COMMITTEE REPORT

April 3, 2019

**S. 689**

Introduced by Senators Climer, Allen and Bennett

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Read the first time March 21, 2019.

**THE COMMITTEE ON LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (S. 689) to amend Article 1, Chapter 1, Title 40 of the 1976 Code, relating to board regulation of professions and occupations, by adding Section 40-1-75, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

THOMAS C. ALEXANDER for Committee.

**A** **BILL**

TO AMEND ARTICLE 1, CHAPTER 1, TITLE 40 OF THE 1976 CODE, RELATING TO BOARD REGULATION OF PROFESSIONS AND OCCUPATIONS, BY ADDING SECTION 40-1-75 AND SECTION 40-1-77, TO PROVIDE THAT PROFESSIONAL BOARDS AND COMMISSIONS MAY NOT SOLELY DENY A LICENSE APPLICATION BASED UPON AN APPLICANT’S PRIOR CRIMINAL CONVICTION UNLESS THE CONVICTION IS FOR A CRIME THAT DIRECTLY RELATES TO THE DUTIES AND RESPONSIBILITIES FOR THE SPECIFIC OCCUPATION OR PROFESSIONAL LICENSE BEING SOUGHT, TO PROVIDE THAT BOARDS AND COMMISSIONS MUST IDENTIFY CRIMES THAT WOULD LEAD TO AN AUTOMATIC DISQUALIFICATION FROM LICENSURE, TO PROVIDE THAT AN APPLICANT MAY OBTAIN A DETERMINATION FROM THE APPROPRIATE BOARD OR COMMISSION CONCERNING WHETHER HIS PRIOR CRIMINAL CONVICTION IS A DISQUALIFYING CONVICTION, TO PROVIDE NOTICE TO APPLICANTS WHO SEEK SUCH A DETERMINATION, TO PROVIDE FOR LICENSURE BY BOARDS AND COMMISSION FOR APPLICANTS WHO COMPLETE CERTAIN APPRENTICESHIP PROGRAMS, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 1, Title 40 of the 1976 Code is amended by adding:

“Section 40-1-75. (A) A regulatory board or commission may not solely or in part deny a license to an applicant because of a prior criminal conviction, unless the criminal conviction directly relates to the duties and responsibilities of the occupation or profession for which the applicant is seeking a license. Regulatory boards and commissions are prohibited from using vague or generic terms, including, but not limited to, ‘moral turpitude’ or ‘good character’ and from considering arrests without a subsequent conviction as a justification for denying an applicant a license.

(B) Each regulatory board or commission shall make available to all license applicants a comprehensive list of criminal convictions that are specific and directly related to the duties and responsibilities of the occupation or profession regulated by the board or commission.

(C)(1) In determining whether an applicant with a criminal conviction shall be denied a license, the relevant regulatory board or commission shall apply a clear and convincing standard of proof. The board or commission shall make its determination based upon the following factors:

(a) the nature and severity of the crime for which the applicant was convicted;

(b) the length of time since his conviction;

(c) the relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation for which he is seeking licensure; and

(d) evidence of rehabilitation or treatment undertaken by the applicant that may mitigate the relationship referred to in subitem (c).

(2) If an applicant has a criminal conviction for a crime that could disqualify him from being issued a license, then the disqualification shall not last longer than five years from the date of conviction, provided that the conviction is not for a violent crime or criminal sexual conduct and that the applicant has not been convicted of another disqualifying crime during that five-year period.

(3) An applicant with a criminal record may petition a regulatory board or commission for a determination of whether the applicant’s criminal record will disqualify him from being eligible for a license. This petition shall include details concerning the applicant’s criminal record. The regulatory board or commission shall notify the applicant of its determination not later than thirty days after receiving the applicant’s petition. The determination shall be binding unless the applicant has subsequent criminal convictions or failed to disclose relevant information in his petition. The regulatory board or commission may charge a reasonable fee for filing a petition. The determination shall be made based upon a clear and convincing evidentiary standard.

(4) If a regulatory board or commission denies a permit application solely or in part because of the applicant’s prior conviction of a crime, then the regulatory board or commission must notify the applicant in writing of its decision. The notice shall provide:

(a) the grounds for the denial;

(b) notice that the individual has the right to a hearing to challenge the denial;

(c) the earliest date that the applicant may again apply for licensure; and

(d) a statement that evidence of rehabilitation may be considered upon reapplication.

Section 40-1-77. (A) For the purposes of this section, ‘apprenticeship’ means a program that meets federal guidelines as provided in 29 C.F.R. Part 29 and 29 U.S.C. Section 50.

(B) Within the parameters established by the federal Labor Standards for the Registration of Apprenticeship Programs pursuant to 29 C.F.R. Part 29 and 29 U.S.C. Section 50, each regulatory board or commission within the department shall issue a license to an applicant who:

(1) successfully completed the eighth grade;

(2) completed an apprenticeship approved by the United States Department of Labor or otherwise permitted pursuant to state or federal law. The apprenticeship may be completed under the supervision of a state-licensed practitioner or at a state-licensed school; and

(3) successfully passed an examination by the appropriate regulatory board or commission, if an exam is required by the appropriate regulatory board or commission.

(C) If a regulatory board or commission requires an examination pursuant to subsection (B)(3), then the board or commission shall establish a passing score for the examination, which shall not exceed any passing scores that are otherwise required for a non-apprenticeship license for that particular occupation or profession.

(D) The number of working hours required for a competency-based apprenticeship or a hybrid apprenticeship under 29 C.F.R. 29.5 shall not exceed the number of educational hours otherwise required for a non-apprenticeship license for that particular occupation or profession.”

SECTION 2. This act takes effect upon approval by the Governor.

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