for suspension or revocation of the license. Existing law requires a board that denies an application for licensure to provide the applicant with notice of the denial, as specified. Existing law authorizes a board to suspend or revoke a license on the basis that a licensee has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, regardless of whether the conviction has been dismissed on specified grounds, and requires the board to provide the ex-licensuree with certain information upon doing so.

This bill would provide that a person may not be denied licensure or have his or her license suspended or revoked based on a criminal

conviction that has been dismissed on specified grounds. The bill would also provide that an arrest more than one year old does not constitute grounds for denial of a license pursuant to the above provisions if no disposition is reported. This bill would require the board to provide an applicant or ex-licensee whose application has been denied or whose license has been suspended or revoked based upon a crime with a copy of the criminal history record information relied upon in making the determination, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 480 of the Business and Professions Code
 2 is amended to read:
 3 480. (a) A board may deny a license regulated by this code
 4 on the grounds that the applicant has *done* one of the following:
 5 (1) Been convicted of a crime. A conviction within the meaning
 6 of this section means a plea or verdict of guilty or a conviction
 7 following a plea of nolo contendere. Any action which a board is
 8 permitted to take following the establishment of a conviction may
 9 be taken when the time for appeal has elapsed, or the judgment of
 10 conviction has been affirmed on appeal, or when an order granting
 11 probation is made suspending the imposition of sentence;
 12 ~~irrespective of a subsequent order under the provisions of Section~~
 13 ~~4203.4 of the Penal Code.~~
 14 (2) Done any act involving dishonesty, fraud or deceit with the
 15 intent to substantially benefit himself or another, or substantially
 16 injure another; or
 17 (3) Done any act which if done by a licentiate of the business
 18 or profession in question, would be grounds for suspension or
 19 revocation of license.
 20 The board may deny a license pursuant to this subdivision only
 21 if the crime or act is substantially related to the qualifications,
 22 functions or duties of the business or profession for which
 23 application is made.
 24 (b) Notwithstanding any other provision of this code, no person
 25 shall be denied a license solely on the basis that he *or she* has been
 26 convicted of a felony if he *or she* has obtained a certificate of
 27 rehabilitation under Section 4852.01 and following of the Penal

1 Code or that he *or she* has been convicted of a misdemeanor if he
2 *or she* has met all applicable requirements of the criteria of
3 rehabilitation developed by the board to evaluate the rehabilitation
4 of a person when considering the denial of a license under
5 subdivision (a) of Section 482. *In addition, no person shall be*
6 *denied a license based on any criminal conviction that has been*
7 *dismissed pursuant to Section 1203.4 or 1203.4a of the Penal*
8 *Code.*

9 (c) A board may deny a license regulated by this code on the
10 ground that the applicant knowingly made a false statement of fact
11 required to be revealed in the application for such license.

12 (d) *For purposes of this section, the term “act” does not include*
13 *arrests more than one year old if no disposition is reported.*

14 SEC. 2. Section 485 of the Business and Professions Code is
15 amended to read:

16 485. Upon denial of an application for a license under this
17 chapter or Section 496, the board shall do either of the following:

18 (a) File and serve a statement of issues in accordance with
19 Chapter 5 (commencing with Section 11500) of Part 1 of Division
20 3 of Title 2 of the Government Code.

21 (b) Notify the applicant that the application is denied, stating
22 (1) the reason for the denial, and (2) that the applicant has the
23 right to a hearing under Chapter 5 (commencing with Section
24 11500) of Part 1 of Division 3 of Title 2 of the Government Code
25 if written request for hearing is made within 60 days after service
26 of the notice of denial. Unless written request for hearing is made
27 within the 60-day period, the applicant’s right to a hearing is
28 deemed waived.

29 Service of the notice of denial may be made in the manner
30 authorized for service of summons in civil actions, or by registered
31 mail addressed to the applicant at the latest address filed by the
32 applicant in writing with the board in his or her application or
33 otherwise. Service by mail is complete on the date of mailing.

34 *If the denial of a license is due at least in part to the individual’s*
35 *state or federal criminal history record, the board shall include*
36 *with the notice of denial a copy of the criminal history record*
37 *relied upon in making the denial determination. The state or federal*
38 *criminal history record shall not be modified or altered from its*
39 *form or content as provided by the Department of Justice, and*
40 *shall be sent to the address specified by the individual in his or*

1 *her application. The criminal history record shall be provided in*
2 *such a manner as to protect the confidentiality and privacy of the*
3 *individual's record, and the criminal history information shall not*
4 *be made available by the board to any employer.*

5 SEC. 3. Section 490 of the Business and Professions Code is
6 amended to read:

7 490. A board may suspend or revoke a license on the ground
8 that the licensee has been convicted of a crime, if the crime is
9 substantially related to the qualifications, functions, or duties of
10 the business or profession for which the license was issued. A
11 conviction within the meaning of this section means a plea or
12 verdict of guilty or a conviction following a plea of nolo
13 contendere. Any action which a board is permitted to take
14 following the establishment of a conviction may be taken when
15 the time for appeal has elapsed, or the judgment of conviction has
16 been affirmed on appeal, or when an order granting probation is
17 made suspending the imposition of sentence, ~~irrespective of a~~
18 ~~subsequent order under the provisions of Section 1203.4 of the~~
19 ~~Penal Code.~~ *No license shall be suspended or revoked based on*
20 *any criminal conviction that has been dismissed pursuant to Section*
21 *1203.4 or 1203.4a of the Penal Code.*

22 SEC. 4. Section 491 of the Business and Professions Code is
23 amended to read:

24 491. Upon suspension or revocation of a license by a board on
25 one or more of the grounds specified in Section 490, the board
26 shall *do all of the following*:

27 (a) Send a copy of the provisions of Section 11522 of the
28 Government Code to the ex-licensee.

29 (b) Send a copy of the criteria relating to rehabilitation
30 formulated under Section 482 to the ex-licensee.

31 (c) *Send a copy of the criminal history record relied upon in*
32 *making the determination to suspend or revoke the license to the*
33 *ex-licensee. The state or federal criminal history record*
34 *information shall not be modified or altered from its form or*
35 *content as provided by the Department of Justice, and shall be*
36 *provided to the board's address of record of the ex-licensee. The*
37 *criminal history record shall be provided in such a manner as to*
38 *protect the confidentiality and privacy of the individual's record,*

- 1 *and the criminal history information shall not be made available*
- 2 *by the board to any employer.*

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