

AMENDED IN ASSEMBLY MAY 31, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1025**

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**Introduced by Assembly Member Bass**

February 22, 2007

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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 amended, Bass. Professions and vocations: 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-licensee 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~~ *felony* conviction that has been dismissed on specified grounds *if certain requirements have been met.* ~~This~~ *The bill would provide that a person may not be denied licensure based on a misdemeanor conviction that has been dismissed on specified grounds. The bill would also provide that a person may not have his or her license suspended or revoked based on a criminal conviction that has been dismissed on specified grounds. The 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 his or her criminal history record, as specified. The bill would require the board to maintain specified information pertaining to the provision of criminal history records and to make that information available upon request by the Department of Justice or the Federal Bureau of Investigation.*

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 (2) Done any act involving dishonesty, fraud or deceit with the
- 13 intent to substantially benefit himself or another, or substantially
- 14 injure another; or
- 15 (3) Done any act which if done by a licentiate of the business
- 16 or profession in question, would be grounds for suspension or
- 17 revocation of license.
- 18 The board may deny a license pursuant to this subdivision only
- 19 if the crime or act is substantially related to the qualifications,

1 functions or duties of the business or profession for which  
2 application is made.

3 (b) Notwithstanding any other provision of this ~~code~~, ~~no code~~.

4 (1) No person shall be denied a license solely on the basis that  
5 he or she has been convicted of a felony if ~~he~~ *either of the following*  
6 *apply:*

7 (A) *He* or she has obtained a certificate of rehabilitation under  
8 ~~Section 4852.01 and following Chapter 3.5 (commencing with~~  
9 ~~Section 4852.01) of Title 6 of Part 3 of the Penal Code or Code.~~

10 (B) *The felony conviction has been dismissed pursuant to Section*  
11 *1203.4 of the Penal Code, there have been no subsequent felony*  
12 *convictions, and either at least three years have passed since the*  
13 *dismissal of the conviction or at least five years have passed since*  
14 *the person completed his or her sentence. This paragraph shall*  
15 *not apply if the conviction was for any offense defined in*  
16 *subdivision (c) of Section 667.5 of the Penal Code as a violent*  
17 *felony or any offense defined in subdivision (c) of Section 1192.7*  
18 *of the Penal Code as a serious felony.*

19 (2) No person shall be denied a license solely on the basis that  
20 he or she has been convicted of a misdemeanor if ~~he~~ *either of the*  
21 *following apply:*

22 (A) *He* or she has met all applicable requirements of the criteria  
23 of rehabilitation developed by the board to evaluate the  
24 rehabilitation of a person when considering the denial of a license  
25 under subdivision (a) of Section 482. ~~In addition, no person shall~~  
26 ~~be denied a license based on any criminal conviction that~~

27 (B) *The misdemeanor conviction has been dismissed pursuant*  
28 *to either Section 1203.4 or 1203.4a of the Penal Code.*

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

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

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

36 (1) File and serve a statement of issues in accordance with  
37 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
38 3 of Title 2 of the Government Code.

39 (2) Notify the applicant that the application is denied, stating

40 (A) the reason for the denial, and (B) that the applicant has the

1 right to a hearing under Chapter 5 (commencing with Section  
2 11500) of Part 1 of Division 3 of Title 2 of the Government Code  
3 if written request for hearing is made within 60 days after service  
4 of the notice of denial. Unless written request for hearing is made  
5 within the 60-day period, the applicant's right to a hearing is  
6 deemed waived.

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

12 (b) If the denial of a license is due at least in part to the  
13 applicant's state or federal criminal history record, the board shall  
14 include with the information provided pursuant to paragraph (1)  
15 or (2) of subdivision (a) a copy of the applicant's criminal history  
16 record.

17 (1) The state or federal criminal history record shall not be  
18 modified or altered from its form or content as provided by the  
19 Department of Justice.

20 (2) The criminal history record shall be provided in such a  
21 manner as to protect the confidentiality and privacy of the  
22 applicant's criminal history record, and the criminal history record  
23 shall not be made available by the board to any employer.

24 (3) The board shall record and maintain the name of the  
25 applicant, the applicant's address, and the date the criminal history  
26 record was provided by the board to the applicant pursuant to this  
27 section. The board shall make that information available upon  
28 request by the Department of Justice or the Federal Bureau of  
29 Investigation.

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

32 490. A board may suspend or revoke a license on the ground  
33 that the licensee has been convicted of a crime, if the crime is  
34 substantially related to the qualifications, functions, or duties of  
35 the business or profession for which the license was issued. A  
36 conviction within the meaning of this section means a plea or  
37 verdict of guilty or a conviction following a plea of nolo  
38 contendere. Any action which a board is permitted to take  
39 following the establishment of a conviction may be taken when  
40 the time for appeal has elapsed, or the judgment of conviction has

1 been affirmed on appeal, or when an order granting probation is  
2 made suspending the imposition of sentence. No license shall be  
3 suspended or revoked based on any criminal conviction that has  
4 been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal  
5 Code.

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

8 491. (a) Upon suspension or revocation of a license by a board  
9 on one or more of the grounds specified in Section 490, the board  
10 shall do both of the following:

11 (1) Send a copy of the provisions of Section 11522 of the  
12 Government Code to the ex-licensee.

13 (2) Send a copy of the criteria relating to rehabilitation  
14 formulated under Section 482 to the ex-licensee.

15 (b) If the suspension or revocation of a license is due at least in  
16 part to the ex-licensee's state or federal criminal history record,  
17 the board shall include with the information provided pursuant to  
18 subdivision (a) a copy of the ex-licensee's criminal history record.

19 (1) The state or federal criminal history record shall not be  
20 modified or altered from its form or content as provided by the  
21 Department of Justice.

22 (2) The criminal history record shall be provided in such a  
23 manner as to protect the confidentiality and privacy of the  
24 ex-licensee's criminal history record, and the criminal history  
25 record shall not be made available by the board to any employer.

26 (3) The board shall record and maintain the name of the  
27 ex-licensee, the ex-licensee's address, and the date the criminal  
28 history record was provided by the board to an ex-licensee pursuant  
29 to this section. The board shall make that information available  
30 upon request by the Department of Justice or the Federal Bureau  
31 of Investigation.