

SUBJECT: Requiring proof of citizenship or work authorization for licensure

COMMITTEE: State Affairs — favorable as substituted

VOTE: 9 ayes — Cook, Craddick, Frullo, Geren, Harless, Hilderbran, Huberty, Smithee, Solomons

4 nays — Menendez, Gallego, Oliveira, Turner

WITNESSES: For — (*Registered, but did not testify*: Maria Martinez, Immigration Reform Coalition of Texas; Rebecca Forest)

Against — Luis Figueroa, Mexican American Legal Defense and Educational Fund; Faye Kolly, FosterQuan LLP; Daniel Llanes; Jose Luis Martinez; Esther Reyes; Felix Vara; (*Registered, but did not testify*: Rebecca Bernhardt, Texas Criminal Justice Coalition; Michael Golden, Texas Employment Law Council; Joshua Houston, Texas Impact; Adrian Reyna, Texas Dream Alliance; Andrew Rivas, Texas Catholic Conference; Matthew Simpson, ACLU of Texas)

On — William Kuntz, Texas Department of Licensing and Regulation; Mark Majek, Texas Board of Nursing

DIGEST: CSHB 197 would add ch. 60 to the Occupations Code to require an individual working in a licensed occupation to submit proof of citizenship or work authorization before engaging in work under the license. The individual would have to provide the documentation to the relevant licensing authority when submitting an initial application or renewal. An individual who submitted an application online would have 30 days after the filing date to submit the required documents. The bill would include an exemption for applicants for a combative sports license (e.g., professional contestant or referee).

A violation would be punished as class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

Each licensing authority would have to adopt the necessary rules and procedures for the documentation submission by January 1, 2012.

The bill would take effect September 1, 2011, and apply to issuance or renewal of a license filed on or after March 1, 2012.

**SUPPORTERS
SAY:**

CSHB 197 would require an applicant to provide documentation that verified eligibility to work in this country. Federal law already requires an employer to confirm that an employee is legally authorized to work in the U.S. This provision simply would require state licensing agencies to track the law. The bill would apply to all 278 occupational or business licenses, certificates, or permits that are regulated under the Occupations Code.

The bill would protect Texas businesses because the responsibility for providing documentation would fall on the individual applying for licensure. The provision would not apply to a corporation or business.

The bill would keep unauthorized immigrants out of the regulated occupations by establishing a class A misdemeanor for working in a regulated industry without a license or failing to submit the required documentation.

**OPPONENTS
SAY:**

CSHB 197 would burden licensing authorities with an unfunded mandate to collect information about citizenship and worker authorization when employers already perform this function as required by federal law. Hundreds of thousands of individuals apply for licenses in Texas each year, and the bill would require each licensing authority to inspect the documentation provided for new applicants and renewals. This would occur as licensing authorities face staff reductions and budgetary cuts. It would be unwise and irresponsible to impose such a bureaucratic nightmare on these agencies.

The bill could endanger public safety. One major function of licensing authorities is to conduct periodic inspections of licensed individuals or businesses. The verification process would force licensing authorities to make tough decisions about how to allocate resources. The bill ultimately could decrease the number of inspections performed on entities like salons or towing companies or on other occupations that are regulated through the licensing process. The bill could also shift individuals who would be regulated through the licensure process into the black market. We want child care providers and food service operators to be regulated through this process, but the bill could push bad actors into the shadows while licensing authorities would not have the sufficient staff to fully enforce the regulations.

CSHB 197 would harm businesses and the health care system in Texas. The bill would reduce the number of out-of-state or international applicants for certain licenses. The health care industry, especially nursing, could be hit particularly hard because of the shortage of qualified health care professionals in Texas. The bill also would take money away from Texans who are license applicants. The extra administrative duties would require licensing authorities to increase license fees, because the costs would not be absorbed through existing resources.

NOTES:

The committee substitute provides an exemption for license applicants for combative sports that was not included in the original bill.

Analysis conducted by the Legislative Budget Board could not determine the fiscal impact for the state because the requirements for licensure vary among the licensing authorities. The analysis did conclude that a state agency that issues licenses would incur costs to implement the verification requirements resulting from increased administrative duties, programming costs, or the need for additional full-time equivalents. Some licensing agencies also noted that revenue could be lost because fewer international and out-of-state applicants would apply for licensure. Other agencies suggest that the costs of implementing the bill could be absorbed through existing resources, but it would take more time to process license applications, and fees would need to increase to cover additional costs.